

1 **BLUMENTHAL NORDREHAUG BHOWMIK**
2 **DE BLOUW LLP**

3 Norman B. Blumenthal (State Bar #068687)
4 Kyle R. Nordrehaug (State Bar #205975)
5 Aparajit Bhowmik (State Bar #248066)
6 2255 Calle Clara
7 La Jolla, CA 92037
8 Telephone: (858)551-1223
9 Facsimile: (858) 551-1232
10 Email: Kyle@bamlawca.com
11 Website: www.bamlawca.com

12 Attorneys for Plaintiff

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN BERNARDINO

DENNIS EBERWEIN, an individual, on
behalf of himself and on behalf of all persons
similarly situated, and on behalf of the State
of California, as a private attorney general,

Plaintiff,

vs.

PSG CALIFORNIA LLC, a Limited Liability
Company; and DOES 1 through 50, inclusive,
Defendants.

Case No. CIVSB2207161
[Consolidated with CIVSB2211719]

**DECLARATION OF KYLE NORDREHAUG
IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
SETTLEMENT**

Hearing Date: June 20, 2023
Hearing Time: 9:00 a.m.

Judge: Hon. Joseph T. Ortiz
Dept: 17

Date Filed: April 8, 2022
Trial Date: Not set

1 I, Kyle Nordrehaug, declare as follows:

2 1. I am a partner of the law firm of Blumenthal Nordrehaug Bhowmik De Blouw LLP,
3 counsel of record for Plaintiff Dennis Eberwein ("Plaintiff") in this matter. As such, I am fully
4 familiar with the facts, pleadings and history of this matter. The following facts are within my own
5 personal knowledge, and if called as a witness, I could testify competently to the matters stated
6 herein.

7 2. This declaration is being submitted in support of Plaintiff's unopposed motion for
8 preliminary approval of the proposed class action settlement with Defendant PSG California LLC
9 ("Defendant"), which motion seeks entry of an order: (1) preliminarily approving the proposed
10 settlement of this class action with Defendant; (2) for settlement purposes only, conditionally
11 certifying the Class, which is comprised of "all individuals who are or previously were employed by
12 Defendant in California who were classified as hourly, non-exempt employees at any time during
13 the Class Period" of April 8, 2018 to May 10, 2023; (3) provisionally appointing Plaintiff as the
14 representative of the Class; (4) provisionally appointing Norman B. Blumenthal, Kyle R.
15 Nordrehaug, Aparajit Bhowmik, and Christine T. LeVu of Blumenthal Nordrehaug Bhowmik De
16 Blouw LLP as Class Counsel for the Class; (5) approving the form and method for providing class-
17 wide notice; (6) directing that notice of the proposed settlement be given to the Class; (7)
18 appointing CPT Group as the Administrator; and (8) scheduling a final approval hearing date
19 proposed for October 31, 2023 to consider Plaintiff's motion for final approval of the settlement and
20 entry of the Judgment, and Plaintiff's motion for approval of attorneys' fees and expenses. Attached
21 hereto as Exhibit #1 is a copy of the fully executed Class Action and PAGA Settlement Agreement
22 ("Agreement") along with exhibits thereto. The form of the Agreement is based upon the Los
23 Angeles County Superior Court model form for a class and PAGA settlement. This Declaration
24 incorporates by reference the definitions in the Agreement, and all terms defined therein shall have
25 the same meaning as set forth in the Agreement.

1 Fairness of Settlement

2 3. As consideration for this Settlement, the Gross Settlement Amount is One Million
3 Four Hundred Thousand Dollars (\$1,400,000) to be paid by Defendant, as set forth in the
4 Agreement. The Gross Settlement Amount will settle all issues pending in the Action between the
5 Parties and will be made in settlement of the Released Class Claims. The Gross Settlement Amount
6 includes all payments of Individual Class Payments to the Participating Class Members,
7 Administration Expenses Payment, Class Counsel Fees Payment, Class Counsel Litigation
8 Expenses Payment, Class Representative Service Payment, and the PAGA Payment. The Gross
9 Settlement Amount does not include the employer's share of payroll taxes which will be separately
10 paid by Defendant. The Settlement is all-in with no reversion to Defendant and no need to submit a
11 claim form.

12 4. The relief provided in the Settlement will benefit all members of the Class. The
13 Settlement does not grant preferential treatment to Plaintiff or segments of the Class in any way.
14 Payments to the Class Members are all determined under a neutral methodology. Each
15 Participating Class Member will receive the same opportunity to participate in and receive payment
16 through a neutral formula that is based upon the Workweeks worked by that individual.

17 5. On February 10, 2023, the Parties participated in an all-day mediation session
18 presided over by Tripper Ortman, Esq., a respected and experienced mediator of wage and hour
19 class actions. In preparation for the mediation, Defendant provided Class Counsel with necessary
20 information for the members of the Class, including payroll data and data concerning the
21 composition of the Class. Plaintiff analyzed the data with the assistance of damages expert, Berger
22 Consulting, and prepared and submitted a mediation brief and damage valuation to the Mediator.
23 Following this all-day mediation, the Parties agreed to this Settlement, which was memorialized in
24 the form of a Memorandum of Understanding. The final settlement terms were negotiated and set
25 forth in the Agreement now presented for this Court's approval. Importantly, Plaintiff and Class
26 Counsel believe that this Settlement is fair, reasonable and adequate.

27 6. Based upon 454 Class Members who collectively worked 53,000 Workweeks
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(Agreement at ¶ 4.1), the Gross Settlement Amount provides a value of \$3,083 per Class Member and \$26 per Workweek and after deductions, the Net Settlement Amount provides an average recovery of \$1,882 per Class Member and a recovery of \$16.12 per Workweek. The PAGA Penalties 25% allocation to the 312 Aggrieved Employees calculates to \$24 per Aggrieved Employee and \$0.72 per PAGA Pay Period. The calculations to compensate for the amount due to the Class Members at the time this Settlement was negotiated were calculated by Plaintiff's expert, Berger Consulting, in advance of mediation. Class Counsel analyzed the data for putative class members and determined the potential maximum damages for the class claims. For the Class, the maximum value of the claim for unpaid wages due to alleged off-the-clock work was \$1,825,575, the maximum potential damages for unpaid meal premiums were estimated to be \$2,137,354 based upon a 38% violation rate and after deduction for meal premiums paid, the maximum potential rest period damages were estimated to be \$2,220,658 based upon the same 53% violation rate, and the maximum potential damages for failure to provide expense reimbursement were calculated to be \$132,900. In total, the damages for the Class were calculated to have a maximum potential total value of \$6,316,487. In addition, Plaintiff calculated that the maximum value of the potential waiting time penalties were \$1,013,800, and the maximum value of the potential wage statement penalties were \$1,040,100.¹ Defendant vigorously disputed Plaintiff's calculations and exposure theories. The Gross Settlement Amount represents more than 22% of the potential maximum damages at issue for the Class in this case, assuming these amounts could all be proven in full at trial.² The above maximum calculations should then be adjusted in consideration for both the risk

¹ While Plaintiff alleged claims for statutory penalties pursuant to Labor Code Sections 203 and 226, at mediation Plaintiff recognized that these claims were subject to additional, separate defenses asserted by Defendant, including, a good faith dispute defense as to whether any premium wages for meal or rest periods or other wages were owed given Defendant's position that Plaintiff and Class Members were properly compensated. *See Nordstrom Commission Cases*, 186 Cal. App. 4th 576, 584 (2010) ("There is no willful failure to pay wages if the employer and employee have a good faith dispute as to whether and when the wages were due.").

² Because the PAGA claim does not provide a recovery to the Class, Plaintiff did not included the PAGA claim in this discussion of the class claim valuation. The PAGA claim is addressed below at ¶ 33.

1 of class certification and the risk of establishing class-wide liability on all claims. Given the amount
2 of the Settlement as compared to the potential value of the claims, the Settlement is most certainly
3 fair and reasonable.

4
5 Procedural History of the Litigation

6 7. On March 17, 2022, Plaintiff filed with the LWDA and served on Defendant a
7 notice under Labor Code section 2699.3 identifying the alleged Labor Code violations to recover
8 civil penalties on behalf of Aggrieved Employees for various Labor Code violations ("PAGA
9 Notice"). A true and correct copy of the PAGA Notice is attached hereto as Exhibit #3. On April 8,
10 2022, Plaintiff filed a class action Complaint against Defendant in the Superior Court of the State of
11 California, County of San Bernardino. This class action Complaint asserted class claims against
12 Defendant for: (1) unfair competition in violation of Cal. Bus & Prof. Code §§ 17200, et seq.; (2)
13 failure to pay minimum wages in violation of California Labor Code §§ 1194, 1197 & 1197.1; (3)
14 failure to pay overtime wages in violation of California Labor Code §§ 510, 1194 & 1198; (4)
15 failure to provide required meal periods in violation of California Labor Code §§ 226.7 and 512; (5)
16 failure to provide required rest periods in violation of Cal. Labor Code §§ 226.7 and 512; (6) failure
17 to provide accurate itemized wage statements in violation of California Labor Code § 226; (7)
18 failure to reimburse employees for required expenses in violation of California Labor Code § 2802;
19 and (8) failure to provide wages when due in violation of California Labor Code §§ 201, 202 and
20 203.

21 8. On June 7, 2022, Plaintiff filed a Complaint in the Superior Court of the State
22 of California, County of San Bernardino seeking civil penalties under the Labor Code Private
23 Attorneys General Act of 2004 ("PAGA") against Defendant based upon the same alleged
24 violations as in the class action.

25 9. The Parties filed a stipulation to consolidate the Class Action and PAGA Action. On
26 April 10, 2023, the Parties filed a First Amended Consolidated Class and Representative Action
27 Complaint, which consolidated the claims in the Action with the PAGA Action. This First
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1 Amended Consolidated Class and Representative Action Complaint is referred to as the Operative
2 Complaint.

3 10. Over the course of litigation, the Parties engaged in the investigation of the claims,
4 including production of documents, class data, and other information, allowing for the full and
5 complete analysis of liabilities and defenses to the claims in the Action. Plaintiffs performed
6 extensive informal discovery, which included the production and analysis of hundreds of pages of
7 documents. The information for mediation obtained by Plaintiff included: (1) data concerning the
8 class; (2) payroll data for the class and time punch data covering 102 employees and 38,423 work
9 shifts; (3) Defendant's wage and hour policies and job descriptions; (4) the employment file for the
10 Plaintiff; and, (5) samples of wage statements provided by Defendant. As such, Class Counsel
11 received the data and information for the Class, which was sufficient for Plaintiff's expert to
12 prepare the valuations of the claims for the Class.

13 11. Class Counsel has extensive experience in litigating wage and hour class actions in
14 California. The Parties have vigorously litigated the Actions since inception. During the course of
15 litigation, the Parties each performed analysis of the merits and value of the claims. Plaintiff and
16 Defendant have engaged in substantial research and investigation in connection with the Action.
17 Class Counsel has thoroughly analyzed the value of the claims during the prosecution of this Action
18 and utilized an expert to perform an analysis of the data and valuation of the claims.

19 12. Plaintiff and Defendant agreed to discuss resolution of the Action through a
20 mediation. Prior to mediation, the Parties engaged in the above investigation and the exchange of
21 documents and information in connection with the Action. On February 10, 2023, the Parties
22 participated in an all-day mediation presided over by Tripper Ortman, a respected and experienced
23 mediator of wage and hour class actions. Following the mediation, each side, represented by its
24 respective counsel, were able to agree to settle the Action based upon a mediator's proposal which
25 was memorialized in the form of a memorandum of understanding. The Parties then negotiated the
26 final terms of the settlement as set forth in the Agreement. At all times, the negotiations were arm's
27 length and contentious.

1 13. Although a settlement has been reached, Defendant denies any liability or
2 wrongdoing of any kind associated with the claims alleged in the Actions and further deny that, for
3 any purpose other than settlement, the Actions are appropriate for class and/or representative
4 treatment. Defendant contends, among other things, that it has properly compensated the Class
5 Members on a salary basis and complied at all times with the California Labor Code, applicable
6 Wage Order, and all other laws and regulations. Further, Defendant contends that class certification
7 is inappropriate for any reason other than for settlement. Plaintiff contends that Defendant violated
8 California wage and hour laws. Plaintiff further contends that the Action is appropriate for class
9 certification on the basis that the claims meet the requisites for class certification. Without
10 admitting that class certification is proper, Defendant has stipulated that the above Class may be
11 certified for settlement purposes only. (Agreement at ¶ 2.8.) The Parties agree that certification for
12 settlement purposes is not an admission that class certification is proper. Further, the Agreement is
13 not admissible in this or any other proceeding as evidence that the Class could be certified absent a
14 settlement. Solely for purposes of settling the Action, the Parties stipulate and agree that the
15 requisites for establishing class certification with respect to the Class are satisfied.

16 14. Class Counsel has conducted a thorough investigation into the facts of the class
17 action. Over the course of more than a year, Class Counsel diligently evaluated the Class
18 Members' claims against Defendant. Prior to the settlement negotiations, counsel for Defendant
19 provided Class Counsel with access to necessary information for the Class. In addition, Class
20 Counsel previously negotiated settlements with other employers in actions involving nearly
21 identical issues and analogous defenses. Based on the foregoing data and their own independent
22 investigation, evaluation and experience, Class Counsel believes that the settlement with Defendant
23 on the terms set forth in the Agreement is fair, reasonable, and adequate and is in the best interest of
24 the Class in light of all known facts and circumstances, including the risk of significant delay,
25 defenses asserted by Defendant, and potential appellate issues.

1 Settlement Terms and Plan of Allocation

2 15. The Gross Settlement Amount is One Million Four Hundred Thousand Dollars
3 (\$1,400,000). (Agreement at ¶ 1.22.) Under the Settlement, the Gross Settlement Amount consists
4 of the following elements: (1) payment of the Individual Class Payments to the Participating Class
5 Members; (2) Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment; (3)
6 Administration Expenses Payment; (4) the Class Representative Service Payment to Plaintiff; and
7 (5) the PAGA Penalties payment. (Agreement at ¶ 1.22.) The Gross Settlement Amount does not
8 include Defendant's share of payroll taxes. (Agreement at ¶ 3.1.) The Gross Settlement Amount
9 shall be all-in with no reversion to Defendant. (Agreement at ¶ 3.1.)

10 16. Within fifteen (15) days of the Effective Date, Defendant shall deposit the Gross
11 Settlement Amount with the Administrator. (Agreement at ¶ 4.3.) The distribution of Individual
12 Class Payments to Participating Class Members along with the other Court-approved distributions
13 shall be made by the Administrator within fourteen (14) days after Defendant fully funds the Gross
14 Settlement Amount. (Agreement at ¶ 5.1.)

15 17. The amount remaining in the Gross Settlement Amount after the deduction of
16 Court-approved amounts for Individual PAGA Payments, the LWDA PAGA Payment, Class
17 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses
18 Payment, and the Administration Expenses Payment (called the "Net Settlement Amount") shall be
19 allocated to Class Members as their Individual Class Payments. (Agreement at ¶¶ 1.28 and 3.2.)
20 From the Net Settlement Amount, the Individual Class Payment for each Participating Class
21 Member will be calculated by (a) dividing the Net Settlement Amount by the total number of
22 Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying
23 the result by each Participating Class Member's Workweeks. (Agreement at ¶ 3.2(e).) Workweeks
24 will be based on Defendant's records; however, Class Members will have the right to challenge the
25 number of Workweeks.

26 18. Class Members may choose to opt-out of the Settlement by following the directions
27 in the Class Notice. (Agreement at ¶ 8.5, Ex. A.) All Class Members who do not "opt out" will be
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1 deemed Participating Class Members who will be bound by the Settlement and will be entitled to
2 receive an Individual Class Payment. (Agreement at ¶ 8.5(c).) All Aggrieved Employees,
3 including those who submit an opt-out request, will still be paid their allocation of the PAGA
4 Penalties and will remain subject to the release of the Released PAGA Claims regardless of their
5 request for exclusion. (Agreement at ¶¶ 6.3 and 8.5(d).) Finally, the Class Notice will advise the
6 Class Members of their right to object to the Settlement and/or dispute their Workweeks.
7 (Agreement at ¶¶ 8.6 and 8.7, Ex. A.)

8 19. A Participating Class Member must cash his or her Individual Class Payment check
9 within 180 days after it is mailed. (Agreement at ¶ 5.2.) Any settlement checks not cashed within
10 180 days will be voided and any funds represented by such checks to the California Controller's
11 Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue"
12 subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).
13 (Agreement at ¶ 5.4.)

14 20. Subject to Court approval, the Parties have agreed on CPT Group to administer the
15 settlement in this action ("Administrator"). (Agreement at ¶ 1.2.) The Administrator will be paid
16 for settlement administration in an amount not to exceed \$13,500. (Agreement at ¶ 3.2(c).)

17 21. Subject to Court approval, the Agreement provides for Class Counsel to be awarded
18 a sum not to exceed one-third of the Gross Settlement Amount, as the Class Counsel Fees Payment.
19 (Agreement at ¶ 3.2(b).) Class Counsel will also be allowed to apply separately for an award of
20 Class Counsel Litigation Expenses Payment in an amount not to exceed \$25,000. (Agreement at ¶
21 3.2(b).) Subject to Court approval, the Agreement provides for a payment of no more than \$10,000
22 to the Plaintiff as the Class Representative Service Payment. (Agreement at ¶ 3.2(a).)

23 22. Subject to Court approval, Thirty Thousand Dollars (\$30,000) will be paid from the
24 Gross Settlement Amount for PAGA penalties under the California Private Attorneys General Act,
25 Cal. Labor Code Section 2698, *et seq.* ("PAGA"). Pursuant to the express requirements of Labor
26 Code § 2699(i), the PAGA Payment shall be allocated as follows: 75% (\$22,500) shall be allocated
27 to the Labor Workforce Development Agency ("LWDA") as its share of the civil penalties and 25%
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1 (\$7,500) allocated to the Individual PAGA Payments to be distributed to the Aggrieved Employees
2 based on the number of their respective PAGA Pay Periods. (Agreement at ¶ 3.2(d).) As set forth in
3 the accompany proof of service, the LWDA has been served with this motion and the Agreement.
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5 Risks of Continued Litigation and Standards for Approval

6 23. Plaintiff and Class Counsel recognize the expense and length of continuing to litigate
7 and trying this Action against Defendant and then litigating possible appeals which could take
8 several years. Class Counsel has also taken into account the uncertain outcome and risk of
9 litigation, especially in complex class actions such as this Action. Class Counsel is also mindful of
10 and recognizes the inherent problems of proof under, and alleged defenses to, the claims asserted in
11 the Action. Based upon their evaluation, Plaintiff and Class Counsel have determined that the
12 Settlement set forth in the Agreement is in the best interest of the Class Members.

13 24. Here, a number of defenses asserted by Defendant present serious threats to the
14 claims of the Plaintiff and the other Class Members. Defendant asserted that Defendant's practices
15 complied with all applicable Labor laws. Defendants argued that all work time was properly
16 recorded. Defendant contends that its meal and rest period policies fully complied with California
17 law and Defendant did not fail to provide the opportunity for legally required meal and rest breaks.
18 Defendant could show that meal period premiums were paid in instances where there was a
19 potential violation to show the lawfulness of their meal period practices. As to expense
20 reimbursement, Defendant contended that it did not fail to provide reimbursement for necessary
21 business expenses and that there were no such expenses that had not already been reimbursed or
22 that claimed expenses were incurred voluntarily and/or for the convenience of employees and is
23 therefore not required reimbursement. Defendant argued that the decisions in *Brinker v. Superior*
24 *Court*, 53 Cal. 4th 1004 (2012), *Lockheed Martin Corp. v. Superior Ct.*, 29 Cal. 4th 1096, 1108
25 (2003), and *Salazar v. See's Candy Shops Inc.*, 64 Cal.App.5th 85 (2021), weakened Plaintiff's
26 claims, on liability, value, and class certifiability as to the meal and rest period claims. Defendant
27 also argues that based on its facially lawful practices, it acted in good faith and without willfulness,
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1 which if accepted would negate the claims for waiting time penalties and/or inaccurate wage
2 statements. If successful, Defendant's defenses could eliminate or substantially reduce any
3 recovery to the Class. While Plaintiff believes that these defenses could be overcome, Defendant
4 maintains these defenses have merit and therefore present a serious risk to recovery by the Class.

5 25. There was also a significant risk that, if the Action was not settled, Plaintiff would be
6 unable to obtain class certification and thereby not recover on behalf of any employees other than
7 himself. Defendant argued that the individual experience of each putative class member varied with
8 respect to the claims. Defendant could also contest class certification by arguing injury and good
9 faith were case-by-case determinations that precluded class certification. Plaintiff is aware of other
10 cases where class certification of similar claims was denied. *See e.g. Cacho v. Eurostar, Inc.*, 43
11 Cal. App. 5th 885 (2019) (denying certification of rest break claims). Finally, even if class
12 certification was successful, as demonstrated by the California Supreme Court decision in *Duran v.*
13 *U.S. Bank National Assn.*, 59 Cal. 4th 1 (2014), there are significant hurdles to overcome for a class
14 wide recovery even where the class has been certified. While other cases have approved class
15 certification in wage and hour claims, class certification in this action would have been hotly
16 disputed and was by no means a foregone conclusion.

17 26. This settlement is therefore certainly entitled to preliminary approval. Were this
18 case to go to trial, the Plaintiff and the other class members would need to prove, among other
19 things, that wages were owed on a class-wide basis. This was and is a substantial risk.

20 27. Plaintiff will apply to the Court for Class Representative Service Payment in
21 consideration for his service and for the risks undertaken on behalf of the class. (Agreement at ¶
22 3.2(a).) Plaintiff performed his duties admirably by working with Class Counsel. A declaration of
23 the Plaintiff is presented herewith in support. For purposes of this preliminary approval stage, the
24 requested service award of \$10,000 is well within the accepted range of awards for purposes of
25 preliminary approval. *See e.g. Mathein v. Pier 1 Imps. (U.S.), Inc.*, 2018 U.S. Dist. LEXIS 71386
26 (E.D. Cal. 2018) (awarding \$12,500 where average class member payment was \$351); *Holman v.*
27 *Experian Info. Solutions, Inc.*, 2014 U.S. Dist. LEXIS 173698 (N.D. Cal. 2014) (approving \$10,000
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1 service award where class member recovery was \$375); *Rausch v. Hartford Fin. Servs. Grp.*, 2007
2 U.S. Dist. LEXIS 14740, 2007 WL 671334 (D. Or. 2007) (approving award of \$10,000 where class
3 member recoveries were as little as \$150); *Louie v. Kaiser Foundation Health Plan, Inc.*, 2008 WL
4 4473183, *7 (S.D.Cal. Oct. 06, 2008) (awarding \$25,000 service award to each of six plaintiffs in
5 overtime class action); *Glass v. UBS Fin. Servs.*, 2007 WL 221862, *16-17 (N.D.Cal. Jan. 27 2007)
6 (awarding \$25,000 service award in overtime class action and a pool of \$100,000 in enhancements).
7 As explained in *Glass*, service awards are routinely awarded to class representatives to compensate
8 the employees for the time and effort expended on the case, for the risk of litigation, for the fear of
9 suing an employer and retaliation there from, and to serve as an incentive to vindicate the statutory
10 rights of all employees. 2007 WL 221862 at *16-17. Below, I provided a long list of similar Court-
11 approved service awards.

12 28. The stage of the proceedings at which this Settlement was reached also militates in
13 favor of preliminary approval and ultimately, final approval of the Settlement. Class Counsel has
14 conducted a thorough investigation into the facts of the class action. Class Counsel began
15 investigating the Class Members' claims before the Action was filed. Class Counsel engaged in an
16 investigation of the claims and conducted a review and analysis of the relevant documents and data.
17 Class Counsel was also experienced with the claims at issue here, as Class Counsel previously
18 litigated and settled similar claims in other actions. Accordingly, the agreement to settle did not
19 occur until Class Counsel possessed sufficient information to make an informed judgment regarding
20 the likelihood of success on the merits and the results that could be obtained through further
21 litigation.

22 29. Based on the foregoing data and their own independent investigation and evaluation,
23 Class Counsel is of the opinion that the Settlement with Defendant for the consideration and on the
24 terms set forth in the Agreement is fair, reasonable, and adequate and is in the best interest of the
25 Class in light of all known facts and circumstances, including the risk of significant delay, defenses
26 asserted by Defendant, and numerous potential appellate issues. There can be no doubt that
27 Counsel for both parties possessed sufficient information to make an informed judgment regarding
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1 the likelihood of success on the merits and the results that could be obtained through further
2 litigation.

3
4 Class Certification Issues

5 30. Plaintiff contends that the proposed settlement meets all of the requirements for class
6 certification under California Code of Civil Procedure § 382 as demonstrated below, and therefore,
7 the Court may appropriately approve the Class as defined in the Agreement. This Court should
8 conditionally certify the Class for settlement purposes only, defined as follows:

9 All individuals who are or previously were employed by Defendant in California
10 who were classified as hourly, non-exempt employees at any time during the Class
Period.

11 (Agreement at ¶ 1.5.)

12 The “Class Period” is from April 8, 2018 to May 10, 2023. (Agreement at ¶ 1.13.)

13 a. **Numerosity** - Here, Plaintiff asserts that the 454 individuals who comprise
14 the Class can be identified based on Defendant’s records and are sufficiently numerous for class
15 certification.

16 b. **Common Issues Predominate** - Here, Plaintiff contends that common
17 questions of law and fact are present, and specifically the common questions of whether
18 Defendant’s practices were lawful, whether Class members were lawfully compensated for all hours
19 worked, whether Defendant failed to provide all legally required meal and rest periods to class
20 members, whether Defendant failed to provide required expense reimbursement, and whether Class
21 Members are entitled to damages and penalties as a result of these practices. Plaintiff contends that
22 certification of this Class is appropriate because Defendant allegedly engaged in uniform practices
23 with respect to the Class Members. As a result, these common questions of liability could be
24 answered on a class wide basis.

25 c. **Typicality** - In the instant case, Plaintiff contends that there can be little
26 doubt that the typicality requirement is satisfied. The Plaintiff worked for Defendant as an hourly,
27 non-exempt employee during the Class Period. Plaintiff contends that, like every other member of
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1 the Class, he was subject to the same practices and policies of Defendant and was subject to the
2 same defenses. Thus, Plaintiff asserts that the claims of the Plaintiff and the Class Members arise
3 from the same course of conduct by the Defendant, involve the same employment policies and
4 practices of Defendant, and are based on the same legal theories.

5 d. **Adequacy** - Plaintiff contends that the Class Members are adequately
6 represented here because Plaintiff and representing counsel (a) do not have any conflicts of interest
7 with other class members, and (b) will prosecute the case vigorously on behalf of the Class. This
8 requirement is met here. First, Plaintiff is well aware of his duties as the representative of the Class
9 and has actively participated in the prosecution of this case to date. Plaintiff effectively
10 communicated with Class Counsel, provided documents and information to Class Counsel, and
11 participated in the investigation and resolution of the Action. The personal involvement of the
12 Plaintiff was essential to the prosecution of the Action and the monetary settlement reached.
13 Second, Plaintiff retained competent counsel who are experienced in employment class actions and
14 who have no conflicts. Third, there is no antagonism between the interests of the Plaintiff and those
15 of the Class. Both the Plaintiff and the Class Members seek monetary relief under the same set of
16 facts and legal theories.

17 31. Class Counsel's Adequacy of Representation and Absence of Conflict: Blumenthal
18 Nordrehaug Bhowmik De Blouw LLP is experienced in prosecuting class action lawsuits and can
19 competently represent the Class. Other lawyers at my firm and I have extensive class litigation
20 experience. We have handled a number of class actions and complex cases and have acted both as
21 counsel and as lead and co-lead counsel in a variety of these matters. We have successfully
22 prosecuted and obtained significant recoveries in numerous class action lawsuits and other lawsuits
23 involving complex issues of law and fact. My firm is particularly experienced in wage and hour
24 employment law class actions, including claims for misclassification, overtime, expense
25 reimbursement, unlawful deduction of wages, and missed rest and meal periods. Blumenthal
26 Nordrehaug Bhowmik De Blouw LLP has been involved as class counsel in over hundreds of wage
27 and hour class actions. Blumenthal Nordrehaug Bhowmik De Blouw LLP has been found to be
28 adequate counsel by the courts throughout California. We have been approved as experienced class

1 counsel by both state and federal courts in California in contested class certification proceedings. A
2 true and correct copy of the resume of my firm is attached hereto as Exhibit #2. The Class in this
3 settlement is defined as “all individuals who are or previously were employed by Defendant in
4 California who were classified as hourly, non-exempt employees at any time during the Class
5 Period.” I have reviewed my firm’s cases and representation of other plaintiffs and there is no
6 conflict or representation which would prevent my firm from representing the interests of the Class
7 this case. My firm only represents employees, and not employers. My firm has never represented
8 Defendant nor any affiliate of the Defendant. My firm’s only interest in the subject matter of this
9 litigation is to ensure a recovery to the Class and to maximize that recovery. Finally, our allegiance
10 to the Class and the claims of the Class is not inconsistent with our allegiance to pursue the claims
11 on behalf of other employees and classes as the claims are all against different and distinct
12 employers. I can think of no conflict that would arise in our representation of the Class and our
13 adequate representation of the Class is evidenced by the successful prosecution of the class claims
14 to reach an excellent recovery for the Class. Moreover, neither the Plaintiff nor Class Counsel have
15 any affiliation with the Administrator for this settlement. Thus, the adequacy requirement for my
16 firm is satisfied.

17 32. The Class Notice, drafted jointly and agreed upon by the Parties through their
18 respective counsel and to be approved by the Court, includes all relevant information. (See Exhibit
19 “A” to the Agreement.) A Spanish translation of the Class Notice will be included in the mailing.
20 (Agreement at ¶¶ 1.12 and 8.4(b).) The Class Notice, drafted jointly and agreed upon by the Parties
21 through their respective counsel and to be approved by the Court, includes all relevant information.
22 (See Exhibit “A” to the Agreement.) The Class Notice will include, among other information: (i)
23 information regarding the Action; (ii) the impact on the rights of the Class Members if they do not
24 opt out, including a description of the applicable release; (iii) information to the Class Members
25 regarding how to opt out and how to object to the Settlement; (iv) the estimated Individual Class
26 Payment for each of the Class Members; (iii) the amount of attorneys’ fees and expenses to be
27 sought; (v) the amount of the Plaintiff’s service award request; and (vi) the anticipated expenses of
28 the Administrator. The Class Notice will state that the Class Members shall have forty-five (45)

1 days from the date that the Notice is mailed to them (the "Response Deadline") to request exclusion
2 (opt-out) or to submit an objection, which Response Deadline shall be extended by 14 days in the
3 event of a re-mailing. (Agreement at ¶¶ 1.43, 8.5, 8.7.) Class Members shall be given the
4 opportunity to object to the Settlement and/or requests for attorneys' fees and expenses and to
5 appear at the Final Approval Hearing. (Agreement at ¶ 8.7.) Class Members who do not submit a
6 timely and proper request to opt-out will automatically receive a payment of their Individual Class
7 Payment. This notice program was designed to meaningfully reach the Class Members and it
8 advises them of all pertinent information concerning the Settlement.

9
10 33. The PAGA Claim -

11 a. **Approval of PAGA Settlements.** The decision in *O'Connor v. Uber*, 201
12 F.Supp.3d 1110, 1133 (N.D. Cal. 2016), and the LWDA's Response therein is illustrative. The
13 LWDA first states that "when viewing the monetary relief allocated to PAGA claims under a
14 settlement, the LWDA recognizes that the PAGA sum need not necessarily be viewed through the
15 same lens as the relief obtained by absent class members on other claims (i.e., the percentage of
16 recovery-to-exposure on the PAGA claims need not necessarily equal the percentage of recovery on
17 the other claims)." (LWDA Response at p.3). The LWDA also indicated that the payment of
18 money to the aggrieved employees furthers the purposes of PAGA and that the Court considers that
19 primary consideration. "The LWDA recognizes that this Court does not review the PAGA
20 allocation in isolation, but rather reviews the settlement as a whole, to determine whether it is
21 fundamentally fair, reasonable and adequate, with primary consideration for the interests of absent
22 class members." (LWDA Response at p.4).

23 b. **Valuation of the PAGA Claim.** For mediation, Plaintiff calculated the
24 value of the alleged PAGA claim as to Aggrieved Employees for civil penalties to be between
25 \$567,150 and \$1,134,300 for a single violation in every one of the estimated 11,343 pay periods at
26 issue in the PAGA Period, depending on whether the violation was \$50 per pay period as in the case
27 of Labor Code § 558(a)(1) or the standard amount of \$100 per pay period for violation of Labor
28 Code § 1198. This valuation assumed that PAGA civil penalties would be awarded at the maximum

1 rate per pay period but without stacking.³ The PAGA allocation in the Settlement is \$30,000. This
2 allocation is justified by several important considerations. First, the PAGA claim was subject to the
3 same risks as the underlying class claims. Second, Defendant asserted additional defenses to the
4 PAGA claim, not only as to liability but also as to the amount of the penalties. Defendant could
5 also argue that no penalties prior to the PAGA notification should be awarded, and I am aware of
6 one Court which has so ruled. These additional defenses present a risk to the PAGA claim and the
7 potential that some or all of the PAGA penalties sought may not be awarded. Second, in
8 *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), the court affirmed a judgment which
9 only provided for a PAGA penalty of \$5 per violation. Therefore, at trial, any PAGA penalties
10 awarded could be significantly less than Plaintiff's calculation even where Plaintiff prevailed on the
11 PAGA claim. Even if we assume that violations for all 11,343 pay periods were established, using
12 the valuation from *Carrington* results in a potential recovery of only \$56,715 under PAGA. This
13 means that the PAGA allocation in the Agreement is a reasonable percentage of this potential
14 PAGA recovery. Fourth, the interests of PAGA are also served by the Class recovery under the
15 reasoning of the LWDA in *O'Connor v. Uber*.

16 c. **Comparable PAGA Settlements.** In reaching the settlement of the PAGA
17 claim, Class Counsel was also aware of what allocations other Courts have approved for similar
18 PAGA settlements as compared to the total settlement amount. A class settlement that allocates
19 approximately 2% of the total settlement value to resolve the PAGA claims applicable to the class
20 is also supported by what has been approved in other wage-and-hour class settlements. Indeed,
21 Courts typically approve PAGA settlement amounts in the range of between 0.27 to 2 percent of the
22 total settlement. See *Davis v. Brown Shoe Co.*, 2015 U.S. Dist. LEXIS 149010 (E.D. Cal. 2015)
23 (PAGA Payment of \$5,000 in a \$1.5 million class settlement); *Zamora v. Ryder Integrated*
24 *Logistics, Inc.*, 2014 U.S. Dist. LEXIS 184096 (S.D. Cal. 2014) (\$7,500 payment to LWDA for
25

26 ³ Stacking is where more than one civil penalty is imposed in a pay period for the same conduct.
27 The valuation of between \$567,150 and \$1,134,300 is the civil penalty amount without stacking. If
28 stacking is permitted, then the valuation increases with each additional penalty added to each pay
period. Plaintiff, however, is not aware of any PAGA award which permitted stacking and in the
cases cited herein, only one penalty per pay period was assessed.

1 PAGA on a \$1.5 million class settlement); *Lusby v. Gamestop Inc.*, 2015 U.S. Dist. LEXIS 42637
2 (N.D. Cal. 2015) (PAGA Payment of \$5,000 in a \$500,000 class settlement); *Cruz v. Sky Chefs,*
3 *Inc.*, 2014 U.S. Dist Lexis 17693 (N.D. Cal. 2014) (approving payment of \$10,000 to the LWDA
4 for PAGA out of \$1,750,000 class settlement); *Chu v. Wells Fargo Investments, LLC*, 2011 WL
5 672645, *1 (N.D. Cal. 2011) (approving PAGA payment of \$7,500 to the LWDA out of \$6.9
6 million common-fund settlement); *Franco v. Ruiz Food Products, Inc.*, 2012 WL 5941801, *13
7 (E.D. Cal. 2012) (approving PAGA payment of \$7,500 to the LWDA out of \$2.5 million
8 common-fund settlement); *Hopson v. Hanesbrands Inc.*, 2009 WL 928133, *9 (N.D. Cal. 2009)
9 (approving PAGA allocation that was .49% of \$408,420.32 gross settlement); *Garcia v. Gordon*
10 *Trucking, Inc.*, 10-cv-00324-AWI-SKO, Dkt. 149-3, 165 (E.D. Cal.) (approving a class settlement
11 of \$3,700,000, with \$10,000 allocated to the PAGA claim); *McKenzie v. Federal Express Corp.*,
12 CV 10-02420 GAF (PLAx), Dkt. 139 & 141 (C.D. Cal.) (court approved a settlement in an amount
13 of \$8.25 million, with \$82,500 allotted to the PAGA claim); *DeStefan v Frito-Lay,*
14 8:10-cv-00112-DOC (C.D. Cal.) (court approved a class settlement of \$2 million, with \$10,000
15 allocated to PAGA); *Martino v. Ecolab Inc.*, No. 3:14CV04358 (N.D. Cal. 2017) (\$100,000 allotted
16 as PAGA penalties or 0.48% of \$21,000,000 settlement amount); *East v. Comprehensive*
17 *Educational Services Inc.*, Fresno Superior Court Case No. 11-CECG-04226 (2015) (\$10,000
18 allotted as PAGA penalties or 0.13% of \$7,595,846 settlement amount); *Bararsani v. Coldwell*
19 *Banker Residential Brokerage Company*, Los Angeles Superior Court Case No. BC495767 (2016)
20 (\$10,000 allotted as PAGA penalties or 0.22% of \$4,500,000 settlement amount); *Moppin v. Los*
21 *Robles Medical Center*, No. 5:15CV01551 (C.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or
22 0.40% of \$3,775,000 settlement amount); *Scott-George v. PVH Corporation*. No., 2:13CV00441
23 (E.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or 0.46% of \$3,250,000 settlement amount);
24 *Nehrlich v. RPM Mortgage Inc.*, Orange County Superior Court Case No.
25 30-2013-00666783-CU-OE-CXC (2017) (\$10,000 allotted as PAGA penalties or 0.40% of
26 \$2,500,000 settlement amount); *Rubio v. KTI Incorporated*, San Bernardino Superior Court Case
27 No. CIVDS-14-06132 (2015) (\$1,000 allotted as PAGA penalties or 0.18% of \$550,000 settlement
28 amount); *Gray v. Mountain View Child Care Inc.*, San Bernardino Superior Court Case No.

1 CIVDS-14-02285 (2016) (\$2,500 allotted as PAGA penalties or 0.37% of \$675,000 settlement
2 amount); *Perez v. West Coast Liquidators Inc. d/b/a Big Lots*, San Bernardino Superior Court Case
3 No. CIVDS-14-17863 (2016) (\$3,000 allotted as PAGA penalties or 0.33% of \$900,000 settlement
4 amount); *Penaloza vs. PPG Industries Inc.*, Los Angeles Superior Court No. BC471369 (2013)
5 (\$5,000 allotted as PAGA penalties or 0.38% of \$1,300,000 settlement amount); *Mejia v. DHL*
6 *Express (USA) Inc.*, No. 2:15CV00890 (C.D. Cal. 2017) (\$5,000 allotted as PAGA penalties or
7 0.34% of \$1,450,000 settlement amount).

8
9 34. Attorneys' Fees - The Class Counsel Fees Payment is capped at one-third of the
10 Gross Settlement Amount. A fee award that is capped at one-third of the common fund is fair and
11 reasonable, and at the time of final approval, my firm will present lodestar to further support the
12 reasonableness of the requested fee award. My firm has been regularly awarded attorney's fees
13 equal to one-third of the common fund in Court-approved wage and hour class settlements. Some
14 of the class action awards obtained by Class Counsel in similar employment actions throughout the
15 state bear out the reasonableness of a fee and costs award equivalent to one-third (1/3) of the total
16 settlement value: On December 4, 2018, in *Panda Express Wage and Hour Cases* (Los Angeles
17 Superior Court, Case No. JCCP 4919) Judge Carolyn Kuhl awarded Class Counsel a one-third fee
18 award in a wage and hour class settlement. On February 1, 2019, in *Solarcity Wage and Hour*
19 *Cases* (San Mateo Superior Court, Case No. JCCP 4945) Judge Marie Weiner awarded Class
20 Counsel a one-third fee award in a wage and hour class settlement. On July 30, 2019, in *Erickson v.*
21 *John Muir Health*, (Contra Costa Superior Court Case No. MSC18-00307) Judge Edward Weil
22 awarded Class Counsel a one-third fee award in a wage and hour class settlement. On December
23 18, 2019, in *Velasco v. Lemonade Restaurant Group*, (Los Angeles Superior Court Case No.
24 BC672235) Judge William Highberger awarded Class Counsel a one-third fee award in a wage and
25 hour class settlement. On January 31, 2020, in *El Pollo Loco Wage and Hour Cases* (Orange
26 County Superior Court Case No. JCCP 4957) Judge William Claster awarded Class Counsel a one-
27 third award in a wage and hour class settlement. On October 23, 2020, in *Ontiveros v. Baker*
28 *Concrete*, (Santa Clara Superior Court Case No. 18CV328679) Judge Brian Walsh awarded Class

1 Counsel a one-third fee award in a wage and hour class settlement. On December 3, 2020, in
2 *Blackshear v. California Fine Wine & Spirits* (Sacramento Superior Court Case No. 34-2018-
3 00245842) Judge Christopher Krueger awarded BNBD a one-third fee award in a wage and hour
4 class settlement. On June 2, 2021, in *Pacia v. CIM Group, L.P.* (Los Angeles Superior Court Case
5 No. BC709666), Judge Amy D. Hogue awarded Class Counsel a one-third fee award in a wage and
6 hour class settlement. On September 24, 2021, in *Prologistics Wage and Hour Cases* (Los Angeles
7 Superior Court Case No. JCCP 4881), Judge William Claster awarded Class Counsel a one-third fee
8 award in a wage and hour class settlement. On November 8, 2021, in *Securitas Wage and Hour*
9 *Cases* (Los Angeles Superior Court Case No. JCCP4837) Judge David Cunningham awarded a
10 one-third fee award in a wage and hour class settlement. On March 17, 2022, in *See's Candies*
11 *Wage and Hour Cases* (Los Angeles Superior Court Case No. JCCP5004) Judge Maren Nelson
12 awarded a one-third fee award in a wage and hour class action settlement. On April 12, 2022, in
13 *O'Donnell v. Okta, Inc.*, (San Francisco Superior Court Case No. CGC-20-587665) Judge Richard
14 Ulmer awarded a one-third fee award in a wage and hour class action settlement. On May 23, 2022,
15 in *Ettegui v. WB Studio Enterprises Inc.*, (United States District Court, Central District of
16 California Case No. 2:20-cv-08053-MCS-JDE) Judge Mark C. Scarsi awarded a one-third fee
17 award in a wage and hour class action settlement. On June 30, 2022, in *Armstrong, et al. v.*
18 *Prometric LLC* (Los Angeles Superior Court Case No. 20STCV29967), Judge Maren E. Nelson
19 awarded a one-third fee award in a wage and hour class action. On July 13, 2022, in *Crum v. S&D*
20 *Carwash Management LLC*, (Sacramento Superior Court Case No. 2019-00251338), Judge
21 Christopher E. Krueger awarded a one-third fee award in a wage and hour class action settlement.
22 On August 10, 2022, in *Spears, et al. v. Health Net of California, Inc.*, (Sacramento Superior Court
23 Case No. 34-2017-00210560-CU-OE-GDS), Judge Christopher E. Krueger awarded a one-third fee
24 award in a wage and hour class action settlement. On September 7, 2022, in *Lucchese, et al. v.*
25 *Kone, Inc.*, (San Francisco Superior Court Case No. CGC-20-588225), Judge Richard B. Ulmer, Jr.
26 awarded a one-third fee award in a wage and hour class action settlement. On November 4, 2022, in
27 *Infinity Energy Wage and Hour Cases* (San Diego Superior Court, Case No. JCCP5139), Judge
28 Keri Katz awarded a one-third fee award in a wage and hour class action settlement. On February

1, 2023, in *Hogan v. AECOM Technical Services, Inc.* (Los Angeles Superior Court Case No. 19STCV40072), Judge Stuart Rice awarded a one-third fee award in a wage and hour class settlement. On February 28, 2023, in *Farthing v. Milestone Technologies* (San Francisco Superior Court Case No. CGC-21-591251), Judge Richard B. Ulmer, Jr. awarded a one-third fee award in a wage and hour class action settlement. On March 2, 2023, in *Leon v. Calaveras Materials* (Kings County Superior Court Case No. 21C-0105), Judge Melissa D'Morias awarded a one-third fee award in a wage and hour class settlement. A fee award equal to one-third of the common fund is therefore reasonable in light of the fees that have been awarded in other similar cases.

35. Class Representative Service Payment - The reasonableness of the requested service award is also established by reference to the amounts that other California courts have found to be reasonable in wage and hour class action settlements: *Zamora v. Balboa Life & Casualty, LLC*, Case No. BC360036, Los Angeles County Superior Court (Mar. 7, 2013)(awarding \$25,000 service award); *Aguiar v. Cingular Wireless, LLC*, Case No. CV 06-8197 DDP (AJWx)(C.D. Cal. Mar. 17, 2011)(awarding \$14,767 service award); *Magee v. American Residential Services, LLC*, Case No. BC423798, Los Angeles County Superior Court (Apr. 21, 2011)(awarding \$15,000 service award); *Mares v. BFS Retail & Commercial Operations, LLC*, Case No. BC375967, Los Angeles County Superior Court (June 24, 2010)(awarding \$15,000 service award); *Baker v. L.A. Fitness Int'l, LLC*, Case No. BC438654, L.A. County Superior Court (Dec. 12, 2012)(awarding \$10,000 service awards to three named plaintiffs); *Blue v. Coldwell banker Residential Brokerage Co.*, Case No. BC417335, Los Angeles County Superior Court (Mar. 21, 2011)(awarding \$10,000 service award); *Buckmire v. Jo-Ann Stores, Inc.*, Case No. BC394795, Los Angeles County Superior Court (June, 11, 2010)(awarding \$10,000 service awards); *Coleman v. Estes Express Lines, Inc.*, Case No. BC429042, Los Angeles County Superior Court (Oct. 3, 2013)(awarding \$10,000 service award); *Ethridge v. Universal Health Services, Inc.*, Case No. BC391958, Los Angeles County Superior Court (May 27, 2011)(awarding \$10,000 service award); *Hickson v. South Coast Auto Ins. Marketing, Inc.*, Case No. BC390395, Los Angeles County Superior Court (Mar. 27, 2012)(awarding \$10,000 service award); *Hill v. sunglass Hut Int'l, Inc.*, Case No. BC422934, Los

1 Angeles County Superior Court (July 2, 2012)(awarding \$10,000 service award); *Kambamba v.*
2 *Victoria's Secret Stores, LLC*, Case No. BC368528, Los Angeles County Superior Court, (Aug. 19,
3 2011)(awarding \$10,000 service award together with additional compensation for their general
4 release); *Nevarez v. Trader Joe's Co.*, Case No. BC373910, Los Angeles County Superior Court
5 (Jan. 29, 2010)(awarding \$10,000 service award); *Ordaz v. Rose Hills Mortuary, L.P.*, Case No.
6 BC386500, Los Angeles County Superior Court, (Mar. 19, 2010)(awarding \$10,000 service award);
7 *Sheldon v. AHMC Monterey Park Hosp. LP*, Case No. BC440282, Los Angeles County Superior
8 Court (Feb. 22, 2013)(awarding \$10,000 service award); *Silva v. Catholic Mortuary Services, Inc.*,
9 Case No. BC408054, Los Angeles County Superior Court (Feb. 8, 2011)(awarding \$10,000
10 enhancement award); *Weisbarth v. Banc West Investment Services, Inc.*, Case No. BC422202, Los
11 Angeles County Superior Court (May 24, 2013)(awarding \$10,000 service award); *Lazar v. Kaiser*
12 *Foundation Health Plan*, Case No. 14-cv-273289, Santa Clara County Superior Court (Dec. 28,
13 2015) (awarding \$10,000 service award); *Acheson v. Express, LLC*, Case No. 109CV135335, Santa
14 Clara County Superior Court (Sept. 13, 2011)(awarding \$10,000 service award); *Bejarano v.*
15 *Amerisave Mortgage Corp.*, Case No. EDCV 08-00599 SGL (Opx)(C.D. Cal. June 22,
16 2010)(awarding \$10,000 service award); *Carbajal v. Sally Beauty Supply LLC*, Case No. CIVVS
17 1004307, San Bernardino County Superior Court (Aug. 6, 2012)(awarding \$10,000 service award);
18 *Contreras v. Serco Inc.*, Case No. 10-cv-04526-CAS-JEMx (C.D. Cal. Sep. 10, 2012)(awarding
19 \$10,000 service award); *Guerro v. R.R. Donnelley & Sons Co.*, Case No. RIC 10005196, Riverside
20 County Superior Court (July 16, 2013)(awarding \$10,000 service award); *Kisliuk v. ADT Security*
21 *Services Inc.*, Case No. CV08-03241 DSF (RZx)(C.D. Cal. Jan. 10, 2011)(awarding \$10,000
22 service award); *Morales v. BCBG Maxazria Int'l Holdings, Inc.*, Case No. JCCP 4582, Orange
23 County Superior Court (Jan. 24, 2013)(awarding \$10,000 service award); *Barrett v. Doyon Security*
24 *Services, LLC*, Case No. BS900199, BS900517, San Bernardino County Superior Court (Apr. 23,
25 2010)(awarding \$10,000 service award); *Zirpolo v. UAG Stevens Creek II*, Santa Clara Superior
26 Court Case no. 17CV313457 (July 10, 2018) (awarding \$10,000 service award); *Taylor v. TIC - The*
27 *Inductrial Complany*, U.S.D.C. Central District of California Case No. EDCV 16-186-VAP (Aug.
28 1, 2018) (awarding \$10,000 service award).

36. Potentially Related Other Actions - I am aware of other related cases pending against Defendant which could be impacted by this settlement. These other cases are a putative class action entitled *Bavadian et al. v. PSG California, LLC*, case number CIVSB 2225695 and the representative action entitled *Bavadian et al. v. PSG California, LLC*, case number CIVSB 2226977 both of which were filed after this action and are pending in the Superior Court of the State of California, County of San Bernardino (collectively the "Bavadian Actions").

37. Administration - After seeking bids from qualified administrators, the estimate from CPT Group is was selected, as it provided for an estimate of \$11,000 to perform the settlement administration for a Class of up 454, with any difference between the actual expenses and the budget of \$13,500 to be retained in the Net Settlement Amount for distribution to the Class. I have used CPT Group successfully as the administrator in more than twenty class settlements in the last few years and know them to be competent and experienced. My firm has no relationship or connection with CPT Group, and thus no conflict of interest exists. Attached hereto as Exhibit #4 is a true and correct copy of the estimate for administration from CPT Group.

Service on the LWDA:

38. At the same time as the filing and service of this declaration, I am also serving the LWDA with the entire motion for preliminary approval which includes the Class Action and PAGA Settlement Agreement. This service is verified by the accompanying proof of service.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 17th day of May, 2023, at La Jolla, California.


Kyle Nordrehaug

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff Dennis Eberwein (“Plaintiff”) and Defendant PSG California LLC (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as the “Parties,” or individually as “Party.”

1. DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant captioned *Dennis Eberwein v. PSG California LLC*, Case No. CIVSB2207161, initiated on April 8, 2022 and pending in Superior Court of the State of California, County of San Bernardino.
- 1.2. “Administrator” means CPT Group, the neutral entity the Parties have agreed to 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 “not to exceed” bid submitted to the Court in connection with Preliminary Approval.
- 1.4. “Aggrieved Employees” means all hourly, non-exempt employees who were employed in California at any time during the PAGA Period.
- 1.5. “Class” means all individuals who are or previously were employed by Defendant in California who were classified as hourly, non-exempt employees at any time during the Class Period.
- 1.6. “Class Counsel” means Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik, and Christine T. LeVu of Blumenthal Nordrehaug Bhowmik De Blouw LLP.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts to be paid to Class Counsel for fees and expenses, respectively, as approved by the Court, to compensate Class Counsel for their legal work in connection with the Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses billed in connection with the Action.

- 1.8. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, email address (if known and available to Defendant), and number of Workweeks and PAGA Pay Periods.
- 1.9. “Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member 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 Class Members by use of available email addresses, phone numbers, Social Security numbers, credit reports, LinkedIn and Facebook.
- 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English with a Spanish translation, if applicable in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12. “Class Notice Packet” means the Class Notice to be provided to the Class Members by the Administrator in the form set forth as Exhibit A to this Agreement (other than formatting changes to facilitate printing by the Administrator).
- 1.13. “Class Period” means the period of time from April 8, 2018 to the earlier of preliminary approval or May 10, 2023.
- 1.14. “Class Representative” means the named Plaintiff in the Operative Complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.15. “Class Representative Service Payment” means the service payment made to the Plaintiff as Class Representative in order to compensate for initiating the Action, performing work in support of the Action, undertaking the risk of liability for Defendant’s expenses, and for the general release of all claims by the Plaintiff.
- 1.16. “Court” means the Superior Court of California, County of San Bernardino.
- 1.17. “Defendant” means PSG California, LLC.
- 1.18. “Defense Counsel means Yvonne Arvanitis Fossati, Hazel U. Poei, and Jane J. Kim

of Jackson Lewis P.C..

- 1.19. "Effective Date" means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.20. "Final Approval" means the Court's order granting final approval of the Settlement substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.
- 1.21. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of the Settlement to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.
- 1.22. "Gross Settlement Amount" means One Million Four Hundred Thousand Dollars (\$1,400,000) which is the total amount to be paid by Defendant as provided by this Agreement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator's Expenses. This Gross Settlement Amount is an all-in amount without any reversion to Defendant, and excludes any employer payroll taxes, if any, due on the portion of the Individual Class Payments allocated to wages which shall not be paid from the Gross Settlement and shall be the separate additional obligation of Defendant.
- 1.23. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period.
- 1.25. "Judgment" means the judgment entered by the Court based upon Final Approval substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.
- 1.26. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

- 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The Net Settlement Amount is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. “Non-Participating Class Member” means a Class Member who opts out of the Class Settlement by submitting a valid and timely Request for Exclusion to the Administrator.
- 1.30. “Operative Complaint” means the First Amended Consolidated Class and Representative Action Complaint filed in the Action.
- 1.31. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.32. “PAGA Period” means the period of time from April 8, 2021 to the earlier of preliminary approval or May 10, 2023.
- 1.33. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.34. “PAGA Notice” means the Plaintiff’s March 17, 2022 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.35. “PAGA Penalties” means the total amount of PAGA civil penalties of \$30,000 to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$7,500) and the 75% to LWDA (\$22,500) in settlement of PAGA claims.
- 1.36. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion.
- 1.37. “Plaintiff” means Dennis Eberwein, the named plaintiff in the Action.
- 1.38. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement, substantially in the form attached hereto as Exhibit B to this Agreement and incorporated by this reference herein.
- 1.39. “Released Class Claims” means all class claims pled or could have been pled based on the factual allegations contained in the Operative Complaint which occurred during the Class Period, including but not limited to Labor Code §§ 201, 202, 203, 204, 226,

226.7, 510, 512, 1174, 1194, 1197, 1197.1, and 2802. Except as expressly set forth in this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, Social Security, workers' compensation, or claims based on facts occurring outside the Class Period.

1.40. "Released PAGA Claims" means all PAGA claims pled or which could have been pled based on the factual allegations contained in the Operative Complaint and PAGA letters sent by Plaintiff which occurred during the PAGA Period. The Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims, claims for wrongful termination, discrimination, unemployment insurance, disability and worker's compensation, and claims outside of the PAGA Period.

1.41. "Released Parties" means: Defendant and each of its former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns and subsidiaries.

1.42. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.43. "Response Deadline" means forty-five (45) calendar days after the Administrator mails the Class Notice Packet to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) submit Requests for Exclusion from the Settlement, or (b) submit his or her Objection to the Settlement. Class Members to whom Class Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

1.44. "Settlement" means the disposition of the Action and all related claims effectuated by this Agreement and the Judgment.

1.45. "Workweek" means any week during the Class Period in which a Class Member worked for Defendant as a Class Member for at least one day.

2. RECITALS

2.1. On April 8, 2022, Plaintiff commenced this Action by filing a Complaint against Defendant in the Superior Court of the State of California, County of San Bernardino. Plaintiff's Complaint asserted claims that Defendant:

- (a) Violated California Business and Professions Code § 17200 et seq.;
- (b) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and 1197.1;

- (c) Failed to pay overtime wages in violation of California Labor Code § 510, et seq.;
- (d) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- (e) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- (f) Failed to provide accurate itemized wage statements in violation of California Labor Code § 226;
- (g) Failed to reimburse employees for required expenses in violation of California Labor Code § 2802; and
- (h) Failed to provide wages when due in violation of California Labor Code §§ 201, 202 and 203.

2.2. On June 7, 2022, Plaintiff filed a Representative Action Complaint against Defendant in the Superior Court of the State of California, County of San Bernardino, asserting a single cause of action for violation of the Private Attorney General Act, Cal. Labor Code §§ 2698, et seq. (“PAGA”), Case No. CIV SB 2211719 (hereinafter “PAGA Action”).

2.3. On April 10, 2023, the Parties filed a First Amended Consolidated Class and Representative Action Complaint, which consolidated the claims in the Action with the PAGA Action.

2.4. The First Amended Consolidated Class and Representative Action Complaint is the Operative Complaint in the Action.

2.5. Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.

2.6. On February 10, 2023, the Parties participated in an all-day mediation presided over by Tripper Ortman, a respected mediator of wage and hour representative and class actions. Following the mediation, each side, represented by its respective counsel, were able to agree to settle the Action based upon a mediator’s proposal which was memorialized in the form of a Memorandum of Understanding. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties.

2.7. Prior to mediation, Plaintiff obtained sufficient documents and information to sufficiently investigate the claims such that Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

- 2.8. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims in the Action of Plaintiff or the Class (including Aggrieved Employees) have merit or that Defendant bears any liability to Plaintiff or the Class (including Aggrieved Employees) on those claims or any other claims, or as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendant reserves the right to contest certification of any class for any reason and reserves all available defenses to the claims in the Action.
- 2.9. The Parties, Class 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 other than the class action entitled *Bavadian et al. v. PSG California, LLC*, case number CIVSB 2225695 and the representative action entitled *Bavadian et al. v. PSG California, LLC*, case number CIVSB 2226977 both of which are pending in the Superior Court of the State of California, County of San Bernardino (collectively the "Bavadian Actions").

3. MONETARY TERMS

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay \$1,400,000 and no more as the Gross Settlement Amount. This amount is all-inclusive of all payments contemplated in this resolution, excluding any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages which shall be separately paid by Defendant to the Administrator. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or 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. Subject to the terms and conditions of this Agreement, the Administrator will make the following payments out of the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval.
- (a) To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$10,000 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the

remainder in the Net Settlement Amount and distribute the funds as set forth in Paragraphs 1.23 and 1.24 above. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

- (b) To Class Counsel: A Class Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be \$466,666.67, and a Class Counsel Litigation Expenses Payment of not more than \$25,000. Defendant will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class 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 Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these payments.
- (c) To the Administrator: An Administration Expenses Payment not to exceed \$13,500 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses Payment is less or the Court approves payment less than \$13,500, the Administrator will retain the remainder in the Net Settlement Amount for distribution to Participating Class Members and Aggrieved Employees as set forth in Paragraphs 1.23 and 1.24 above.
- (d) To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$30,000 to be paid from the Gross Settlement Amount, with 75% (\$22,500) allocated to the LWDA PAGA Payment and 25% (\$7,500) allocated to the Individual PAGA Payments.
 - i. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$7,500) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

- ii. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount for distribution to Participating Class Members and Aggrieved Employees as set forth in Paragraphs 1.23 and 1.24 above. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.
- (e) To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.
- i. Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for non-wages, expense reimbursement, interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.
 - ii. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members and Aggrieved Employees on a pro rata basis as set forth in Paragraphs 1.23 and 1.24 above.

4. SETTLEMENT FUNDING

- 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on its records, Defendant has represented that the Class consists of 454 Class Members who collectively worked a total of 53,000 Workweeks, and 312 Aggrieved Employees who worked a total of 10,372 PAGA Pay Periods.
- 4.2. Class Data. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted Class Member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any

extension of the deadline by which Defendant must send the Class 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 Class Data.

- 4.3. Funding of the Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 15 days after the Effective Date.

5. PAYMENTS FROM THE GROSS SETTLEMENT AMOUNT

- 5.1. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment.
- 5.2. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the "void date", which is 180 days after the date of mailing, when the check will be voided. Before checks are mailed, the Administrator shall update address information through the National Change of Address database. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Class Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Administrator must update the recipients' mailing addresses using the National Change of Address Database. If a Participating Class Member's or Aggrieved Employee's check is not cashed within 120 days after its last mailing to the affected individual, the Administrator will also send the individual a notice informing him or her that unless the check is cashed by the void date, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed.
- 5.3. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 7 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 Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator

shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

5.4. For any Class Member whose Individual Class Payment check or 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 Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

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

6. RELEASE OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Participating Class Members, Aggrieved Employees and the LWDA will release claims against all Released Parties as follows:

6.1. Plaintiff's Release. Plaintiff and his respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA Notice ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, Social Security benefits, or workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

(a) Plaintiff's Waiver of Rights Under Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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.

- 6.2. Release by Participating Class Members. All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from the Released Class Claims.
- 6.3. Release of PAGA Claims. All Aggrieved Employees and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all of the Released PAGA Claims.
7. **MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s procedures and instructions.
- 7.1. Defendant’s Responsibilities. Within 14 days of the full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed Declaration disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In the Declaration, Defendant 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 other than Bavadian Actions. In this Declaration, Defendant shall also aver as to the number of Class Members and the number of Workweeks for the Class during the Class Period.
- 7.2. Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) 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 Class 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 Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vi) a redlined version of the parties’ Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or

potential conflict of interest with Class Members, the Administrator. In their Declarations, Plaintiff and Class Counsel Declaration 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, other than Bavadian Actions.

- 7.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.
- 7.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class 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 Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class 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.

8. SETTLEMENT ADMINISTRATION

- 8.1. Selection of Administrator. The Parties have jointly selected CPT Group to serve as the Administrator and verified that, as a condition of appointment, CPT Group 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 Administrator's duties will include preparing, printing, and mailing the Class Notice Packet to all Class Members; conducting a National Change of Address search to update Class Member addresses before mailing the Class Notice Packets; re-mailing Class Notice Packets that are returned to the Class Member's new address; setting up a toll-free telephone number and email and a fax number to receive communications from Class Members; receiving and reviewing for validity completed Requests for Exclusion; providing the Parties with weekly status reports about the delivery of Class Notice Packets and receipt of Requests for Exclusion, objections and disputes; calculating Individual Class Payments and Individual PAGA Payments; issuing the checks to effectuate the payments due under the Settlement; issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

- 8.2. 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.
- 8.3. 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.
- 8.4. Notice to Class Members.
- (a) No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
 - (b) Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice with Spanish translation, if applicable substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
 - (c) Not later than 7 days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
 - (d) The deadlines for Class Members’ written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the Response Deadline provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
 - (e) If the Administrator, the Parties, Defense Counsel or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith. in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class

Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

8.5. Requests for Exclusion (Opt-Outs).

- (a) Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than the Response Deadline (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
- (b) Non-compliant Request for Exclusion will be rejected by the Class Administrator unless otherwise ordered by the Court.
- (c) Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraph 6.2 of the Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- (d) Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.3 of this Agreement and are eligible for an Individual PAGA Payment. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted and the objection will be void.

8.6. Challenges to Calculation of Workweeks. Each Class Member shall have until the Response Deadline (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is

entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination as to the challenges

8.7. Objections to Settlement.

- (a) Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.
- (b) Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, or in addition to a written objection, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than the Response Deadline (plus an additional 14 days for Class Members whose Class Notice was re-mailed).
- (c) Non-Participating Class Members have no right to object to any of the class action components of the Settlement. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted and the objection will be void.

8.8. 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

- (a) Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.
- (b) Request for Exclusion (Opt-Outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 7 days after the expiration of the deadline for submitting Requests for

Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

- (c) Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- (d) Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion.
- (e) Administrator’s Declaration. Not later than 7 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- (f) Final Report by Administrator. Within 10 days after the Administrator disburses all funds of the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 7 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court. If a second declaration attesting to the distribution of uncashed checks is required, the Administrator shall provide this second declaration at least 7 days before any deadline

for a second declaration and Class Counsel shall be responsible for filing the second declaration with the Court.

9. **CLASS SIZE MODIFICATION AND ESCALATOR CLAUSE.** Based on its records, Defendant provided figures as to the Class size as set forth in Paragraph 4.1 above. Should the actual number of Workweeks in the Class Period exceed 10% of the estimate stated herein in Paragraph 4.1, Defendant will have the option to (1) increase the Gross Settlement Amount proportionally with added Workweeks; or (2) shorten the PAGA Period or Class Period so there is no increase in the number of Workweeks.
10. **DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement Administration Expenses incurred as of the date Defendant makes this election to withdraw. Defendant must notify Class Counsel and the Court of its election to withdraw not later than 7 days after the Administrator sends the final Exclusion List to Defense Counsel. Invalid Requests for Exclusion will have no effect on this threshold for an election.
11. **MOTION FOR FINAL APPROVAL.** Unless otherwise ordered by the Court, not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699(l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than 7 days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer and in good faith, to resolve any disagreements concerning the Motion for Final Approval.
 - 11.1. Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
 - 11.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for a Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administration Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

11.3. 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 under C.C.P. section 664.6 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.

11.4. Waiver of the Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, 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 an objector 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.

11.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on an equal basis, any additional Administration Expenses reasonably incurred at the time of remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

12. AMENDED JUDGMENT. If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

13. ADDITIONAL PROVISIONS

13.1. No Admission of Liability, Class Certification 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 Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of

this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or Judgment pursuant to this Agreement, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and 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).

- 13.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 13.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees have not and will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 13.4. 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.
- 13.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff 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.

- 13.6. 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 a mediator and/or the Court for resolution.
- 13.7. 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.
- 13.8. Tax Advice. Neither Plaintiff, Class 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.
- 13.9. 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.
- 13.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 13.11. 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.
- 13.12. 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.
- 13.13. Media. Following preliminary approval of the Settlement, Plaintiff and Class Counsel will not initiate any communications with the media and, if contacted by the media, will only discuss information publicly available. Class Counsel will take all steps necessary to ensure the Class Representative is aware of, and will encourage him to adhere to, the restriction against initiating any media comment. Class Counsel further agrees not to use the settlement of this Action or any of its terms for any marketing purposes. Nothing herein will restrict Class Counsel from including publicly available information regarding this settlement in future judicial submissions regarding Class Counsel's qualifications and experience.

- 13.14. Confidentiality. 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.
- 13.15. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class 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 date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Class Data received from Defendant.
- 13.16. 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.
- 13.17. 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
- 13.18. 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 and the Class:

Norman B. Blumenthal
Kyle R. Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
2255 Calle Clara
La Jolla, CA 92037
Tel.: (858) 551-1223
Fax: (858) 551-1232
E-Mail(s): norm@bamlawca.com
kyle@bamlawca.com

To Defendant:

Yvonne Arvanitis Fossati
Hazel U. Poei

Jane J. Kim
Jackson Lewis P.C.
725 South Figueroa Street, Suite 2500
Los Angeles, California 90017-5408
Tel.: (213) 689-0404
Fax: (213) 689-0430
E-Mail(s): yvonne.fossati@jacksonlewis.com
hazel.poei@jacksonlewis.com
jane.kim@jacksonlewis.com

13.19. 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.

13.20. 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. 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 from the mediation on February 10, 2023 until the earlier of the Effective Date or the date this Agreement shall no longer be of any force or effect.

13.21. Fair Settlement. The Parties, Class Counsel and Defense Counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, both current and potential.

14. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: Apr 26, 2023


Dennis D Eberwein (Apr 26, 2023 12:36 PDT)

Plaintiff Dennis Eberwein

Dated: _____

[name]

For Defendant PSG California LLC

Jane J. Kim
Jackson Lewis P.C.
725 South Figueroa Street, Suite 2500
Los Angeles, California 90017-5408
Tel.: (213) 689-0404
Fax: (213) 689-0430
E-Mail(s): yvonne.fossati@jacksonlewis.com
hazel.poei@jacksonlewis.com
jane.kim@jacksonlewis.com

13.19. 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.

13.20. 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. 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 from the mediation on February 10, 2023 until the earlier of the Effective Date or the date this Agreement shall no longer be of any force or effect.

13.21. Fair Settlement. The Parties, Class Counsel and Defense Counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, both current and potential.

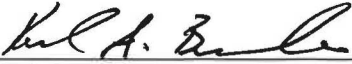
14. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: _____

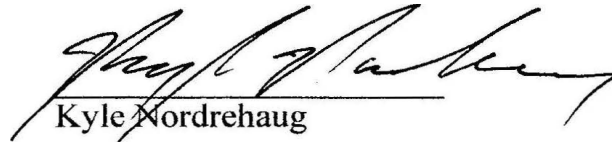
Plaintiff Dennis Eberwein

Dated: 4/27/2023



Karl Buscher
For Defendant PSG California LLC

Dated: 4/26/23



Kyle Nordrehaug

Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiff

Dated: _____

Yvonne Arvanitis Fossati

Jackson Lewis P.C.

Attorney for Defendant

Dated: _____

Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiff

Dated: 5-1-23 _____



Yvonne Arvanitis Fossati
Jackson Lewis P.C.
Attorney for Defendant

EXHIBIT A

[NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION AND HEARING DATE FOR
FINAL COURT APPROVAL]

EXHIBIT “A”

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

***Eberwein v. PSG California LLC*, Superior Court of the State of California,
County of San Bernardino, Case No. CIVSB2207161,
consolidated with Case No. CIVSB2211719**

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT
ACT. PLEASE READ THIS NOTICE CAREFULLY.**

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Defendant PSG California LLC (“Defendant”) for alleged wage and hour violations. The Action was filed by Plaintiff Dennis Eberwein (“Plaintiff”) and seeks payment of (1) wages and other relief on behalf of all individuals who are or previously were employed by Defendant in California who were classified as hourly, non-exempt employees at any time during the Class Period (April 8, 2018 to May 10, 2023) (“Class Members”), and (2) penalties and other relief on behalf of all individuals who are or previously were employed by Defendant in California who were classified as hourly, non-exempt employees at any time during the Class Period (April 8, 2021 to May 10, 2023) (“Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Class Payments to Class Members, and (2) a PAGA Settlement requiring Defendant to fund the PAGA Penalties to pay penalties to the California Labor and Workforce Development Agency (“LWDA”) and to Aggrieved Employees.

Based on Defendant’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be <<\$_____>> (less withholding), and your share of the PAGA Penalties is estimated to be << \$_____>>.** The actual amount you may receive likely will be different and will depend on a number of factors. (If \$0.00 is stated, then according to Defendant’s records you are not eligible for that payment).

The above estimates are based on Defendant’s records showing that **you worked <<_____>> workweeks** during the Class Period and **you worked <<_____>> pay periods** during the PAGA Period. If you believe that you worked more workweeks and/or pay periods during either period, you can submit a challenge by the deadline date. See Section 5 of this Notice below.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected based on whether you act or do not act. Read this Class Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter

a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment, and/or a share of the PAGA Penalties. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendant as described below in Section 4 below.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. However, you will preserve your right to personally pursue Class Period wage claims against Defendant. If you are an Aggrieved Employee, you remain eligible for a share of the PAGA Penalties. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and a share of the PAGA Penalties (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Class Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is ____.	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 7 of this Notice. However, you cannot opt-out of the PAGA portion of the proposed Settlement. If you are also an Aggrieved Employee and exclude yourself, you will still be paid your share of the PAGA Penalties and will remain bound by the release of the Released PAGA Claims regardless of whether you submit a request for exclusion.
Participating Class Members Can Object to the Class	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will

Settlement Written Objections Must be Submitted by the Response Deadline _____	include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 8 of this Notice.
You Can Participate in the _____ Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on _____ at _____ [a.m./p.m.], at the San Bernardino Superior Court, located at 247 W. 3rd St. San Bernardino, CA 92415, in Department 17 before Judge Joseph T. Ortiz. This hearing may change as explained below in Section 9. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person or by telephone through CourtCall. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 9 of this Notice.
You Can Challenge the Calculation of Your Workweeks / Pay Periods Witten Challenges Must be Submitted by the Response Deadline (_____)	The amount of your Individual Class Payment depends on how many workweeks you worked at least one day during the Class Period. The amount of your share of the PAGA Penalties (if any) depends on how many pay periods you worked at least one day during the PAGA Period. The number of Class Period workweeks and number of PAGA Period pay periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 5 of this Notice.

1. What is action about?

Plaintiff Dennis Eberwein is a former employee of Defendant. The Action alleges Defendant violated California labor laws by failing to pay minimum wages, failing to pay overtime wages, failing to provide required meal periods and unpaid premiums, failing to provide required rest periods and unpaid premiums, failing to provide accurate itemized wage statements, failing to provide required expense reimbursement, failing to provide wages when due and engaging in unfair competition. Plaintiff also seeks civil penalties under the Private Attorneys General Act ("PAGA").

Defendant strongly denies that it has done anything wrong, disputes all the claims in the Action, and further contends that it has complied with all laws.

2. What does it mean that the Action has settled?

So far, the Court has made no determination as to whether Defendant or Plaintiff are correct on the merits. In the meantime, Plaintiff and Defendant hired an experienced, neutral mediator in an effort to resolve the Action by negotiating to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendant have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims. Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable, and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation, and (2) Settlement is in the best interests of the Class Members. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendant has agreed to pay an “all in” amount of **One Million Four Hundred Thousand Dollars (\$1,400,000) (the “Gross Settlement Amount”)** to fund the settlement of the Action. The Gross Settlement Amount includes all payments of Individual Class Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, the Administration Expenses Payment, the PAGA civil penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”), and Individual PAGA Payments to the Aggrieved Employees. Any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages shall be separately paid by Defendant. Within fifteen (15) days of the Judgment becoming Final, Defendant will fund the Gross Settlement Amount by depositing the money with the Administrator. “Final” means the date the Judgment is entered unless there are objections in which case “Final” means when the Judgment is no longer subject to appeal. Fourteen (14) days after the Settlement is funded, the Administrator will mail checks for the Individual Class Payments to Participating Class Members.

Court Approved Deductions from Gross Settlement Amount. The proposed payments, subject to Court approval, will be deducted from the Gross Settlement Amount before payments of Individual Class Payments are made to Class Members who do not request exclusion (“Participating Class Members”). At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

- **Administration Expenses Payment.** Payment to the Administrator, estimated not to exceed \$13,500, for expenses, including expenses for notifying the Class Members of the Settlement, processing opt outs, and distributing settlement checks and tax forms.
- **Attorneys’ Fees and Costs.** Payment to Class Counsel of reasonable attorneys’ fees not to exceed one-third (1/3) of the Gross Settlement Amount, which presently equals \$466,666, and an additional amount to reimburse actual litigation costs incurred by

Plaintiff not to exceed \$25,000. Class Counsel has been prosecuting the Action on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses. The amounts stated are what Class Counsel will be requesting and the final amounts to be paid will be decided at the Final Approval Hearing.

- Class Representative Service Payment. A Class Representative Service Payment in an amount not more than \$10,000 to the named Plaintiff as a service award, or such lesser amount as may be approved by the Court, to compensate him for services on behalf of the Class in initiating and prosecuting the Action, and for the risks he undertook. The amount stated is what Plaintiff will be requesting and the final amount to be paid will be decided at the Final Approval Hearing.
- PAGA Penalties. A payment of \$30,000 relating to Plaintiff's claim under PAGA, \$22,500 of which will be paid to the LWDA. The remaining \$7,500 will be distributed to the Aggrieved Employees as Individual PAGA Payments. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$7,500) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. "PAGA Pay Period" means any pay period during which an Aggrieved Employee was employed by Defendant for at least one day during the PAGA Period, which is April 8, 2021 to May 10, 2023.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

Calculation of Payments to Class Members. After all the payments of the Court-approved Attorneys' Fees and Costs, the Class Representative Service Payment, the PAGA Penalties, and the Administration Expenses Payment are deducted from the Gross Settlement Amount, the remaining portion, the "Net Settlement Amount," shall be distributed as Individual Class Payments to the Participating Class Members. The Net Settlement Amount is estimated to be at least \$ [REDACTED]. The Administrator will pay an Individual Class Payment from the Net Settlement Amount to each Participating Class Member. The Individual Class Payment for each Participating Class Member will be calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. "Workweek" means any week during the Class Period in which a Class Member was employed by Defendant as a Class Member for at least one day. The number of Workweeks will be based on Defendant's records; however, Class Members may challenge the number of Workweeks as explained below.

If the Settlement is approved by the Court and you do not exclude yourself, you will automatically be mailed a check for your Individual Class Payment to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has

changed, you must contact the Administrator to inform them of your correct address to ensure you receive your payment.

Tax Matters. Twenty Percent (20%) of each Participating Class Member's Individual Class Payment is in settlement of wage claims (the "Wage Portion"). Accordingly, the Wage Portion is subject to wage withholdings, and shall be reported on IRS Form W-2. Eighty Percent (80%) of each Participating Class Member's Individual Class Payment is in settlement of claims for non-wages, expense reimbursement, interest and penalties due to employees (collectively the "Non-Wage Portion"). The Non-Wage Portion shall not be subject to wage withholdings and shall be reported on IRS Form 1099. The employee portion of all applicable income and payroll taxes will be the responsibility of the Participating Class Members (including penalties and interest on back taxes). Neither Class Counsel nor Defendant's Counsel intend anything contained in this Class Notice to constitute advice regarding taxes or taxability. The tax issues for each Participating Class Member are unique to him/her, and each Participating Class Member may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement and your receipt of the Individual Class Payment is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible that the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible that the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.

Need to Promptly Cash Payment Checks. The front of every check issued will show the date when the check expires (the "void date"). If you don't cash it by the void date, your check will be automatically cancelled, and the funds represented by such checks will be sent to the California Controller's Unclaimed Property Fund in the name of the individual who failed to cash their check.

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

Administrator. The Court has appointed a neutral company, CPT Group (the "Administrator") to send this Class Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the

Settlement. The Administrator's contact information is contained in Section 8 of this Notice.

4. What Do I Release Under the Settlement?

Released Class Claims. As of the Effective Date and upon full funding of the Gross Settlement Amount and all employer payroll taxes owed on the Wage Portion of the Individual Class Payments by Defendant, all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from the Released Class Claims. The "Released Class Claims" are all class claims pled or could have been pled based on the factual allegations contained in the Operative Complaint which occurred during the Class Period, including but not limited to Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 1174, 1194, 1197, 1197.1, and 2802. Except as expressly set forth in the Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, Social Security, workers' compensation, or claims based on facts occurring outside the Class Period.

This means that, if you do not timely and formally exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant and any other Released Party about the Released Class Claims resolved by this Settlement. It also means that all of the Court's orders in the Action will apply to you and legally bind you.

Released PAGA Claims. As of the Effective Date and upon full funding of the Gross Settlement Amount and all employer payroll taxes owed on the Wage Portion of the Individual Class Payments by Defendant, all Aggrieved Employees and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all of the Released PAGA Claims. The "Released PAGA Claims" are all PAGA claims pled or which could have been pled based on the factual allegations contained in the Operative Complaint and PAGA letters sent by Plaintiff which occurred during the PAGA Period. The Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims, claims for wrongful termination, discrimination, unemployment insurance, disability and worker's compensation, and claims outside of the PAGA Period.

Released Parties. The Released Parties are: Defendant and each of its former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns and subsidiaries.

5. How much will my payment be?

Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

Defendant's records reflect that you worked <<____>> Workweeks during the Class Period (April 8, 2018 to May 10, 2023).

Based on this information, your estimated Individual Class Payment from the Net Settlement Amount is <<_____>>.

Defendant's records reflect that you worked <<____>> PAGA Pay Periods during the during the PAGA Period (April 8, 2021 to May 10, 2023). Based on this information your estimated Individual PAGA Payment is <<_____>>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Administrator at the address provided in this Class Notice no later than the Response Deadline, which is _____ [forty-five (45) days after the mailing of the Class Notice or an additional 14 days in the case of re-mailing]. You may also fax the dispute to _____ or email the dispute to _____ by no later than the Response Deadline. Any dispute should include credible written evidence and will be resolved by the Administrator.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendant's calculation of Workweeks based on Defendant's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendant's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

6. How can I get a payment?

To get money from the Settlement, you do not have to do anything. A check for your Individual Class Payment will be mailed automatically to the same address as this Class Notice.

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 8 of this Notice has the Administrator's contact information.

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Class portion of the Settlement or "opt out." **If you opt out, you will not receive an Individual Class Payment from the Settlement, and you will not be bound by its terms, which means you will retain the right to sue Defendant for the Released Class Claims.** However, Aggrieved Employees who opt out will still be paid their allocation of the PAGA Penalties and will remain bound by the release of the Released PAGA Claims regardless of whether they submit a request for exclusion. **The PAGA Penalties is \$30,000, of which \$7,500 will be distributed to the Aggrieved Employees to be allocated based on their respective PAGA Pay Periods. Your share of the PAGA Penalties, if any, is set forth in Section 5 above.**

To opt out, you must submit to the Administrator a written, signed, and dated request to opt out postmarked no later than the Response Deadline which is _____. You may also fax your request to opt out to _____ or email the dispute to _____ by no later than the Response Deadline. The request to opt out should state in substance that you wish to be excluded from the class settlement in the *Eberwein v. PSG California LLC* lawsuit. The request to opt out should state the Class Member's full name, address and email address or telephone number. Please include the name and number of the case, which is *Eberwein v. PSG California LLC*, Case No. CIVSB2207161. The request to opt out must be completed and signed by you. No other person may opt out for a living member of the Class.

The address for the Administrator is _____. Written requests for exclusion that are postmarked after _____, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I Object to the Settlement?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendant are asking the Court to approve. At least sixteen (16) court days before the Final Approval Hearing, scheduled for _____, Class Counsel and Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Attorneys' Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Payment. Upon reasonable request, Class Counsel (whose contact information is below) will send you copies of these documents at no cost to you. You can also view them on Settlement Website at _____ or on the Court's website (<https://cap.sb-court.org/login>) and entering the Case No. CIVSB2207161.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The Response Deadline for sending written objections to the Administrator is _____** [forty-five (45) days after the date of the Notice or an additional 14 days after the Notice in the case of re-mailing]. You may also fax the dispute to _____ or email the dispute to _____ by no later than this Response Deadline. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action, *Eberwein v. PSG California LLC*, Case No. CIVSB2207161, and include your name, current address, email or telephone number, and approximate dates of employment for Defendant and sign the objection. The Administrator's contact information is as follows:

Administrator:

Name of Company: CPT Group

Email Address: _____

Mailing Address: _____

Telephone Number: _____

Fax Number: _____
Settlement Website: _____

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. You also have the option to appear at the hearing by telephone using CourtCall (888-882-6878 or www.courtcall.com) to schedule a remote appearance. See Section 9 of this Notice (immediately below) for specifics regarding the Final Approval Hearing

The addresses for Parties' counsel are as follows:

CLASS COUNSEL:

Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik DeBlouw LLP
2255 Calle Clara
La Jolla, CA 92037
Tel.: (858) 551-1223
Fax: (858) 551-1232
E-Mail: kyle@bamlawca.com
Website: www.bamlawca.com

COUNSEL FOR DEFENDANT:

Yvonne Arvanitis Fossati
Hazel U. Poei
Jane J. Kim
Jackson Lewis P.C.
725 South Figueroa Street, Suite 2500
Los Angeles, California 90017-5408

9. Can I Attend the Final Approval Hearing?

You can, but don't have to, attend the Final Approval Hearing at _____ (Pacific Standard Time) on _____, in Department 17 of the Superior Court of California, County of San Bernardino, 247 W. 3rd St. San Bernardino, CA 92415, before Judge Joseph T. Ortiz. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement and to fix the amounts to be paid as attorneys' fees and costs to Class Counsel and as service payments to Plaintiff. If there are objections, the Court will consider them. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing, either in person or remotely using CourtCall (888-882-6878 or www.courtcall.com) to schedule a remote appearance. Check the Court's website for the most current information on appearing in Court.

It's possible the Court will reschedule the Final Approval Hearing. Hearing dates are posted on the Internet via the Case Access page for the San Bernardino County Superior Court (<https://cap.sb-court.org/login>) and entering the Case No. CIVSB2207161.

10. How Can I Get More Information?

You may call the Administrator at _____ or write to *Eberwein v. PSG California LLC* Administrator, c/o _____.

This Class Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Agreement, the Judgment, the motion for attorneys' fees, costs and service award, the motion for final approval or other Settlement documents by going to Class Counsel's website at www.bamlawca.com under "Class Notices" for *Eberwein v. PSG California*. You may get more details by examining the Court's file on the Internet via the Case Access page for the California Superior Court for the County of San Bernardino (<https://cap.sb-court.org/login>) and entering the Case No. CIVSB2207161. If you wish to view the Court files in person, you may do so at the Clerk's Office located at 247 W. 3rd St. San Bernardino, CA 92415.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- **What if Your Address Changes** - To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.
- **What if You Fail to Cash a Check** - Settlement checks will be null and void 180 days after issuance if not deposited or cashed, and this expiration date is printed on the check. In such events, the Administrator shall direct all unclaimed funds to be paid to the California Controller's Unclaimed Property Fund in the name of and for the benefit of the individual who did not cash their check. The funds may be claimed at https://www.sco.ca.gov/upd_msg.html.
- **What if You Lose Your Check** - If your check is lost or misplaced, you should contact the Administrator immediately to request a replacement.
- 4887-1509-0272, v. 1

EXHIBIT B

[ORDER GRANTING PRELIMINARY APPROVAL]

EXHIBIT "B"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

DENNIS EBERWEIN, an individual, on
behalf of himself and on behalf of all persons
similarly situated, and on behalf of the State of
California, as a private attorney general,

Plaintiff,

vs.

PSG CALIFORNIA LLC, a Limited Liability
Company; and DOES 1 through 50, inclusive,
Defendant,

Defendants.

CASE NO.: CIVSB2207161
[Consolidated with CIVSB2211719]

**[PROPOSED] PRELIMINARY
APPROVAL ORDER**

Hearing Date: _____
Hearing Time: _____

Judge: Hon. Joseph T. Ortiz
Dept: 17

Date Filed: April 8, 2022
Trial Date: Not set

This matter came before the Honorable Joseph T. Ortiz of the Superior Court of the State of California, in and for the County San Bernardino, on _____[DATE], for hearing on the unopposed motion by Plaintiff Dennis Eberwein ("Plaintiff") for preliminary approval of the Settlement with Defendant PSG California LLC ("Defendant"). The Court, having considered the

PRELIMINARY APPROVAL ORDER

1 briefs, argument of counsel and all matters presented to the Court and good cause appearing, hereby
2 GRANTS Plaintiff's Motion for Preliminary Approval of Class Action Settlement.

3 **IT IS HEREBY ORDERED:**

4 1. The Court preliminarily approves the Class Action and PAGA Settlement Agreement
5 ("Agreement") attached as Exhibit ____ to the Declaration of Kyle Nordrehaug in Support of
6 Plaintiff's Motion for Preliminary Approval of Class Action Settlement. This is based on the
7 Court's determination that the Settlement set forth in the Agreement is within the range of possible
8 final approval, pursuant to the provisions of Section 382 of the California Code of Civil Procedure
9 and California Rules of Court, rule 3.769.

10 2. This Order incorporates by reference the definitions in the Agreement, and all terms
11 defined therein shall have the same meaning in this Order as set forth in the Agreement.

12 3. The Gross Settlement Amount that Defendant shall pay is One Million Four Hundred
13 Thousand Dollars (\$1,400,000). It appears to the Court on a preliminary basis that the settlement
14 amount and terms are fair, adequate, and reasonable as to all potential Class Members when
15 balanced against the probable outcome of further litigation and the significant risks relating to
16 certification, liability, and damages issues. It further appears that investigation and research have
17 been conducted such that counsel for the Parties are able to reasonably evaluate their respective
18 positions. It further appears to the Court that the Settlement will avoid substantial additional costs
19 by all Parties, as well as avoid the delay and risks that would be presented by the further prosecution
20 of the Action. It further appears that the Settlement has been reached as the result of serious and
21 non-collusive, arms-length negotiations.

22 4. The Court preliminarily finds that the Settlement appears to be within the range of
23 reasonableness of a settlement that could ultimately be given final approval by this Court. The
24 Court has reviewed the monetary recovery that is being granted as part of the Settlement and
25 preliminarily finds that the monetary settlement awards made available to the Class is fair, adequate,
26 and reasonable when balanced against the probable outcome of further litigation and the significant
27 risks relating to certification, liability, and damages issues.

1 5. The Agreement provides for an attorneys' fees award not to exceed one-third of the
2 Gross Settlement Amount, an award of litigation expenses incurred, not to exceed \$25,000, and
3 proposed a Class Representative Service Payment to Plaintiff in an amount not to exceed \$10,000.
4 The Court will not approve the amount of attorneys' fees and costs, nor the amount of any service
5 award, until the Final Approval Hearing. Plaintiff will be required to present evidence supporting
6 these requests, including lodestar, prior to final approval.

7 6. The Court recognizes that Plaintiff and Defendant stipulate and agree to
8 representative treatment and certification of a class for settlement purposes only. This stipulation
9 will not be deemed admissible in this or any other proceeding should this Settlement not become
10 final. For settlement purposes only, the Court conditionally certifies the Class which consists of "all
11 individuals who are or previously were employed by Defendant in California who were classified as
12 hourly, non-exempt employees at any time during the Class Period." The "Class Period" is April 8,
13 2018 to May 10, 2023.

14 7. The Court concludes that, for settlement purposes only, the Class meets the
15 requirements for certification under section 382 of the California Code of Civil Procedure in that: (a)
16 the Class is ascertainable and so numerous that joinder of all members of the Class is impracticable;
17 (b) common questions of law and fact predominate, and there is a well-defined community of
18 interest amongst the members of the Class with respect to the subject matter of the litigation; (c) the
19 claims of Plaintiff are typical of the claims of the members of the Class; (d) Plaintiff will fairly and
20 adequately protect the interests of the members of the Class; (e) a class action is superior to other
21 available methods for the efficient adjudication of this controversy; and (f) counsel for the Class is
22 qualified to act as counsel for the Class and Plaintiff is an adequate representative of the Class.

23 8. The Court provisionally appoints Plaintiff as the representative of the Class. The
24 Court provisionally appoints Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik, and
25 Christine T. LeVu of Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class Counsel for the
26 Class.

1 9. The Agreement provides for \$30,000 PAGA Penalties out of the Gross Settlement
2 Amount, of which \$22,500 shall be allocated to the Labor & Workforce Development Agency
3 (“LWDA”) as the LWDA’s 75% share of the settlement of civil penalties paid under this Agreement
4 pursuant to the PAGA and \$7,500 to the Aggrieved Employees. “Aggrieved Employees” are all
5 individuals who are or previously were employed by Defendant in California who were classified as
6 hourly, non-exempt employees at any time during the Class Period (April 8, 2021 to May 10, 2023).
7 Pursuant to Labor Code section 2699, subdivision (l)(2), the LWDA will be provided notice of the
8 Agreement and these settlement terms. The Court finds the PAGA Penalties to be reasonable.

9 10. The Court hereby approves, as to form and content, the Class Notice attached to the
10 Agreement as Exhibit A. The Court finds that the Class Notice appears to fully and accurately
11 inform the Class of all material elements of the proposed Settlement, of the Class Members’ right to
12 be excluded from the Class by submitting a written opt-out request, and of each member’s right and
13 opportunity to object to the Settlement. The Court further finds that the distribution of the Class
14 Notice substantially in the manner and form set forth in the Agreement and this Order meets the
15 requirements of due process, is the best notice practicable under the circumstances, and shall
16 constitute due and sufficient notice to all persons entitled thereto. The Court orders the mailing of
17 the Class Notice by first class mail pursuant to the terms set forth in the Agreement. If a Class
18 Notice Packet is returned because of an incorrect address, the Administrator will promptly search for
19 a more current address for the Class Member and re-mail the Class Notice Packet to any new
20 address for the Class Member no later than seven (7) days after the receipt of the undelivered Class
21 Notice.

22 11. The Court hereby appoints CPT Group as the Administrator. No later than fifteen
23 (15) days after this Order, Defendant will provide the Class Data to the Administrator. The
24 Administrator will perform address updates and verifications as necessary prior to the first mailing.
25 Using best efforts to mail it as soon as possible, and in no event later than fourteen (14) days after
26 receiving the Class Data, the Administrator will mail the Class Notice Packet to all Class Members
27 via first-class regular U.S. Mail to their last known address.

1 12. The Court hereby preliminarily approves the proposed procedure for exclusion from
2 the Settlement. Any Class Member may individually choose to opt out of and be excluded from the
3 Class as provided in the Class Notice by following the instructions for requesting exclusion from the
4 Class that are set forth in the Class Notice. All requests for exclusion must be postmarked or
5 received no later than forty-five (45) calendar days after the date of the mailing of the Class Notice
6 (“Response Deadline”). If a Class Notice Packet is re-mailed, the Response Deadline for requests
7 for exclusion will be extended an additional fourteen (14) days. A Request for Exclusion may also
8 be faxed or emailed to the Administrator as indicated in the Class Notice. Any such person who
9 chooses to opt out of and be excluded from the Class will not be entitled to any recovery under the
10 Class Settlement and will not be bound by the Class Settlement or have any right to object, appeal,
11 or comment thereon. Class Members who have not requested exclusion shall be bound by all
12 determinations of the Court, the Agreement, and the Judgment. A request for exclusion may only
13 opt out that particular individual, and any attempt to affect an opt out of a group, class, or subclass
14 of individuals is not permitted and will be deemed invalid.

15 13. Any Class Member who has not opted out may appear at the final approval hearing
16 and may object or express the Member’s views regarding the Settlement and may present evidence
17 and file briefs or other papers that may be proper and relevant to the issues to be heard and
18 determined by the Court as provided in the Class Notice. Class Members will have until the
19 Response Deadline to submit their written objections to the Administrator. Written objections may
20 also be faxed or emailed to the Administrator as indicated in the Class Notice. If a Class Notice
21 Packet is re-mailed, the Response Deadline for written objections will be extended an additional
22 fourteen (14) days. Alternatively, Class Members may appear at the Final Approval Hearing to
23 make an oral objection.

24 14. A final approval hearing shall be held before this Court on _____
25 _____ at _____ in Department 17 at the San Bernardino County Superior Court to
26 hear the motion for final approval and the motion for attorneys’ fees and costs, and to determine all
27 necessary matters concerning the Settlement, including: whether the proposed settlement of the
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1 Action on the terms and conditions provided for in the Agreement is fair, adequate and reasonable
2 and should be finally approved by the Court; whether the Final Approval Order and Judgment
3 should be entered herein; whether the plan of allocation contained in the Agreement should be
4 approved as fair, adequate and reasonable to the Class Members; and to finally approve attorneys'
5 fees and costs, service award, and the fees and expenses of the Administrator. All papers in support
6 of the motion for final approval and the motion for attorneys' fees, costs and service awards shall be
7 filed with the Court and served on all counsel no later than sixteen (16) court days before the
8 hearing and both motions shall be heard at this final approval hearing.

9 15. Neither the Settlement nor any exhibit, document, or instrument delivered thereunder
10 shall be construed as a concession or admission by Defendant in any way that the claims asserted
11 have any merit or that this Action was properly brought as a class or representative action, and shall
12 not be used as evidence of, or used against Defendant as, an admission or indication in any way,
13 including with respect to any claim of any liability, wrongdoing, fault or omission by Defendant or
14 with respect to the truth of any allegation asserted by any person. Whether or not the Settlement is
15 finally approved, neither the Settlement, nor any exhibit, document, statement, proceeding or
16 conduct related to the Settlement, nor any reports or accounts thereof, shall in any event be
17 construed as, offered or admitted in evidence as, received as or deemed to be evidence for any
18 purpose adverse to the Defendant, including, but not limited to, evidence of a presumption,
19 concession, indication or admission by Defendant of any liability, fault, wrongdoing, omission,
20 concession or damage.

21 16. In the event the Settlement does not become effective in accordance with the terms of
22 the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to
23 become effective for any reason, this Order shall be rendered null and void and shall be vacated, and
24 the Parties shall revert to their respective positions as of before entering into the Agreement, and
25 expressly reserve their respective rights regarding the prosecution and defense of this Action,
26 including all available defenses and affirmative defenses, and arguments that any claim in the
27 Action could not be certified as a class action and/or managed as a representative action. In such an
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1 event, the Court's orders regarding the Settlement, including this Order, shall not be used or referred
2 to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of the
3 Agreement with respect to the effect of the Agreement if it is not approved.

4 17. The Court reserves the right to adjourn or continue the date of the final approval
5 hearing and all dates provided for in the Agreement without further notice to Class Members and
6 retains jurisdiction to consider all further applications arising out of or connected with the proposed
7 Settlement.

8
9 **IT IS SO ORDERED.**

10 Dated: _____

11 _____
12 HON. JOSEPH T. ORTIZ
JUDGE OF THE SUPERIOR COURT OF CALIFORNIA

13 4882-5909-0528, v. 1
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EXHIBIT C

[FINAL APPROVAL ORDER AND JUDGMENT]

EXHIBIT "C"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

DENNIS EBERWEIN, an individual, on
behalf of himself and on behalf of all persons
similarly situated, and on behalf of the State of
California, as a private attorney general,

Plaintiff,

vs.

PSG CALIFORNIA LLC, a Limited Liability
Company; and DOES 1 through 50, inclusive,
Defendant,

Defendants.

CASE NO.: CIVSB2207161
[Consolidated with CIVSB2211719]

**[PROPOSED] FINAL APPROVAL
ORDER AND JUDGMENT**

Hearing Date: _____
Hearing Time: _____

Judge: Hon. Joseph T. Ortiz
Dept: 17

Date Filed: April 8, 2022
Trial Date: Not set

FINAL APPROVAL ORDER AND JUDGMENT

1 The unopposed motion of Plaintiff Dennis Eberwein (“Plaintiff”) for an order finally
2 approving the Class Action and PAGA Settlement Agreement (“Agreement”) with Defendant PSG
3 California LLC (“Defendant”), attorneys’ fees and costs, service payments, and the expenses of the
4 Administrator duly came on for hearing on _____ before the Honorable Joseph T. Ortiz.

5 **I.**

6 **FINDINGS**

7 Based on the oral and written argument and evidence presented in connection with the
8 motion, the Court makes the following findings:

- 9 1. All terms used herein shall have the same meaning as defined in the Agreement.
- 10 2. This Court has jurisdiction over the subject matter of this litigation pending before
11 the Superior Court for the State of California, in and for the County of San Bernardino, and over all
12 Parties to this litigation, including the Class.
- 13 3. Based on a review of the papers submitted by Plaintiffs and a review of the
14 applicable law, the Court finds that the Gross Settlement Amount of One Million Four Hundred
15 Thousand Dollars (\$1,400,000) and the terms set forth in the Agreement are fair, reasonable, and
16 adequate.
- 17 4. The Court further finds that the Settlement was the result of arm’s length negotiations
18 conducted after Class Counsel had adequately investigated the claims and became familiar with the
19 strengths and weaknesses of those claims. In particular, the amount of the Settlement, and the
20 assistance of an experienced mediator in the settlement process, among other factors, support the
21 Court’s conclusion that the Settlement is fair, reasonable, and adequate.

22 **Preliminary Approval of the Settlement**

- 23 5. On _____, the Court granted preliminary approval of the Settlement. At the
24 same time, the Court approved conditional certification of the Class for settlement purposes only.

25 **Notice to the Class**

- 26 6. In compliance with the Preliminary Approval Order, the Court-approved Class
27 Notice was mailed by first class mail to members of the Class at their last-known addresses on or
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1 about _____. Mailing of the Class Notice to their last-known addresses was the best
2 notice practicable under the circumstances and was reasonably calculated to communicate actual
3 notice of the litigation and the proposed settlement to the Class. The Class Notice given to the Class
4 Members fully and accurately informed the Class Members of all material elements of the proposed
5 Settlement and of their opportunity to object to or comment thereon or to seek exclusion from the
6 Settlement; was valid, due, and sufficient notice to all Class Members; and complied fully with the
7 laws of the State of California, the United States Constitution, due process and other applicable law.
8 The Class Notice fairly and adequately described the Settlement and provided Class Members
9 adequate instructions and a variety of means to obtain additional information.

10 7. The Response Deadline for opting out or submitting written objections to the
11 Settlement was _____, which for re-mailings was extended by fourteen (14) days. There
12 was an adequate interval between notice and the deadline to permit Class Members to choose what
13 to do and to act on their decision. A full and fair opportunity has been afforded to the Class
14 Members to participate in this hearing, and all Class Members and other persons wishing to be heard
15 have had a full and fair opportunity to be heard. Class Members also have had a full and fair
16 opportunity to exclude themselves from the proposed Settlement and Class. Accordingly, the Court
17 determines that all Class Members who did not timely and properly submit a request for exclusion
18 are bound by the Settlement and this Final Approval Order and Judgment.

19 **Fairness of the Settlement**

20 8. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.* 48
21 Cal.App.4th 1794, 1801 (1996).

22 a. The settlement was reached through arm's-length bargaining between the
23 Parties during an all-day mediation before Tripper Ortman, an experienced mediator of wage and
24 hour class actions. There has been no collusion between the Parties in reaching the Settlement.

25 b. Plaintiff and his counsel's investigation and discovery have been sufficient to
26 allow the Court and counsel to act intelligently.

1 c. Counsel for all Parties are experienced in similar employment class action
2 litigation. Plaintiffs' counsel recommended approval of the Agreement.

3 d. The percentage of objectors and requests for exclusion is small. ____
4 objections were received. _____ requests for exclusion were received.

5 e. The participation rate was high. _____ Class Members will be mailed a
6 settlement payment, representing _____ % of the overall Class.

7 9. The consideration to be given to the Class Members under the terms of the
8 Agreement is fair, reasonable, and adequate considering the strengths and weaknesses of the claims
9 asserted in this action and is fair, reasonable, and adequate compensation for the release of Class
10 Members' claims, given the uncertainties and significant risks of the litigation and the delays which
11 would ensue from continued prosecution of the action.

12 10. The Agreement is approved as fair, adequate, and reasonable and in the best interests
13 of the Class Members.

14 **Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment**

15 11. An award of \$ _____ for attorneys' fees, representing one-third of the Gross
16 Settlement Amount, and \$ _____ for litigation costs and expenses, is reasonable, in light
17 of the contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results
18 achieved by Class Counsel. The requested award has been supported by Class Counsel's lodestar
19 and billing statement.

20 **Class Representative Service Payment**

21 12. The Agreement provides for a Class Representative Service Payment of not more
22 than \$10,000 to Plaintiff, subject to the Court's approval. The Court finds that a Class
23 Representative Service Payment in the amount of \$ _____ to Plaintiff is reasonable in light of
24 the risks and burdens undertaken by Plaintiff in this litigation, for his time and effort in bringing and
25 prosecuting this matter on behalf of the Class, and for his execution of a general release.

1 **Administration Expenses Payment**

2 13. The Administrator shall calculate and administer the payment to be made to the Class
3 Members, transmit payment for attorneys’ fees and costs to Class Counsel, transmit the Class
4 Representative Service Payment to Plaintiff, issue all required tax reporting forms, calculate
5 withholdings and perform the other remaining duties set forth in the Agreement. The Administrator
6 has documented \$ _____ in fees and expenses, and this amount is reasonable considering the
7 work performed by the Administrator.

8 **PAGA Penalties**

9 14. The Agreement provides for PAGA Penalties of \$30,000 out of the Gross
10 Settlement Amount, \$22,500 of which shall be allocated to the Labor & Workforce Development
11 Agency (“LWDA”) as the LWDA’s 75% share of the settlement of civil penalties paid under this
12 Agreement pursuant to the PAGA and \$7,500 to be distributed to the Aggrieved Employees and
13 allocated by (a) dividing the amount of the Aggrieved Employees’ 25% share of PAGA Penalties
14 (\$7,500) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees
15 during the PAGA Period and (b) multiplying the result by each Aggrieved Employee’s PAGA
16 Period Pay Periods. “Aggrieved Employees” are all individuals who are or previously were
17 employed by Defendant in California who were classified as hourly, non-exempt employees at any
18 time during the Class Period (April 8, 2021 to May 10, 2023). Pursuant to Labor Code section
19 2699, subdivision (l)(2), the LWDA was provided notice of the Agreement and these settlement
20 terms and has not indicated any objection thereto. The Court finds the PAGA Penalties to be
21 reasonable.

22 **II.**

23 **ORDERS**

24 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

25 1. The Class is certified for the purposes of settlement only. The Class is defined as
26 follows:

27 All individuals who are or previously were employed by Defendant in California who
28 were classified as hourly, non-exempt employees at any time during the Class Period
(April 8, 2018 to May 10, 2023).

FINAL APPROVAL ORDER AND JUDGMENT

1
2 2. All persons who meet the foregoing definition are members of the Class, except for
3 those individuals who filed a valid request for exclusion (“opt out”) from the Class. [INSERT
4 REFERENCE TO IDENTIFY ANY OPT OUTS].

5 3. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the
6 best interest of the Class.

7 4. Class Counsel are awarded attorneys’ fees in the amount of \$_____ and costs
8 in the amount of \$_____. Class Counsel shall not seek or obtain any other compensation or
9 reimbursement from Defendant, Plaintiff or members of the Class.

10 5. The payment of Class Representative Service Payment in the amount of \$_____ to Plaintiff is approved.

11 6. The payment of \$_____ to the Administrator for its fees and expenses is
12 approved.

13 7. The PAGA Penalties of \$30,000 is approved and is to be distributed in accordance
14 with the Agreement.

15 8. Pursuant to Labor Code section 2699, subdivision (1)(2), Class Counsel shall submit a
16 copy of this Final Approval Order and Judgment to the LWDA within 10 days after its entry.

17 9. Neither the Agreement nor this Settlement is an admission by Defendant, nor is this
18 Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of any
19 wrongdoing by Defendant or that this Action is appropriate for class or representative treatment
20 (other than for settlement purposes). Neither this Final Approval Order and Judgment, the
21 Agreement, nor any document referred to herein, nor any action taken to carry out the Agreement is,
22 may be construed as, or may be used as an admission by or against Defendant of any fault,
23 wrongdoing or liability whatsoever. The entering into or carrying out of the Agreement, and any
24 negotiations or proceedings related thereto, shall not in any event be construed as, or deemed to be
25 evidence of, an admission, or concession with regard to the denials or defenses by Defendant.

26 Notwithstanding these restrictions, Defendant may file in the Action or in any other proceeding this
27 Final Approval Order and Judgment, the Agreement, or any other papers and records on file in the
28

1 Action as evidence of the Settlement to support a defense of *res judicata*, collateral estoppel,
2 release, or other theory of claim or issue preclusion or similar defense as to the Released Class
3 Claims and/or Released PAGA Claims.

4 10. Notice of entry of this Final Approval Order and Judgment shall be given to all
5 Parties by Class Counsel on behalf of Plaintiff and all Class Members. The Final Approval Order
6 and Judgment shall be posted on Class Counsel's website as set forth in the Class Notice to the
7 Class. It shall not be necessary to send notice of entry of this Final Approval Order and Judgment to
8 individual Class Members.

9 11. If the Agreement does not become final and effective in accordance with the terms of
10 the Agreement, then this Final Approval Order and Judgment, and all orders entered in connection
11 herewith, shall be rendered null and void and shall be vacated, and the Parties shall revert to their
12 respective positions as of before entering into the Agreement, and expressly reserve their respective
13 rights regarding the prosecution and defense of this Action, including all available defenses and
14 affirmative defenses, and arguments that any claim in the Action could not be certified as a class
15 action and/or managed as a representative action.

16 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

17 1. Except as set forth in the Agreement and this Final Approval Order and Judgment,
18 Plaintiff, and all members of the Class, shall take nothing in the Action.

19 2. The Court shall retain jurisdiction to construe, interpret, implement and enforce the
20 Agreement, to hear and resolve any contested challenge to a claim for settlement benefits, and to
21 supervise and adjudicate any dispute arising from or in connection with the distribution of
22 settlement benefits.

23 3. All Parties shall bear their own attorneys' fees and costs, except as otherwise
24 provided in the Agreement and in this Final Approval Order and Judgment.

25 4. Effective on the date when Defendant fully fund the Gross Settlement Amount and
26 all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff,
27
28

1 Participating Class Members, Aggrieved Employees, and the LWDA will release claims against all
2 Released Parties as follows:

3 (a) All Participating Class Members, on behalf of themselves and their respective
4 former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns,
5 release Released Parties from the Released Class Claims. The “Released Class Claims” are all class
6 claims pled or could have been pled based on the factual allegations contained in the Operative
7 Complaint which occurred during the Class Period, including but not limited to Labor Code §§ 201,
8 202, 203, 204, 226, 226.7, 510, 512, 1174, 1194, 1197, 1197.1, and 2802. Except as expressly set
9 forth in the Agreement, Participating Class Members do not release any other claims, including
10 claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing
11 Act, unemployment insurance, disability, Social Security, workers’ compensation, or claims based
12 on facts occurring outside the Class Period.

13 (b) All Aggrieved Employees and the LWDA are deemed to release, on behalf of
14 themselves and their respective former and present representatives, agents, attorneys, heirs,
15 administrators, successors, and assigns, the Released Parties from all of the Released PAGA Claims.
16 The “Released PAGA Claims” are all PAGA claims pled or which could have been pled based on
17 the factual allegations contained in the Operative Complaint and PAGA letters sent by Plaintiff
18 which occurred during the PAGA Period. The Released PAGA Claims do not include other PAGA
19 claims, underlying wage and hour claims, claims for wrongful termination, discrimination,
20 unemployment insurance, disability and worker’s compensation, and claims outside of the PAGA
21 Period.

22 (c) Plaintiff and his respective former and present spouses, representatives,
23 agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge
24 Released Parties from all claims, transactions, or occurrences that occurred during the Class Period
25 (“Plaintiff’s Release”) as fully set forth in the Agreement.

26 5. For any Class Member or Aggrieved Employee whose Individual Class Payment
27 check or Individual PAGA Payment check is uncashed and cancelled after the void date, the
28

1 Administrator shall transmit the funds represented by such checks to the California Controller's
2 Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue"
3 subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

4 6. The Court hereby enters judgment in the entire Action as of the filing date of this
5 Order and Judgment, pursuant to the terms set forth in the Settlement. Without affecting the finality
6 of this Order and Judgment in any way, the Court hereby retains continuing jurisdiction over the
7 interpretation, implementation, and enforcement of the Settlement and all orders entered in
8 connection therewith pursuant to California Code of Civil Procedure section 664.6.

9 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO ORDERED.**

10
11 Dated: _____

12
13 _____
HON. JOSEPH T. ORTIZ
JUDGE OF THE SUPERIOR COURT OF CALIFORNIA

14 4871-4202-9408, v. 3
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Blumenthal Nordrehaug Bhowmik De Blouw LLP

2255 Calle Clara, La Jolla, California 92037

Tel: (858) 551-1223

Fax: (858) 551-1232

FIRM RESUME

Areas of Practice: Employee, Consumer and Securities Class Actions, Wage and Hour Class Actions, Civil Litigation, Business Litigation.

ATTORNEY BIOGRAPHIES

Norman B. Blumenthal

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Consumer and Securities Class Action, Civil Litigation, Wage and Hour Class Actions, Transactional Law

Admitted: 1973, Illinois; 1976, California

Biography: Law Clerk to Justice Thomas J. Moran, Illinois Supreme Court, 1973-1975, while on Illinois Court of Appeals. Instructor, Oil and Gas Law: California Western School of Law, 1981; University of San Diego School of Law, 1983. Sole Practitioner 1976-1987. Partner, Blumenthal & Ostroff, 1988-1995. Partner, Blumenthal, Ostroff & Markham, 1995-2001. Partner, Blumenthal & Markham, 2001-2007. Partner, Blumenthal & Nordrehaug, 2007. Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2018. Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP, 2018 - present.

Member: San Diego County, Illinois State and American Bar Associations; State Bar of California.

Educated: University of Wisconsin (B.A., 1970); Loyola University of Chicago (J.D., 1973);

Summer Intern (1971) with Harvard Voluntary Defenders

Kyle R. Nordrehaug

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Consumer and Securities Class Actions, Wage and Hour Class Actions, Civil Litigation

Admitted: 1999, California

Biography: Associate, Blumenthal, Ostroff & Markham, 1999-2001. Associate, Blumenthal & Markham, 2001-2007. Partner, Blumenthal & Nordrehaug, 2007. Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2017

Member: State Bar of California, Ninth Circuit Court of Appeals, Third Circuit Court of Appeals

Educated: University of California at Berkeley (B.A., 1994); University of San Diego School of Law (J.D. 1999)

Awards: Top Labor & Employment Attorney 2016; Top Appellate Reversal - Daily Journal 2015; Super Lawyer 2015-2018

Aparajit Bhowmik

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2006, California

Educated: University of California at San Diego (B.A., 2002); University of San Diego School of Law (J.D. 2006)

Biography: Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2017

Awards: Rising Star 2015

Nicholas J. De Blouw

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2011, California

Educated: Wayne State University (B.A. 2008); California Western School of Law (J.D. 2011)

Piya Mukherjee

Associate Attorney

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2010, California

Educated: University of California, San Diego (B.S. 2006); University of Southern California, Gould School of Law (J.D. 2010)

Victoria Rivapalacio

Associate Attorney

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2011, California

Educated: University of California at San Diego (B.A., 2003); George Washington University Law School (J.D. 2010)

Ricardo Ehmann

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2018, California; 2004, Nevada

Educated: University of California, San Diego (B.A. 1998); Loyola Law School (J.D. 2001)

Jeffrey S. Herman

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2011, California; 2016 Arizona

Educated: University of Michigan (B.A. 2008); California Western School of Law (J.D. 2011)

Charlotte James

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2016, California

Educated: San Diego State University; California Western School of Law

Christine Levu

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2012, California

Educated: University of California, Irvine; California Western School of Law

Andrew Ronan

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2016, California

Educated: Arizona State University; University of San Diego School of Law

Scott Blumenthal

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2020, New Mexico

Educated: University of Southern California; California Western School of Law

REPORTED CASES

Sakkab v. Luxottica Retail N. Am., Inc., 803 F.3d 425 (9th Cir. 2015) (The panel reversed the district court's order granting Luxottica Retail North America, Inc.'s motion to compel arbitration of claims and dismissing plaintiff's first amended complaint, in a putative class action raising class employment-related claims and a non-class representative claim for civil penalties under the Private Attorney General Act.);

Securitas Security Services USA, Inc. v. Superior Court, 234 Cal. App. 4th 1109 (Cal. Feb. 27, 2015) (Court of Appeal concluded the trial court correctly ruled that *Iskanian* rendered the PAGA waiver within the parties' dispute resolution agreement unenforceable. However, the Court of Appeal then ruled the trial court erred by failing to invalidate the non-severable class action waiver from the agreement and remanded the entire complaint, including class action and PAGA claims, be litigated in the Superior Court);

Sussex v. United States Dist. Court for the Dist. of Nev., 781 F.3d 1065 (9th Cir. 2015) (The panel determined that the district court clearly erred in holding that its decision to intervene mid-arbitration was justified under *Aerojet-General*. Specifically, the panel held that the district court erred in predicting that an award issued by the arbitrator would likely be vacated because of his "evident partiality" under 9 U.S.C. § 10(a)(2).);

Provost v. YourMechanic, Inc., 2020 Cal. App. Lexis 955 (Oct. 15, 2020) (Court of Appeals affirmed denial of arbitration of PAGA claim, and held in a case of first impression, that there was no additional standing rules for PAGA claim brought by independent contractor);

In re Tobacco Cases II, 41 Cal. 4th 1257 (2007); Washington Mutual Bank v. Superior Court, 24 Cal. 4th 906 (2001); Rocker v. KPMG LLP, 148 P.3d 703; 122 Nev. 1185 (2006); PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP, 150 Cal. App. 4th 384 (2007); Hall v. County of Los Angeles, 148 Cal. App. 4th 318 (2007); Coshov v. City of Escondido, 132 Cal. App. 4th 687 (2005); Daniels v. Philip Morris, 18 F.Supp 2d 1110 (S.D. Cal.1998); Gibson v. World Savings & Loan Asso., 103 Cal. App. 4th 1291 (2003); Jordan v. Department of Motor Vehicles, 75 Cal. App. 4th 445 (1999); Jordan v. Department of Motor Vehicles, 100 Cal.App. 4th 431 (2002); Norwest Mortgage, Inc. v. Superior Court, 72 Cal.App.4th 214 (1999); Hildago v. Diversified Transp. Sya, 1998 U.S. App. LEXIS 3207 (9th Cir. 1998); Kensington Capital Mgal. v. Oakley, Inc., 1999 U.S. Dist LEXIS 385; Fed.Sec.L.Rep. (CCH) P90, 411 (1999 C.D. Cal.); Lister v. Oakley, Inc., 1999 U.S. Dist. LEXIS 384; Fed. Sec. L. Rep. (CCH) P90,409 (C.D. Cal. 1999); Olszewski v. Scripps Health, 30 Cal. 4th 798 (2003); Steroid Hormone Product Cases, 181 Cal. App. 4th 145 (2010); Owen v. Macy's, Inc., 175 Cal. App. 4th 462 (2009); Taiheiyo Cement Corp. v. Superior Court, 117 Cal. App. 4th 380 (2004); Taiheiyo Cement Corp. v. Superior Court, 105 Cal.App. 4th 398 (2003); McMeans v. Scripps Health, Inc., 100 Cal. App. 4th 507 (2002); Ramos v. Countrywide Home Loans, 82 Cal.App. 4th 615 (2000); Tevssier v. City of San Diego, 81 Cal.App. 4th 685 (2000); Washington Mutual Bank v. Superior Court, 70 Cal. App. 4th 299 (1999); Silvas v. E*Trade Mortg. Corp., 514 F.3d 1001 (9th Cir. 2008); Silvas v. E*Trade Mortg. Corp., 421 F. Supp. 2d 1315 (S.D. Cal. 2006); McPhail v. First Command Fin. Planning, Inc., 2009 U.S. Dist. LEXIS 26544 (S.D. Cal. 2009); McPhail v. First Command Fin. Planning, Inc., 251 F.R.D. 514 (S.D. Cal. 2008); McPhail v. First Command Fin. Planning, Inc., 247 F.R.D. 598 (S.D. Cal. 2007); Barcia v. Contain-A-Way, Inc., 2009 U.S. Dist. LEXIS 17118 (S.D. Cal. 2009); Barcia v. Contain-A-Way, Inc., 2008 U.S. Dist. LEXIS 27365 (S.D. Cal. 2008); Wise v. Cubic Def. Applications, Inc., 2009 U.S. Dist. LEXIS 11225 (S.D. Cal. 2009); Gabisan v. Pelican Prods., 2009 U.S. Dist. LEXIS 1391

(S.D. Cal. 2009); La Jolla Friends of the Seals v. Nat'l Oceanic & Atmospheric Admin. Nat'l Marine Fisheries Serv., 630 F. Supp. 2d 1222 (S.D. Cal. 2009); La Jolla Friends of the Seals v. Nat'l Oceanic & Atmospheric Admin. Nat'l Marine Fisheries Serv., 2008 U.S. Dist. LEXIS 102380 (S.D. Cal. 2008); Louie v. Kaiser Found. Health Plan, Inc., 2008 U.S. Dist. LEXIS 78314 (S.D. Cal. 2008); Weltman v. Ortho Mattress, Inc., 2010 U.S. Dist. LEXIS 20521 (S.D. Cal. 2010); Weltman v. Ortho Mattress, Inc., 2008 U.S. Dist. LEXIS 60344 (S.D. Cal. 2008); Curry v. CTB McGraw-Hill, LLC, 2006 U.S. Dist. LEXIS 5920; 97 A.F.T.R.2d (RIA) 1888; 37 Employee Benefits Cas. (BNA) 2390 (N.D. Cal. 2006); Reynov v. ADP Claims Servs. Group, 2006 U.S. Dist. LEXIS 94332 (N.D. Cal. 2006); Kennedy v. Natural Balance Pet Foods, Inc., 2010 U.S. App. LEXIS 248 (9th Cir. 2010); Kennedy v. Natural Balance Pet Foods, Inc., 2008 U.S. Dist. LEXIS 38889 (S.D. Cal. 2008); Kennedy v. Natural Balance Pet Foods, Inc., 2007 U.S. Dist. LEXIS 57766 (S.D. Cal. 2007); Sussex v. Turnberry/MGM Grand Towers, LLC, 2009 U.S. Dist. LEXIS 29503 (D. Nev. 2009); Picus v. Wal-Mart Stores, Inc., 256 F.R.D. 651 (D. Nev. 2009); Tull v. Stewart Title of Cal., Inc., 2009 U.S. Dist. LEXIS 14171 (S.D. Cal. 2009); Keshishzadeh v. Gallagher, 2010 U.S. Dist. LEXIS 46805 (S.D. Cal. 2010); Keshishzadeh v. Arthur J. Gallagher Serv. Co., 2010 U.S. Dist. Lexis 116380 (S.D. Cal. 2010); In re Pet Food Prods. Liab. Litig., MDL Docket No. 1850 (All Cases), 2008 U.S. Dist. LEXIS 94603 (D.N.J. 2008); In re Pet Food Prods. Liab. Litig., 629 F.3d 333 (3rd Cir. 2010); Puentes v. Wells Fargo Home Mortgage, Inc., 160 Cal. App. 4th 638 (2008); Rezec v. Sony Pictures Entertainment, Inc., 116 Cal. App. 4th 135 (2004); Badillo v. Am. Tobacco Co., 202 F.R.D. 261 (D. Nev. 2001); La Jolla Friends of the Seals v. Nat'l Oceanic & Atmospheric Admin., 2010 U.S. App. Lexis 23025 (9th Cir. 2010); Dirienzo v. Dunbar Armored, Inc., 2011 U.S. Dist. Lexis 36650 (S.D. Cal. 2011); Rix v. Lockheed Martin Corp., 2011 U.S. Dist Lexis 25422 (S.D. Cal. 2011); Weitzke v. Costar Realty Info., Inc., 2011 U.S. Dist Lexis 20605 (S.D. Cal. 2011); Goodman v. Platinum Condo. Dev., LLC, 2011 U.S. Dist. LEXIS 36044 (D. Nev. 2011); Sussex v. Turnberry/MGM Grand Towers, LLC, 2011 U.S. Dist. LEXIS 14502 (D. Nev. 2011); Smith v. Kaiser Foundation Hospitals, Inc., 2010 U.S. Dist. Lexis 117869 (S.D. Cal. 2010); Dobrosky v. Arthur J. Gallagher Serv. Co., LLC, No. EDCV 13-0646 JGB (SPx), 2014 U.S. Dist. LEXIS 106345 (C.D. Cal. July 30, 2014); Metrow v. Liberty Mut. Managed Care LLC - Class Certification Granted, Metrow v. Liberty Mut. Managed Care LLC, No. EDCV 16-1133 JGB (KKx), 2017 U.S. Dist. LEXIS 73656 (C.D. Cal. May 1, 2017); Nelson v. Avon Products, Inc., Class Certification Granted, U.S. District Court for The Northern District of California, Case No. 13-cv-02276-BLF, 2015 U.S. Dist. LEXIS 51104 (N.D. Cal. Apr. 17, 2015); Orozco v. Illinois Tool Works Inc., Class Certification Granted, 2017 U.S. Dist. LEXIS 23179 (E.D. Cal. Feb. 16, 2017); Rieve v. Coventry Health Care, Summary Judgment *Sua Sponte* Granted for Plaintiff, Rieve v. Coventry Health Care, Inc., 870 F. Supp. 2d 856 (C.D. Cal. 2012)

CLASS ACTION & REPRESENTATIVE CASES

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County Superior Court, Case No. 37-2014-00005608; Behar v. Union Bank, Orange County Superior Court, Case No. 30-2009-00317275; Bell v. John Stewart Company, Alameda County Superior Court, Case No. RG14728792; Bennett v. Custom Built Personal Training, Monterey County Superior Court, Case No. M127596; Bermant v. Bank of America, Investment Services, Inc., Los Angeles Superior Court, Civil Action No. BC342505; Bethley v. Raytheon Company, United States District Court, Central District of California, Case No. SACV10-01741; Betorina v. Randstad US, L.P., U.S. District Court Northern District of California, Case No. 3:15-cv-03646-MEJ; Beverage v. Edcoa Inc., Sacramento County Superior Court, Case No. 2013-00138279; Bova v. Washington Mutual Bank / JP Morgan Chase, U.S. District Court, Southern District California, Case No. 07-cv-2410; Bowden v. Sunset Parking Services, LLC & LAZ Parking California, LLC - Settled San Diego County Superior Court, Case No. 37-2012-00101751-CU-OE-CTL; Briseno v. American Savings Bank, Class Certification Granted, Orange County Superior Court, Case No. 774773; Brueske v. Welk Resorts, San Diego Superior Court, Case No 37-2010-00086460; Bueche v. Fidelity National Management Services, U.S. District Court, Eastern District of California, Case No. 13-cv-01114; Bunch v. Pinnacle Travel Services, LLC, Los Angeles County Superior Court, Case No. BC552048; Butler v. Stericycle, Inc & Appletree Answering Services of California, Inc., Sacramento County Superior Court, Case No. 34-2015-00180282; Cabral v. Creative Communication Tech., Class Certification Granted, Los Angeles Superior Court, Case No. BC402239; Cardoza v. Wal-Mart Associates, Inc., U.S. District Court Northern District of California, Case No. 4:15-cv-01634-DMR; Castro v. Vivint Solar, Inc., San Diego County Superior Court, Case No. 37-2014-00031385-CU-OE-CTL; Cavazos v. Heartland Automotive Services, Inc., Riverside County Superior Court, Case No. PSC 1401759; Cohen v. Bosch Tool, San Diego Superior Court, Case No. GIC 853562; Comstock v. Washington Mutual Bank - Class Certification Granted, San Diego County Superior Court, Case No. GIC820803; Conley v. Norwest, San Diego County Superior Court, Case No. N73741; Connell v. Sun Microsystems, Alameda Superior Court, Case No. RG06252310; Corrente v. Luxe Valet, Inc., San Francisco County Superior Court, Case No. CGC-15-545961; Cruz v. Redfin Corporation, U.S. District Court Northern District of California, Case No. 3:14-cv-05234-THE; Culley v. Lincare Inc. & Alpha Respiratory Inc., U.S. District Court eastern District of California, Case No. 2:15-cv-00081-GEB-CMK; Cunningham v. Leslie's Poolmart, Inc., U.S. District Court, Central District of California, Case No. 13-cv-02122-CAS; Curry v. California Testing Bureau/McGraw Hill, U.S. District Court, Northern District of California, Case No. C-05-4003 JW; Daniels, et al. v. Philip Morris,(In Re Tobacco Cases II) – Class Certification Granted, San Diego Superior Court, Case No. JCCP 4042; Davis v. Genex Holdings Inc., Santa Clara County Superior Court, Case No. 1-13-cv-240830; Davis v. Clear Connection, LLC, San Diego County Superior Court, Case No. 37-2014-00035173-CU-OE-CTL; Day v. WDC Exploration, Orange County Superior Court, Case No. 30-2010-00433770; Dedrick v. Hollandia Diary, San Diego County Superior Court, Case No. 37-2014-00004311-Cu-OE-CTL; Delmare v. Sungard Higher Education - Settled U.S. District Court, Southern District of California, Case No. 07-cv-1801; Del Rio v. Tumi Stores, Inc., San Diego County Superior Court, Case No. 37-2015-00022008-CU-OE-CTL; Dewane v. Prudential, U.S. District Court, Central District of California, Case No. SA CV 05-1031; Diesel v. Wells Fargo Bank, Orange County Superior Court, Case No. 30-2011-00441368; Dirienzo v. Dunbar Armored, U.S. District Court, Southern District of California, Case No. 09-cv-2745; Dobrosky v. Arthur J. Gallagher Service Company, LLC, Class certification Granted, No. EDCV 13-0646 JGB (Spx); Dodds v. Zaven Tootikian, Los Angeles County Superior Court, Case No. BC494402; Drumheller v. Radioshack Corporation, United States District Court, Central District of California, Case No. SACV11-355; Enger v. Kaiser Foundation Health Plan, U.S. District Court, Southern District of California, Case No. 09-cv-1670; Escobar v. Silicon Valley Security & Patrol, Inc., Santa Clara County Superior Court, Case No. 1-14-cv272514; Fierro v. Chase Manhattan - Class Certification Granted, Settled San Diego Superior Court, Case No. GIN033490; Figueroa v. Circle K Stores, Inc., San Diego County Superior Court, Case No. 37-2012-00101193-CU-OE-CTL; Finch v. Lamps Plus, (Lamps Plus Credit Transaction Cases), San Diego Superior Court, Case No. JCCP 4532; Fletcher v. Verizon, U.S. District Court, Southern

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Navajo Express, Inc. – San Bernardino County Superior Court, Case No. CIVDS1613846; Lara v. Commercial Protective Service, Inc. – Los Angeles County Superior Court, Case No. BC648921; Picos v. Culinary of California, Inc. – San Diego County Superior Court, Case No. JCCP 4892; Samaniego v. A&I Transport, Inc. – Santa Cruz County Superior Court, Case No. 16CV01894; Bailey v. Romanoff Floor Covering, Inc. – U.S. District Court, Eastern District of California, Case No. 17-CV-00685-TLN-CMK; Aguirre v. Bitech, Inc. – Sacramento County Superior Court, Case No. 34-2016-002022; Phillips v. DI Overnite LLC – San Diego County Superior Court, Case No. 37-2016-00016800-CU-OE-CTL; Jacob v. Pride Transport, Inc. – Santa Cruz County Superior Court, Case No. 16CV1337; Bennett v. Heartland Express, Inc. of Iowa – San Diego County Superior Court, Case No. 37-2016-00015056-CU-OE-CTL; Stapf v. Mercer Health & Benefits Administration LLC – Los Angeles County Superior Court, Case No. BC643007; Armstrong v. Ruan Transport Corporation – San Bernardino County Superior Court, Case No. CIVDS1605897; Geiger v. Floyd's 99-California LLC – Orange County Superior Court, Case No. 30-2016-00874943-CU-OE-CXC; Mondrian v. Trius Trucking, Inc. – Fresno County Superior Court, Case No. 16CECG01501; Johnson v. Fedex Office and Print Services, Inc. – Alameda County Superior Court, Case No. RG17856291; Rios v. Pacific Western Bank – San Diego County Superior Court, Case No. 37-2016-00038083; Sanders v. Old Dominion Freight Lines, Inc. – San Diego County Superior Court, Case No. 37-2016-00030725-CU-OE-CTL; Taylor v. Gardner Trucking, Inc. – San Bernardino County Superior Court, Case No. CIVDS1614280; Couture v. Wal-Mart Associates, Inc. – U.S. District Court, Eastern District of California, case No. 16-CV-02202-VC; Bertuol v. AHMC Anaheim Regional Medical Center LP – Orange County Superior Court, Case No. 30-2017-00899024-CO-OE-CXC; Espinoza v. Prime Communications of California, LLC – San Mateo County Superior Court, Case No. 16CIV01563; Archuletta v. Tidy Services, Inc. – Orange County Superior court, Case No. 30-2016-008611892-CU-OE-CXC; Puccini v. Earthbound Farm, LLC – Santa Clara County Superior Court, Case No. 17CV308643; Vikram v. First Student Management, LLC – U.S. District Court, Northern District of California, Case No. 17-CV-04656-KAW; Blair v. Ashley Distribution Services, LTD. – U.S. District Court, Central District of California, Case No. 17-CV-01427-JAK-SP; Richardson v. Service Staffing, LLC – Orange County Superior Court, Case No. 30-2017-00899039-CU-OE-CXC; Coffin v. Certified Freight Logistics, Inc. – San Diego County Superior Court, Case No. 37-2016-00036523-CU-OE-CTL; Encarnacion v. S.A.S. Services Group, Inc. – San Diego County Superior Court, Case No. 37-2017-00026726-CU-OE-CTL; Vasquez v. Golden State Overnight Delivery Service, Inc. – Alameda County Superior Court, Case No. RG17862924; Karr v. Tristar Managed Care, Inc. – Contra Costa Superior Court, case No. MSC17-00650; Gouveia v. Central Cal Transportation – San Joaquin County Superior Court, Case No. STK-CV-UOE-2017-0001765; Miranda v. Genex Services, LLC – U.S. District Court, Northern District of California, Case No. 17-CV-01438-JD; Spears v. Health Net of California, Inc. – Sacramento County Superior Court, Case No. 34-2017-00210560; Martinez v. Geil Enterprises, Inc. – Fresno County Superior Court, Case No. 17CECG01879; McComack v. Marriott Ownership Resorts, Inc. – U.S. District Court, Southern District of California, Case No. 17CV1663 BEN WVG; Velasco v. Lemonade Restaurant Group, LLC – Los Angeles County Superior Court, Case No. BC672235; Smith v. Personnel Services, Inc. – U.S. District Court, Northern District of California, Case NO. 17-CV-03594-SK; Gabriel v. Kuni SDA, LLC – San Diego County Superior Court, Case No. 37-2017-000251191-CU-OE-CTL; Miller v. Mattress Firm, Inc. – Santa Clara County Superior Court, Case No. 17CV313148; Provost v. Yourmechanic, Inc. – San Diego County Superior Court, Case No. 37-2017-00024056-CU-OE-CTL; Zirpolo v. UAG Stevens Creek II, Inc. – Santa Clara County Superior Court, Case No. 17CV313457; Salazar v. Aids Healthcare Foundation – San Diego County Superior Court, Case No. 37-2017-00033482-CU-OE-CTL; Knipe v. Amazon.com, Inc. – San Diego County Superior Court, Case No. 37-2017-00029426-CU-OE-CTL; Erwin v. Caremeridian, LLC – Fresno County Superior Court, Case No. 17CECG03048; Davis v. Cox Communications California, LLC – U.S. District Court, Southern District of California, Case No. 16-CV-00989-BAS-BLM; Lara v. RMI International, Inc. – Los Angeles County Superior Court, Case No. BC597695; Harper v. C.R. England, Inc. – U.S. District Court, Utah Central

Division, Case No. 16-CV-00906-DB; Mrazik v. C.H. Robinson Company – U.S. District Court, Central District of California, Case No. 12-CV-02067-CAS-PLA; Horn v. Rise Medical Staffing, LLC – U.S. District Court, Eastern District of California, Case No. 2:17-cv-01967-MCE-KJN; Pasallo v. GSG Protective Services CA Inc. – San Diego Superior Court, Case No. 37-2018-00037611-CU-OE-CTL; Smith v. Pacific Personnel Services, Inc. – U.S. District Court, Northern District of California, Case No. 17-cv-03594-SK; Terrado v. Accredited Debt Relief, LLC – San Diego Superior Court, Case No. 37-2018-00014181-CU-OE-CTL; Escobedo v. Pacific Western Bank – Los Angeles Superior Court, Case No. BC682686; Wade v. Automobile Club of Southern California – Orange County Superior Court, Case No. 30-2017-00960268-CU-OE-CXC; Montano v. American Automobile Association of Northern California – Contra Costa County Superior Court, Case No. CIVMSC18-01539; Perez v. Summit Interconnect, Inc. – Orange County Superior Court, Case No. 30-2018-00995403-CU-OE-CXC; Wolleson v. Gosch Imports, Inc. – Riverside County Superior Court, Case No. RIC170356; Banuelos v. Ortho Mattress, Inc. – Orange County Superior Court, Case No. 30-2020-01161304-CU-OE-CXC; Castellanos v. Miller Automotive Group, Inc. – Los Angeles County Superior Court, Case No. BC699211; Tressler v. Spoonful Management, LLC – Los Angeles County Superior Court, Case No. BC71940; Delph v. Employee Retention Services, LLC – San Diego County Superior Court, Case No. 37-2018-00007885; Romero v. May Trucking Company – U.S. District Court, Central District of California, Case No. 5:17-cv-02166-JGB-SHK; Miranda v. Genex Services, LLC – San Bernardino County Superior Court, Case No. CIVDS1700779; Moore v. Zirx Transportation Services, Inc. – Los Angeles County Superior Court, Case No. CGC-18-566655; Sottile v. Motion Recruitment Partners – Santa Clara County Superior Court, Case No. 18CV321677; Shahbazian v. Fast Auto Loans, Inc. – U.S. District Court, Central District of California, Case No. 2:18-cv-03076-ODW-KS; Salazar v. Johnson & Johnson Consumer Inc. – Los Angeles County Superior Court, Case No. BC702468; Conti v. L’Oreal USA S/D, Inc. – U.S. District Court, Eastern District of California, Fresno, Case No. 1:19-CV-00769-LJO-SKO; Mercado v. Security Industry Specialists, Inc. – Santa Clara County Superior Court, Case No. 17CV320059; Vikili v. Dignity Health – San Francisco County Superior Court, Case No. CGC-18-569456; Bagby v. Swissport SA, LLC – Los Angeles County Superior Court, Case No. BC691058; Henry v. Motion Entertainment Group, LLC – San Francisco County Superior Court, Case No. CGC18565643; Dandoy v. West Coast Convenience, LLC – Alameda County Superior Court, Case No. HG20051121; Lanuza v. AccentCare, Inc. – San Francisco County Superior Court, Case No. CGC-18-565521; Thomas v. Easy Driving School, LLC – San Diego County Superior Court, Case No. 37-2018-00047639-CU-OE-CTL; Erickson v. Erickson – Contra Costa County Superior Court, Case No. MSC18-00307; Martin v. Menzies Aviation (USA) Inc. – San Francisco County Superior Court, Case No. CGC-18-566072; Mortimer v. Healthsouth Bakersfield Rehabilitation Hospital, LLC – Kern County Superior Court, Case No. BCV-18-102761; Alcaraz v. Red Lion Hotels Corporation – San Francisco County Superior Court, Case No. CGC-18-570310; Calhoun v. Total Transportation and Distribution, Inc. – San Diego County Superior Court, Case No. 37-2018-00058681-CU-OE-CTL; Rataul v. Overton Security Services, Inc. – Alameda County Superior Court, Case No. RG18891882; Beltran v. Compass Bank – San Diego County Superior Court, Case No. 37-2019-00024475-CU-OE-CTL; Kirshner v. Touchstone Golf, LLC – San Diego County Superior Court, Case No. 37-2018-00028865-CU-OE-CTL; Pizarro v. The Home Depot, Inc. – U.S. District Court for the Northern District of Georgia-Atlanta Division; Hatanaka v. Restore Rehabilitation, LLC – San Diego County Superior Court, Case No. 37-2018-00034780-CU-OE-CTL; Faria v. Carriage Funeral Holdings, Inc. – Contra Costa County Superior Court, Case No. MSC18-00606; Ontiveros v. Baker Concrete Construction, Inc. – Santa Clara County Superior Court, Case No. 18CV328679; Morales v. Redlands Automotive Services, Inc. – San Bernardino County Superior Court, Case No. CIVDS1807525; Ramirez v. Carefusion Resources, LLC – U.S. District Court, Southern District of California; Amster v. Starbucks Corporation – San Bernardino Superior Court, Case No. CIVDS1922016; Kutzman v. Derrel’s Mini Storage, Inc. – U.S. District, Eastern District of California, Case No. 1:18-cv-00755-AWI-JLT; Marks v. Universal Propulsion Company, Inc. – Solano County Superior Court, Case No. FCS051608; Martinez v. Geil Enterprises,

Inc. – Fresno County Superior Court, Case No. 17CECG01480; Teniente v. Cirrus Asset Management, Inc. – Los Angeles County Superior Court, Case No. 20STCV16302; Blackshear v. California Fine Wine & Spirits LLC – Sacramento County Superior Court, Case No. 34-2018-00245842; Warnick v. Golden Gate America West LLC – Los Angeles County Superior Court, Case No. BC714176; Bennett v. Dnata Aviation USA, Inc. – San Francisco County Superior Court, Case No. CGC-18-566911; George v. PF Stockton Fitness LLC – Sacramento County Superior Court, Case No. 34-2019-00261113-CU-OE-GDS; Oshana v. Farmers and Merchants Bank of Central California – Stanislaus County Superior Court, Case No. CV-19-003427; Vasquez v. Packaging Corporation of America – U.S. District Court, California Central District, Case No. 2:19-cv-01935-PSG-PLA; Palomino v. Zara USA Inc. – Orange County Superior Court, Case No. 30-2018-00992682-CU-OE-CXC; Simmons v. Joe & The Juice LA, LLC – San Francisco County Superior Court; Pacia v. CIM Group, L.P. – Los Angeles County Superior Court, Case No. BC709666; Flores v. Plastic Express – Los Angeles County Superior Court, Case No. BC71971; Madera v. William Warren Properties, Inc. – Orange County Superior Court, Case No. 30-2019-01055704-CU-OE-CXC; Hernandez v. Quality Custom Distribution – Orange County Superior Court, Case No. 30-2018-01010611-CU-OE-CXC; Arango v. Schlumberger Technology Corporation – Orange County Superior Court, Case No. 30-2019-01056839-CU-OE-CXC; Dandoy v. West Coast Convenience, LLC – Alameda County Superior Court, Case No. HG20051121; Ramirez v. J E H Enterprises, Inc. – San Francisco County Superior Court, Case No. CGC-19-574691; Sullen v. First Service Residential California, LLC – San Francisco County Superior Court, Case No. CGC-19-575131; Valentino v. East Bay Tire Co. – Solano County Superior Court, Case No. FCS053067; Murphy v. Rockler Retail Group, Inc. – Sacramento Superior Court, Case No. 34-2019-00251220; Shahbazian v. Onewest Bank – Los Angeles County Superior Court, Case No. 19STCV23722; Bruemmer v. Tempur Retail Stores LLC – Marin County Superior Court, Case No. CIV1803646; Antonios v. Interface Rehab, Inc. – Orange County Superior, Case No. 30-2019-01067547-CU-OE-CXC; Tavallodi v. DC Auto, Inc. – San Bernardino, Case No. CIVDS1833598; Miranda v. The Lloyd Pest Control Co. – San Diego County Superior Court, Case No. 37-2018-00052510-CU-OE-CTL; Soenardi v. Magnussen Imports, Inc. – Santa Clara County Superior Court, Case No. 18CV340003; Thai v. Team Industrial Services, Inc. – Los Angeles County Superior Court, Case No. 19STCV21953; Castillo v. A.J. Kirkwood & Associates, Inc. – Los Angeles County Superior Court, Case No. 19STCV04435; Moss v. Jabil Inc. – Alameda County Superior Court, Case No. HG20050536; Billosillo, Jr. v. Crown Energy Services, Inc. – San Diego County Superior Court, Case No. 37-2018-00058254-CU-OE-CTL; Tarkington v. Freetime, Inc. – San Diego County Superior Court, Case No. 37-2019-00011473-CU-OE-CTL; McIntyre v. J.J.R. Enterprises, Inc. – Sacramento County Superior Court, Case No. 34-2019-00251220; Bucur v. Pharmaca Integrative Pharmacy, Inc. – San Diego County Superior Court, Case No. 37-2019-00009409-CU-OE-CTL; Batin v. McGee Air Services, Inc. – Santa Clara County Superior Court, Case No. 19CV347733; Terry v. McGee Air Services, Inc. – King County Superior Court of Washington, Case No. 19-2-3321-5 KNT; Weiss v. Niznik Behavioral Health Resources, Inc. – San Diego County Superior Court, Case No. 37-2019-00039441-CU-OE-CTL; Cavada v. Inter-Continental Hotels Group, Inc. – U.S. District Court, Southern District of California, Case No. 3:19-cv-01675-GPC-AHG; Lesevic v. Spectraforce Technologies, Inc. – U.S. District Court, Northern District of California, Case No. 5:19-cv-03126-LHK; Mutchler v. Circle K Stores, Inc. – San Diego County Superior Court, Case No. 37-2020-00016331-CU-OE-CTL; Azima v. CSI Medical Group – Santa Clara County Superior Court, Case No. 19CV345450; Porras v. Baypointe Enterprises, LLC – Los Angeles County Superior Court, Case No. 19STCV31015; Mitchell v. Mack Trucking, Inc. – San Bernardino County Superior Court, Case No. CIVDS1928334; Watts v. T.R.L. Systems, Incorporated – Orange County Superior Court, Case No. 30-2019-01102457-CU-OE-CXC; Price v. DMSD Restaurants Inc. – San Diego County Superior Court, Case No. 37-2019-00024062-CU-OE-CTL; Jacobs v. Nortek Security & Control LLC – San Diego County Superior Court, Case No. 37-2019-0019735-CU-OE-CTL; Gonzalez v. Hub International Midwest – San Bernardino County Superior Court, Case No. CIVDS1900463; Cisneros v. Bluepearl California, Inc. – San Mateo Superior Court, Case No. 19-

CIV-05707; Garcia v. Gallagher Basset Services – San Bernardino Superior Court, Case No. CIVDS2004140; Callow v. Adventist Health System/West – Placer County Superior Court, Case No. SCV0043607; Dominguez v. Kimco Facility Services, LLC – Los Angeles County Superior Court, Case No. 19STCV37592; Searles v. Robert Heath Trucking, Inc. – Los Angeles County Superior Court, Case No. 19STCY30808; Rangel v. Pioneer Hi-Bred international, Inc. – Yolo County Superior Court, Case No. CV-19-1797; Ivon v. Sinclair Television of California, Humboldt County Superior Court, Case No. DR190699; Williams v. Henkels & McCoy, Inc. – San Bernardino County Superior Court, Case No. CIVDS2003888; Cano v. Larry Green Chrysler Jeep Dodge, Inc. – Riverside County Superior Court, Case No. BLC1900184; Lopez v. Cepheid – Santa Clara County Superior Court, Case No. 19CV358827; Hernandez v. Quick Dispense, Inc. – Los Angeles County Superior Court, Case No. 19STCV29405; Lopez v. Lacoste USA, Inc. – San Bernardino County Superior Court, Case No. CIVDS1914626; Duhe v. Hospital Couriers Nevada, LLC – Contra Costa County Superior Court, Case No. MSC19-01377; Law v. Sequoia Equities, Incorporated – Contra Costa Superior Court, Case No. C19-01925; Dvorak v. Rockwell Collins, Inc. – San Diego County Superior Court, Case No. 37-2019-00064397-CU-OE-CTL; Noguera v. Metal Container Corporation – Riverside County Superior Court, Case No. RIC2003235; Leon v. Miller Event Management, Inc. – San Luis Obispo Superior Court, Case No. 19CV-0435; Leon v. Miller Event Management, Inc. – San Luis Obispo County Superior Court, Case No. 19CV-0435, Camacho-Bias v. Serve U Brands Inc. – Butte County Superior Court, Case No. 20CV00603; La Pietra v. Entertainment Partners Services, LLC – Los Angeles County Superior Court, Case No. 19STCV39529; Celis v. Theatre Box - San Diego, LLC – San Diego County Superior Court, Case No. ____; Ignacio v. Laboratory Corporation of America – U.S. District Court, California Central District, Case No. 2:19-cv-06079-AB-RAO; Kovnas v. Cahill Contractors LLC – Alameda County Superior Court, Case No. RG19037852; Hersh v. Mrs. Gooch's Natural Food – Los Angeles County Superior Court, Case No. 19STCV10444; Miller v. The Permanente Medical Group – Alameda County Superior Court, Case No. RG19045904; Vasquez v. Autoalert, LLC – Orange County Superior Court, Case No. 30-2019-01114549-CU-OE-CXC; Cavanaugh v. Morton Golf, LLC – Sacramento County Superior Court, Case No. 34-2019-00270176; Coley v. Monroe Operations, LLC – Alameda County Superior Court, Case No. RG20063188; Ramirez v. Sierra Aluminum Company – U.S. District Court, California Central District Court, Case No. 5:20-cv-00417-JGB-KK; Marrero v. Stat Med, P.C. – Alameda County Superior Court, Case No. HG19043214; Enriquez v. Solari Enterprises, Inc. – Los Angeles County Superior Court, Case No. 20STCV11129; Craig v. Hometown Heart – San Francisco County Superior Court, Case No. CGC-20-582454; Lopez v. Hy0Lang Electric California, Inc. – San Diego County Superior Court, Case No. 37-2020-00012543-CU-OE-CTL; Heuklom v. Clara Medical Group, P.C. – San Francisco County Superior Court, Case No. CGC-20-585918; Dominguez v. Lifesafer of Northern California – Monterey County Superior Court, Case No. 20CV002586; Kiseleva v. Totalmed Staffing Inc. – U.S. District Court, California Northern District, Case No. 5:19-cv-06480; Vires v. Sweetgreen, Inc. – Santa Clara County Superior Court, Case No. 20CV365918; Kim v. Wireless Vision, LLC – San Bernardino County Superior Court, Case No. CIVDS2000074; Senoren v. Air Canada Corporation – Los Angeles County Superior Court, Case No. 20STCV13942; Clark v. Quest Diagnostics Incorporated – San Bernardino County Superior Court, Case No. CIVDS2018707; Green v. Shipt, Inc. – Los Angeles County Superior Court, Case No. 20STCV01001; Respass v. The Scion Group LLC – Sacramento County Superior County, Case No. 34-2020-00285265; Jackson v. Decathlon USA LLC – Alameda County Superior Court, Case No. RG2003024; Avacena v. FTG Aerospace Inc. – Los Angeles County Superior Court, Case No. 20STCV28767; Perez v. Butler America, LLC – Los Angeles County Superior Court, Case No. 20STCV20218; Christensen v. Carter's Retail, Inc. – Orange County Superior Court, Case No. 30-2020-01138792-CU-OE-CXC; Astudillo v. Torrance Health Association, Inc. – Los Angeles County Superior Court, Case No. 20STCV18424; Hansen v. Holiday AI Management Sub LLC – Contra Costa County Superior Court, Case No. CIVMSC20-00779; Almahdi v. Vitamin Shoppe Industries Inc – Santa Clara County Superior Court, Case No. 20CV365150; Krisinda v. Loyal Source Government Services LLC – U.S. District Court, California

Southern District, Case No. 3:20-cv-879-LAB-NLS; Ettedgui v. WB Studio Enterprises Inc – U.S. District Court, California Central District, Case No. 2:20-CV-08053-MCS (MAAx); Fernandez v. Nuvision Federal Credit Union – Orange County Superior Court, Case No. 30-2020-01161691-CU-OE-CJC; Aviles v. UPS Supply Chain Solutions, Inc. – Riverside County Superior Court, Case No. RIC2000727; Alcocer v. DSV Solutions, LLC – San Bernardino Superior Court, Case No. CIVDS2010345; Wilson v. Wholesome Harvest Baking, LLC – U.S. District Court, California Northern District, Case No. 4:20-cv-05186-YGR; Gregory v. Verio Healthcare, Inc. – Los Angeles County Superior Court, Case No. 20STCV37254; Rose v. Impact Group, LLC – Orange County Superior Court, Case No. 30-2020-01141107-CU-OE-CXC; Monasterio v. Citibank, N.A. – San Mateo County Superior Court, Case No. 20-CIV-03650; Martinez-Lopez v. Medamerica, Inc. – San Diego County Superior Court, Case No. 37-2020-00034393-CU-OE-CTL; Cox v. PRB Management, LLC – Solano County Superior Court, Case No. FCS055514; Nash v. K. Hovnanian Companies, LLC – Riverside County Superior Court, Case No. RIC2003319; Kyler v. Harbor Freight Tools USA, Inc. – San Diego County Superior Court, Case No. 37-2020-00015828-CU-OE-CTL; Roberts v. Solantic Corporation – Los Angeles County Superior Court, Case No. 20STCV41117; Price v. Mistras Group, Inc. – Los Angeles County Superior Court, Case No. 20STCV22485; Macias v. ABM Electrical & Lighting Solutions, Inc. – San Diego County Superior Court, Case No. 37-2020-00024997-CU-OE-CTL; Basu-Kesselman v. Garuda Labs, Inc. – San Francisco County Superior Court, Case No. CGC-20-585229; Armstrong v. Prometric LLC – Los Angeles County Superior Court, Case No. 20STCV29967; Ashlock v. Advantis Medical Staffing, LLC – San Diego County Superior Court, Case No. 37-2020-00022305-CU-OE-CTL; Wilson v. WXI Global Solutions, LLC – Los Angeles County Superior Court, Case No. 20STCV25007; Gandhale v. Select Rehabilitation, LLC – Monterey County Superior Court, Case No. 20CV002240; Starvoice v. G4S Secure Solutions (USA) Inc. – San Diego County Superior Court, Case No. 37-2020-00029421-CU-OE-CTL; Mbise v. Axlehire, Inc. – Alameda County Superior Court, Case No. RG20067350; Points v. C&J Services, Inc. – Kern County Superior Court, Case No. BCV-20-102483; Marshall v. PHI Air Medical, LLC – Lassen County Superior Court, Case No. 62973; Jauregui v. Cytotec Engineered Materials, Inc. – Orange County Superior Court, Case No. 30-2020-01164932-CU-OE-CXC

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

2255 CALLE CLARA
LA JOLLA, CALIFORNIA 92037

Web Site: www.bamlawca.com

San Diego | San Francisco | Sacramento | Los Angeles | Riverside | Santa Clara | Orange | Chicago

Phone: (858) 551-1223

Fax: (858) 551-1232

WRITERS E-MAIL:
Nick@bamlawca.com

WRITERS EXT:
1004

March 17, 2022
CA2513

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

PSG California LLC
Certified Mail #70211970000003067344
Michael Racioppi
22069 Van Buren Place
Grand Terrace, CA 92313

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by PSG California LLC in California and classified as non-exempt employees during the time period of March 17, 2021 until a date as determined by the Court. Our offices represent Plaintiff Dennis Eberwein (“Plaintiff”) and other Aggrieved Employees in a lawsuit against PSG California LLC (“Defendant”). Plaintiff was employed by Defendant in California as a non-exempt employee from 1981 to August of 2021 and entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks (and pay the meal and rest break premiums at the correct rate), and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely

provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to her, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, PLAINTIFF and the AGGRIEVED EMPLOYEES were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to PLAINTIFF and the AGGRIEVED EMPLOYEES failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiff against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiff and all Aggrieved Employees.

Your earliest response to this notice is appreciated. If you have any questions of concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.

CASE NAME: PSG

Date: March 24, 2023
Requesting Attorney: Kyle Nordrehaug
Plaintiff or Defense: Plaintiff
Firm Name: Blumenthal, Nordrehaug, et al.
Telephone: (858) 367-9913
Email: kyle@bamlawca.com

All-In Settlement

Class/PAGA Size: 454
Opt-Out Rate: 1.5%
No. of Checks Issued: 447
Postage Total: \$867.13
Grand Total: \$16,308.15
Flat Fee: \$11,000.00
NOT TO EXCEED: \$16,400.00

SUMMARY OF SERVICES: STATIC WEBSITE / SPANISH TRANSLATION / 1.5% OPT-OUT RATE / DIRECT MAIL NOTICE / PROCESS RETURNED UNDELIVERABLE MAIL / OPT-OUT AND DISPUTE PROCESSING / IVR AND FAX SUPPORT / DEDICATED CASE EMAIL ADDRESS / CALCULATIONS / MICR CHECK / WEEKLY AND FINAL REPORTING / DECLARATION / ESCHEAT TO THE SCO

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

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

CASE SETUP

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

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Project Manager: Case Intake & Review	\$95.00	4	\$380.00
Programming: Data Base Setup	\$150.00	4	\$600.00
Static Website	\$500.00	1	\$500.00
Spanish Translation	\$1,200.00	1	\$1,200.00
TOTAL			\$2,680.00

DIRECT MAIL NOTICE

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

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Project Manager: Format Documents	\$95.00	2	\$190.00
National Change of Address Search (NCOA)	\$135.00	1	\$135.00
Print & Mail Notice Packets	\$1.00	454	\$454.00
First-Class Postage (up to 2 oz.)*	\$0.81	454	\$367.74
TOTAL			\$1,146.74

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

PROCESS RETURNED UNDELIVERABLE MAIL

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

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Clerical Staff	\$60.00	1	\$60.00
Update Undeliverable Mail Database	\$0.50	27	\$13.50
Skip Trace for Best Address	\$1.00	23	\$23.00
Print & Remail Notice Packets	\$1.00	21	\$21.00
First-Class Postage (up to 2 oz.)	\$0.81	21	\$17.01
TOTAL			\$134.51

OPT-OUT PROCESSING

CPT will Process and Validate all Opt-Outs and Other Responses from Class Members. Deficient Opt-Outs will Receive a Deficiency Notice by Mail and Provide an Opportunity to Cure. CPT will Scrub the Filed Opt-Outs to Eliminate Duplicates, Fraudulent, and Otherwise Invalid.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Programming: De-duplication/Scrubbing	\$150.00	1	\$150.00
Project Manager: Validate Opt-Out Requests	\$95.00	1	\$95.00
Clerical Staff	\$60.00	1	\$60.00
Opt-Out & Change of Address Processing	\$2.00	7	\$13.62
Print & Mail Deficiency/Dispute Notices	\$1.50	1	\$1.50
First-Class Postage (up to 1 oz.)	\$0.60	1	\$0.60
Review & Process Deficiency Responses	\$10.00	1	\$10.00
TOTAL			\$330.72

CLASS MEMBER SUPPORT SERVICES

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

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Toll-Free Number Establish/Setup	\$150.00	2	\$300.00
Class Member Support Representatives	\$3.00	91	\$273.00
Dedicated Case Email Address	\$150.00	2	\$300.00
Fax Number	Included	1	Included
TOTAL			\$873.00

SSN VERIFICATION

Verify SSN for Validity with IRS / IRS Backup Withholdings

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Programming: SSN Selection	\$150.00	1	\$150.00
Department Manager: Analysis & Reporting	\$95.00	3	\$285.00
IRS SSN Verification	\$0.10	447	\$44.72
TOTAL			\$479.72

DISTRIBUTION SERVICES

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

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Programming: Calculation Totals	\$150.00	3	\$450.00
Project Supervisor: Review of Distribution	\$150.00	3	\$450.00
Project Manager: Correspondence w/Parties	\$95.00	2	\$190.00
Programming: Setup & Printing of Checks	\$150.00	3	\$450.00
Obtain EIN, Setup QSF/Bank Account	\$150.00	3	\$450.00
Print & Mail Notice, Checks & W2/1099	\$2.50	447	\$1,117.98
First-Class Postage (up to 1 oz.)*	\$0.60	447	\$268.31
Reminder Postcard	\$0.40	358	\$143.10
Postcard Postage	\$0.44	358	\$157.41
TOTAL			\$3,676.80

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

POST-DISTRIBUTION & TAX REPORTING

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

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Project Supervisor: Account Reconciliation	\$150.00	10	\$1,500.00
Update Undeliverable Checks Database	\$0.50	36	\$18.00
Skip Trace for Best Address	\$1.00	36	\$36.00
Remail Undeliverable Checks	\$2.50	33	\$82.50
First-Class Postage (up to 1 oz.)	\$0.60	33	\$19.80
Re-Issue Checks as Required	\$5.00	23	\$115.00
First-Class Postage (up to 1 oz.)	\$0.60	23	\$13.80
Project Supervisor: Reconcile Uncashed Chk	\$150.00	1	\$150.00
Programming: Weekly & Final Reports	\$150.00	2	\$300.00
Project Supervisor: Final Declaration	\$150.00	2	\$300.00
Project Manager: Account Files Sent to Atty	\$95.00	2	\$190.00
CA Tax Preparation*	\$600.00	1	\$600.00
Annual Tax Reporting to IRS*	\$1,000.00	1	\$1,000.00
QSF Annual Tax Reporting	\$500.00	1	\$500.00
TOTAL			\$4,825.10

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

SCO ESCHEATMENT PROCESSING

Escheatment Processing to the State Controller Unclaimed Property Division / Uncashed Check Rate 21%			
ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
UPEnterprise Reporting Services	\$0.15	94	\$14.10
Project Manager: SCO Fall Reporting	\$95.00	2	\$190.00
Project Supervisor: Review of SCO Reports	\$150.00	1	\$150.00
Certified Mail Report to SCO	\$8.53	1	\$8.53
Check Reissues for Winter/Spring QTR	\$5.00	9	\$45.00
First-Class Postage (up to 1 oz.)	\$0.60	9	\$5.40
Project Supervisor: June Remittance	\$150.00	1	\$150.00
Project Manager: June Remittance	\$95.00	2	\$190.00
Certified Mail Report to SCO	\$8.53	1	\$8.53
Add'l Account Recons	\$150.00	6	\$900.00
Add'l QSF Annual Tax Reporting	\$500.00	1	\$500.00
TOTAL			\$2,161.56

GRAND TOTAL \$16,308.15

TERMS AND CONDITIONS

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

1. Definitions.

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

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

- b) **Incident Notification.** Each party will promptly inform the other parties in the event of a breach of Client Data in their possession and shall utilize best efforts to assist the other parties to mitigate the effects of such incident.
6. **Qualified Settlement Fund Account.** At Client's request, CPT shall be authorized to establish one or more bank accounts at an Approved Bank. The amounts held at the Approved Bank under this Agreement are at the sole risk of Client. Without limiting the generality of the foregoing, CPT shall have no responsibility or liability for any diminution of the funds that may result from the deposit thereof at the Approved Bank, including deposit losses, credit losses, or other claims made against the Approved Bank. It is acknowledged and agreed that CPT has acted reasonably and prudently in depositing funds at an Approved Bank, and CPT is not required to conduct diligence or make any further inquiries regarding such Approved Bank.
7. **Fees and Payment.** Pricing stated within the proposal is good for 90 Days. All postage charges and 50% of the final administration charges are due at the commencement of the case and will be billed immediately upon receipt of the Client data and/or notice documents. Client will be invoiced for any remaining fees according to the applicable Order. Pricing stated within any proposal from CPT to Client is for illustrative purposes only and is only binding upon an Order executed by CPT and Client. Payment of fees will be due within 30 days after the date of the invoice, except where this Agreement expressly prescribes other payment dates. All fees set forth in an Order are in U.S. dollars, must be paid in U.S. dollars, and are exclusive of taxes and applicable transaction processing fees. Late payments hereunder will incur a late charge of 1.5% (or the highest rate allowable by law, whichever is lower) per month on the outstanding balance from the date due until the date of actual payment. In addition, Services are subject to suspension for failure to timely remit payment therefor. If travel is required to effect Services, Client shall reimburse CPT for pre-approved, reasonable expenses arising from and/or relating to such travel, including, but not limited to, airfare, lodging, meals, and ground transportation.
8. **Term and Termination.**
- a) **Term.** The Term is set forth in the Order. The Agreement may be renewed by mutual written agreement of the parties.
- b) **Termination for Cause.** Either party may immediately terminate this Agreement if the other party materially breaches its obligations hereunder, and, where capable of remedy, such breach has not been materially cured within forty-five (45) days of the breaching party's receipt of written notice describing the breach in reasonable detail.
- c) **Bankruptcy Events.** A party may immediately terminate this Agreement if the other party: (i) has a receiver appointed over it or over any part of its undertakings or assets; (ii) passes a resolution for winding up (other than for a bona fide scheme of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect and such order is not discharged or stayed within ninety (90) days; or (iii) makes a general assignment for the benefit of its creditors.
- d) **Effect of Termination.** Immediately following termination of this Agreement, upon Client's written request, Client may retrieve Client Data via Client's secure FTP site in the same format in which the Client Data was originally inputted into the Software, at no additional charge. Alternatively, Client Data can be returned in a mutually agreed format at a scope and price to be agreed. CPT will maintain a copy of Client Data and Client Content for no more than four (4) years following the date of the final check cashing deadline for Class Members under the Settlement Agreement, after which time any Client Data and Client Content not retrieved will be destroyed.
- e) **Final Payment.** If Client terminates this Agreement due to Section "Termination," Client shall pay CPT all fees owed through the termination date. If CPT terminates the Agreement in accordance with Section "Termination," Client shall pay CPT all fees invoiced through the termination date, plus all fees remaining to be invoiced during the Term, less any costs CPT would have incurred had the Agreement not been terminated.
- Confidentiality.** Each of the parties agrees: (i) not to disclose any Confidential Information to any third parties except as mandated by law and except to those subcontractors of CPT providing Products hereunder who agree to be bound by confidentiality obligations no less stringent than those set forth in this Agreement; (ii) not to use any Confidential Information for any purposes except carrying out such party's rights and responsibilities under this Agreement; and (iii) to keep the Confidential Information confidential using the same degree of care such party uses to protect its own confidential information; **provided, however,** that such party shall use at least reasonable care. These obligations shall survive termination of this Agreement.
15. **Miscellaneous Provisions.**

- a) **Compelled Disclosure.** If receiving party is compelled to disclose any Confidential Information by judicial or administrative process or by other requirements of law, such party shall (i) promptly notify the other party, (ii) reasonably cooperate with the other party in such party's efforts to prevent or limit such compelled disclosure and/or obtain confidential treatment of the items requested to be disclosed, and (iii) shall disclose only that portion of such information which each party is advised by its counsel in writing is legally required to be disclosed.
- b) **Remedies.** If either party breaches any of its obligations with respect to confidentiality or the unauthorized use of Confidential Information hereunder, the other party shall be entitled to seek equitable relief to protect its interest therein, including but not limited to, injunctive relief, as well as money damages.
10. **Intellectual Property.** As between the parties, CPT will and does retain all right, title and interest (including, without limitation, all Intellectual Property Rights) in and to the Products. Client retains all ownership rights to Client Data.
11. **Indemnification.** Client agrees to indemnify, defend, and hold harmless CPT, its Affiliates, and the respective officer, directors, consultants, employees, and agents of each (collectively, "Covered CPT Parties") from and against any and all third party claims and causes of action, as well as related losses, liabilities, judgments, awards, settlements, damages, expenses and costs (including reasonable attorney's fees and related court costs and expenses) (collectively, "Damages") incurred or suffered by CPT which directly relate to or directly arise out of (i) Client's breach of this Agreement; (ii) CPT's performance of Services hereunder; (iii) the processing and/or handling of any payment by CPT; (iv) any content, instructions, information or Client Data provided by Client to CPT in connection with the Services provided by CPT hereunder. The foregoing provisions of this section shall not apply to the extent the Damages relate to or arise out of CPT's willful misconduct. To obtain indemnification, indemnitee shall: (i) give written notice of any claim promptly to indemnitor; (ii) give indemnitor, at indemnitor's option, sole control of the defense and settlement of such claim, provided that indemnitor may not, without the prior consent of indemnitee (not to be unreasonably withheld), settle any claim unless it unconditionally releases indemnitee of all liability; (iii) provide to indemnitor all available information and assistance; and (iv) not take any action that might compromise or settle such claim.
12. **Warranties.** Each party represents and warrants to the other party that, as of the date hereof: (i) it has full power and authority to execute and deliver the Agreement; (ii) the Agreement has been duly authorized and executed by an appropriate employee of such party; (iii) the Agreement is a legally valid and binding obligation of such party; and (iv) its execution, delivery and/or performance of the Agreement does not conflict with any agreement, understanding or document to which it is a party. CPT WARRANTS THAT ANY AND ALL SERVICES PROVIDED BY IT HEREUNDER SHALL BE PERFORMED IN A PROFESSIONAL MANNER CONSISTENT WITH PREVAILING INDUSTRY STANDARDS. TO THE EXTENT PERMITTED BY APPLICABLE LAW, CPT DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE.
13. **Liability.**
- a) **Liability Cap.** EXCEPT FOR A PARTY'S WILLFUL MISCONDUCT, EACH PARTY'S MAXIMUM AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE THEORY OF LIABILITY, WILL BE LIMITED TO THE TOTAL CLAIMS ADMINISTRATOR FEES PAID OR PAYABLE BY CLIENT TO CPT HEREUNDER. THE EXISTENCE OF MORE THAN ONE CLAIM SHALL NOT EXPAND SUCH LIMIT. THE PARTIES ACKNOWLEDGE THAT THE FEES AGREED UPON BETWEEN CLIENT AND CPT ARE BASED IN PART ON THESE LIMITATIONS, AND THAT THESE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ANY ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. THE FOREGOING LIMITATION SHALL NOT APPLY TO A PARTY'S PAYMENT OBLIGATIONS UNDER THE AGREEMENT.
- b) **Exclusion of Consequential Damages.** NEITHER PARTY WILL BE LIABLE FOR LOST PROFITS, LOST REVENUE, LOST BUSINESS OPPORTUNITIES, LOSS OF DATA, INTERRUPTION OF BUSINESS, OR ANY OTHER INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
14. **Communications.** CPT may list Client's name and logo alongside CPT's other clients on the CPT website and in marketing materials, unless and until Client revokes such permission. CPT may also list the Case name and/or number, and certain Qualified Settlement Fund information, on the CPT website and in marketing materials, unless stated otherwise in the Settlement Agreement.

- a) Governing Law; Jurisdiction. This Agreement will be governed by and construed in accordance with the laws of the State of California and the federal laws of the United States of America, without regard to conflict of law principles. CPT and Client agree that any suit, action or proceeding arising out of, or with respect to, this Agreement or any judgment entered by any court in respect thereof shall be brought exclusively in the state or federal courts of the State of California located in the County of Orange, and each of CPT and Client hereby irrevocably accepts the exclusive personal jurisdiction and venue of those courts for the purpose of any suit, action or proceeding.
- b) Force Majeure. Neither party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including without limitation acts of war, acts of God, earthquake, flood, weather conditions, embargo, riot, epidemic, acts of terrorism, acts or omissions of vendors or suppliers, equipment failures, sabotage, labor shortage or dispute, governmental act, failure of the Internet or other acts beyond such party's reasonable control, provided that the delayed party: (i) gives the other party prompt notice of such cause; and (ii) uses reasonable commercial efforts to correct promptly such failure or delay in performance.
- c) Counterparts. This Agreement may be executed in any number of counterparts and electronically, each of which shall be an original but all of which together shall constitute one and the same instrument.
- d) Entire Agreement. This Agreement contains the entire understanding of the parties in respect of its subject matter and supersedes all prior agreements and understandings (oral or written) between the parties with respect to such subject matter. The schedules and exhibits hereto constitute a part hereof as though set forth in full herein.
- e) Modifications. Any modification, amendment, or addendum to this Agreement must be in writing and signed by both parties.
- f) Assignment. Neither party may assign this Agreement or any of its rights, obligations, or benefits hereunder, by operation of law or otherwise, without the other party's prior written consent; provided, however, either party, without the consent of the other party, may assign this Agreement to an Affiliate or to a successor (whether direct or indirect, by operation of law, and/or by way of purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of such party, where the responsibilities or obligations of the other party are not increased by such assignment and the rights and remedies available to the other party are not adversely affected by such assignment. Subject to that restriction, this Agreement will be binding on, inure to the benefit of, and be enforceable against the parties and their respective successors and permitted assigns.
- g) No Third-Party Beneficiaries. The representations, warranties, and other terms contained herein are for the sole benefit of the parties hereto and their respective successors and permitted assigns and shall not be construed as conferring any rights on any other persons.
- h) Statistical Data. Without limiting the confidentiality rights and Intellectual Property Rights protections set forth in this Agreement, CPT has the perpetual right to use aggregated, anonymized, and statistical data ("Statistical Data") derived from the operation of the Software, and nothing herein shall be construed as prohibiting CPT from utilizing the Statistical Data for business and/or operating purposes, provided that CPT does not share with any third-party Statistical Data which reveals the identity of Client, Client's Class Members, or Client's Confidential Information.
- i) Export Controls. Client understands that the use of CPT's Products is subject to U.S. export controls and trade and economic sanctions laws and agrees to comply with all such applicable laws and regulations, including the Export Administration Regulations maintained by the U.S. Department of Commerce and the trade and economic sanctions maintained by the Treasury Department's Office of Foreign Assets Control.
- j) Severability. If any provision of this Agreement is held by a court or arbitrator of competent jurisdiction to be contrary to law, such provision shall be changed by the court or by the arbitrator and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law, and the remaining provisions of this Agreement shall remain in full force and effect.
- k) Notices. Any notice or communication required or permitted to be given hereunder may be delivered by hand, deposited with an overnight courier, sent by electronic delivery, or mailed by registered or certified mail, return receipt requested and postage prepaid to the address for the other party first written above or at such other address as may hereafter be furnished in writing by either party hereto to the other party. Such notice will be deemed to have been given as of the date it is delivered, if by personal delivery; the next business day, if deposited with an overnight courier; upon receipt of confirmation of electronic delivery (if followed up by such registered or certified mail); and five days after being so mailed.
- l) Independent Contractors. Client and CPT are independent contractors, and nothing in this Agreement shall create any partnership, joint venture, agency, franchise, sales representative or employment relationship between Client and CPT. Each party understands that it does not have authority to make or accept any offers or make any representations on behalf of the other. Neither party may make any statement that would contradict anything in this section.
- m) Subcontractors. CPT shall notify Client of its use of any subcontractors to perform Client-specific Services. CPT shall be responsible for its subcontractors' performance of Services under this Agreement.
- n) Headings. The headings of the sections of this Agreement are for convenience only, do not form a part hereof, and in no way limit, define, describe, modify, interpret, or construe its meaning, scope or intent.
- o) Waiver. No failure or delay on the part of either party in exercising any right, power or remedy under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise or the exercise of any other right, power, or remedy.
- p) Survival. Sections of the Agreement intended by their nature and content to survive termination of the Agreement shall so survive.