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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **IN AND FOR THE COUNTY OF ALAMEDA**

15 SONNY RATTLER, an individual, on behalf  
16 of himself and on behalf of all persons similarly  
17 situated, and on behalf of the State of  
18 California, as private attorney general,

19 Plaintiffs,

20 vs.

21 PACIFIC COAST CONTAINER, INC., a  
22 California Corporation; and DOES 1 through  
23 50, inclusive,

24 Defendants.

CASE NO.: **22CV015216**

[Consolidated with Case No. 22CV015223]

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

Hearing Date: April 3, 2024

Hearing Time: 2:30 p.m.

**Reservation ID: A-15216-001**

Judge: Hon. Tara Desautels

Dept.: 23

Action Filed: July 28, 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 for Plaintiff Sonny Rattler (“Plaintiff”) in this matter. As such, I am fully familiar with the  
4 facts, pleadings and history of this matter. The following facts are within my own personal  
5 knowledge, and if called as a witness, I could testify competently to the matters stated herein.

6 2. This declaration is being submitted in support of Plaintiff’s unopposed motion for  
7 preliminary approval of the proposed class action settlement with Defendant Pacific Coast  
8 Container, Inc. (“Defendant”), which motion seeks entry of an order: (1) preliminarily approving  
9 the proposed settlement of this class action with Defendant; (2) for settlement purposes only,  
10 conditionally certifying the Class, which is comprised of “all individuals who are or previously  
11 worked for Defendant in California, including any employees staffed with Defendant by a third  
12 party, and who were classified as non-exempt at any time during the Class Period”, which is July  
13 28, 2018, through July 23, 2023; (3) provisionally appointing Plaintiff as the representative of the  
14 Class; (4) provisionally appointing Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit  
15 Bhowmik of Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class Counsel; (5) approving the  
16 form and method for providing class-wide notice; (6) directing that notice of the proposed  
17 settlement be given to the class; (7) appointing Apex Class Action, LLC as Administrator, and  
18 (8) scheduling a final approval hearing date, proposed for August 20, 2024 which is at least 120  
19 days from preliminary approval, to consider Plaintiff’s motion for final approval of the settlement  
20 and for approval of attorneys’ fees and expenses. Attached hereto as Exhibit #1 is a copy of the  
21 fully executed Class Action and PAGA Settlement Agreement (“Agreement”) along with exhibits  
22 thereto. The form of the Agreement is based upon the Los Angeles County Superior Court model  
23 form for a class and PAGA settlement. This Declaration incorporates by reference the definitions in  
24 the Agreement, and all terms defined therein shall have the same meaning as set forth in the  
25 Agreement.

26  
27 Fairness of Settlement

28 3. As consideration for this Settlement, the non-reversionary Gross Settlement Amount

1 of One Million Five Hundred Thousand Dollars (\$1,500,000) (the “Gross Settlement Amount”) is  
2 to be paid by Defendant, as set forth in the Agreement. The Gross Settlement Amount will settle all  
3 issues pending in the Action between the Parties and will be made in full and final settlement of the  
4 Released Class Claims in exchange for the payments to Participating Class Members from the Net  
5 Settlement Amount, and includes (a) the costs of administration of the settlement, (b) all attorneys'  
6 fees and costs, (c) Class Representative Service Payment, and (d) the PAGA Penalties payment  
7 allocated 75% to the LWDA and 25% to the Aggrieved Employees. (Agreement at ¶ 1.23.)

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

13 5. On May 24, 2023, the Parties participated in an all-day mediation session presided  
14 over Hon. Carl J. West (Ret.), a respected jurist and experienced mediator of wage and hour class  
15 actions. In preparation for the mediation, Defendant provided Class Counsel with payroll and  
16 employment data and other information regarding the Class Members, various internal documents,  
17 and other compensation and employment-related materials. Class Counsel analyzed the data with  
18 the assistance of damages expert Berger Consulting and prepared and submitted a mediation brief to  
19 the mediator. The final settlement terms were negotiated and set forth in the Agreement now  
20 presented for this Court’s approval. Importantly, Plaintiff and Class Counsel believe that this  
21 Settlement is fair, reasonable and adequate.

22 6. Based upon 408 Class Members who collectively worked 45,700 Workweeks which  
23 were the figures negotiate at mediation (Agreement at ¶ 4.1), the Gross Settlement Amount provides  
24 an average value of \$3,676 per Class Member and \$32 per Workweek and after deductions the Net  
25 Settlement Amount provides an average recovery of \$2,284.06 per Class Member and a recovery of  
26 \$20.39 per Workweek. The calculations to compensate for the amount due for the Class at the time  
27 of the mediation were calculated by Berger Consulting, Plaintiff’s damage expert. As to the Class  
28 whose claims are at issue in this Action, Plaintiffs used the expert to analyze the data and determine

1 the potential unpaid wages for the employees. The maximum potential damages were calculated to  
2 be \$1,411,132 for the alleged unpaid wages due to off-the-clock work at 1 hour per week, \$69,802  
3 for the alleged unpaid wages due to the regular rate miscalculation, \$26,135 for the alleged  
4 underpaid meal premiums and sick pay, \$184,263 for alleged meal period damages based upon a  
5 4.7% potential violation rate for shifts worked and after deducting the meal premiums actually paid  
6 by Defendant, \$237,234 for alleged rest period damages based upon the same potential 4.7%  
7 violation rate observed for meal periods, \$55,655 for alleged unreimbursed business expenses for  
8 personal cell phone usage at \$5 per month. As a result, the total damage valuation was calculated  
9 that Defendant was subject to a maximum damage claim in the amount of \$1,984,221. As to  
10 potential penalties, Plaintiffs calculated that potential waiting time penalties were a maximum of  
11 between \$209,829 and \$1,049,145, depending on the predicate violation giving rise to the penalty,  
12 and potential maximum wage statement penalties were \$1,068,000.<sup>1</sup> Defendants vigorously  
13 disputed Plaintiff's calculations and exposure theories. Consequently, the Gross Settlement  
14 Amount of \$1,500,000 represents more than 75% of the maximum value of the alleged damages at  
15 issue in this case at the time this Settlement was negotiated.<sup>2</sup> The above maximum calculations  
16 should then be adjusted in consideration for both the risk of class certification and the risk of  
17 establishing class-wide liability on all claims. Given the amount of the settlement as compared to  
18 the potential value of claims in this case and the defenses asserted by Defendant, this settlement is  
19 fair and reasonable.

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22 <sup>1</sup> While Plaintiff alleged claims for statutory penalties pursuant to Labor Code Sections 203 and  
23 226, at mediation Plaintiff recognized that these claims were subject to additional, separate defenses  
24 asserted by Defendants, including, a good faith dispute defense as to whether any premium wages  
25 for meal or rest periods or other wages were owed given Defendant's position that Plaintiff and  
26 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.").

27 <sup>2</sup> Because the PAGA claim is not a class claim and primarily is paid to the State of California,  
28 Plaintiff did not included the PAGA claim in this discussion of the value of the class claims. The  
PAGA claim is addressed in the Decl. Nordrehaug at ¶33.

1 Procedural History of the Litigation

2 7. On April 29, 2022 , Plaintiff filed with the LWDA and served on Defendant a notice  
3 under Labor Code section 2699.3 identifying the alleged Labor Code violations to recover civil  
4 penalties on behalf of Aggrieved Employees for various Labor Code violations. The PAGA Notice  
5 by Plaintiff, which included and incorporated a copy of the draft complaint, is attached hereto as  
6 Exhibit #3 for the Court's reference.

7 8. On July 28, 2022, Plaintiff filed a class action Complaint against Defendant  
8 in the Superior Court of the State of California, County of Alameda. This class action Complaint  
9 asserted claims against Defendant for: (1) unfair competition in violation of Cal. Bus & Prof. Code  
10 §§ 17200, et seq.; (2) failure to pay minimum wages in violation of California Labor Code §§ 1194,  
11 1197, and 1197.1; (3) failure to pay overtime wages in violation of California Labor Code §§ 510,  
12 1194 & 1198; (4) failure to provide required meal periods in violation of Cal. Labor Code §§ 226.7  
13 and 512; (5) failure to provide required rest periods in violation of Cal. Labor Code §§ 226.7 and  
14 512; (6) failure to provide accurate itemized wage statements in violation of California Labor Code  
15 § 226; (7) failure to reimburse employees for required expenses in violation of California Labor  
16 Code § 2802; (8) failure to provide wages when due in violation of California Labor Code §§ 201,  
17 202 and 203; and, (9) failure to pay sick wages in violation of California Labor Code §§ 201-204,  
18 233, 246. On July 28, 2022, Plaintiff filed a Representative Action Complaint against Defendant in  
19 the Superior Court of the State of California, County of Alameda , asserting a single cause of action  
20 for violation of the Private Attorney General Act, Cal. Labor Code §§ 2698, et seq. ("PAGA"),  
21 Case No. 22CV024363 ("PAGA Action") based upon the same violations alleged in the Class  
22 Action Complaint.

23 9. On November 21, 2023, Plaintiff filed a First Amended Consolidated Class and  
24 Representative Action Complaint, consolidated the claims alleged in this Action and the separately  
25 filed PAGA Action. The First Amended Consolidated Class and Representative Action Complaint  
26 is the operative complaint in the Action (the "Operative Complaint").

27 10. Over the course of litigation, the Parties engaged in the investigation of the claims,  
28

1 including informal discovery, and the production of documents, class data, and other information,  
2 allowing for the full and complete analysis of liabilities and defenses to the claims in the Action.  
3 The information for mediation obtained by Plaintiff included: (1) data concerning the class; (2)  
4 payroll data and time punch data for the class covering 67,049 shifts and 14,099 workweeks; (3)  
5 Defendant's wage and hour policies; (4) the employment files for the Plaintiff; and, (5) samples of  
6 wage statements provided by Defendant. As such, Class Counsel received the data and information  
7 for the Class, which was sufficient for Plaintiff's expert to prepare the valuations of the claims for  
8 the Class.

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

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

24 13. Although a settlement has been reached, Defendant denies any liability or  
25 wrongdoing of any kind associated with the claims alleged in the Actions and further denies that,  
26 for any purpose other than settlement, the Action is appropriate for class and/or representative  
27 treatment. Defendant contends, among other things, that it has complied at all times with the  
28 California Labor Code, applicable Wage Order, and all other laws and regulations. Further,

1 Defendant contends that class certification is inappropriate for any reason other than for settlement.  
2 Plaintiff contends that Defendant violated California wage and hour laws. Plaintiff further contends  
3 that the Action is appropriate for class certification on the basis that the claims meet the requisites  
4 for class certification. Without admitting that class certification is proper, Defendant have  
5 stipulated that the above Class may be certified for settlement purposes only. (Agreement at ¶ 2.8.)  
6 The Parties agree that certification for settlement purposes is not an admission that class  
7 certification is proper. Further, the Agreement is not admissible in this or any other proceeding as  
8 evidence that the Class could be certified absent a settlement. Solely for purposes of settling the  
9 Action, the Parties stipulate and agree that the requisites for establishing class certification with  
10 respect to the Class are satisfied.

11 14. Class Counsel has conducted an investigation into the facts of the class action.  
12 Informal discovery was obtained, which included the production of thousands of pages of relevant  
13 documents. Class Counsel engaged in a thorough review and analysis of the relevant documents  
14 and data with the assistance of an expert. Accordingly, the agreement to settle did not occur until  
15 Class Counsel possessed sufficient information to make an informed judgment regarding the  
16 likelihood of success on the merits and the results that could be obtained through further litigation.  
17 In addition, Class Counsel previously negotiated settlements with other employers in actions  
18 involving nearly identical issues and analogous defenses. Based on the foregoing data and their  
19 own independent investigation, evaluation and experience, Class Counsel believes that the  
20 settlement with Defendant on the terms set forth in the Agreement is fair, reasonable, and adequate  
21 and is in the best interest of the Class in light of all known facts and circumstances, including the  
22 risk of significant delay, defenses asserted by Defendant, and potential appellate issues.

23  
24 Settlement Terms and Plan of Allocation

25 15. The Gross Settlement Amount is One Million Five Hundred Thousand Dollars  
26 (\$1,500,000). (Agreement at ¶ 1.22.) Under the Settlement, the Gross Settlement Amount consists  
27 of the following elements: (1) payment of the Individual Class Payments to the Participating Class  
28 Members; (2) Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment; (3)

1 Administration Expenses Payment; (4) the Class Representative Service Payment to the Plaintiff;  
2 and (5) the PAGA Penalties payment which is allocated between the LWDA PAGA Payment and  
3 the Individual PAGA Payments. (Agreement at ¶ 1.22.) The Gross Settlement Amount does not  
4 include Defendant's share of payroll taxes. (Agreement at ¶ 3.1.) The Gross Settlement Amount  
5 shall be all-in with no reversion to Defendants. (Agreement at ¶ 3.1.)

6 16. On the Effective Date, Defendant shall deposit the Gross Settlement Amount with  
7 the Administrator. (Agreement at ¶ 4.3.) The distribution of Individual Class Payments to  
8 Participating Class Members along with the other Court-approved distributions shall be made by the  
9 Administrator within fourteen (14) days after Defendant funds the Gross Settlement Amount.  
10 (Agreement at ¶ 5.1.)

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

22 18. Class Members may choose to opt-out of the Settlement by following the directions  
23 in the Class Notice. (Agreement at ¶ 8.5, Ex. A.) All Class Members who do not "opt out" will be  
24 deemed Participating Class Members who will be bound by the Settlement and will be entitled to  
25 receive an Individual Class Payment. (Agreement at ¶ 8.5(c).) All Aggrieved Employees,  
26 including those who submit an opt-out request, will still be paid their allocation of the PAGA  
27 Penalties and will remain subject to the release of the Released PAGA Claims regardless of their  
28 request for exclusion. (Agreement at ¶¶ 6.3 and 8.5(d).) Finally, the Class Notice will advise the

1 Class Members of their right to object to the Settlement and/or dispute their Workweeks.

2 (Agreement at ¶¶ 8.6 and 8.7, Ex. A.)

3 19. A Participating Class Member must cash his or her Individual Class Payment check  
4 within 180 days after it is mailed. (Agreement at ¶ 5.2.) Any settlement checks not cashed within  
5 180 days will be voided and any funds represented by such checks sent to Court-approved nonprofit  
6 organization or foundation consistent with Code of Civil Procedure Section 384(b) ("Cy Pres  
7 Recipient"). The Parties designate Alliance for Children's Rights as the Cy Pres Recipient.  
8 (Agreement at ¶ 5.4.)

9 20. Subject to Court approval, the Parties have agreed on Apex Class Action LLC to  
10 administer the settlement in this action ("Administrator"). (Agreement at ¶ 1.2.) The Administrator  
11 will be paid for settlement administration in an amount not to exceed \$11,600. (Agreement at ¶  
12 3.2(c).) ILYM provided an estimate of \$10,500 for administration expenses.

13 21. Subject to Court approval, the Agreement provides for Class Counsel to be awarded  
14 a sum not to exceed one-third of the Gross Settlement Amount, as the Class Counsel Fees Payment.  
15 (Agreement at ¶ 3.2(b).) Class Counsel will also be allowed to apply separately for an award of  
16 Class Counsel Litigation Expenses Payment in an amount not to exceed \$16,500. (Agreement at ¶  
17 3.2(b).) Subject to Court approval, the Agreement provides for a payment of no more than \$10,000  
18 to the Plaintiff as the Class Representative Service Payment. (Agreement at ¶ 3.2(a).)

19 22. Subject to Court approval, the PAGA Penalties will be paid from the Gross  
20 Settlement Amount for PAGA penalties under the California Private Attorneys General Act, Cal.  
21 Labor Code Section 2698, *et seq.* ("PAGA"). The PAGA Penalties are \$30,000. (Agreement at ¶¶  
22 1.34 and 3.2(d).) Pursuant to the express requirements of Labor Code § 2699(i), the PAGA  
23 Payment shall be allocated as follows: 75% shall be allocated to the Labor Workforce Development  
24 Agency ("LWDA") as its share of the civil penalties and 25% allocated to the Individual PAGA  
25 Payments to be distributed to the Aggrieved Employees based on the number of their respective  
26 PAGA Pay Periods. (Agreement at ¶ 3.2(d).) As set forth in the accompanying proof of service, the  
27 LWDA has been served with this motion and the Agreement.

28

1 Risks of Continued Litigation and Standards for Approval

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

9           24. Here, a number of defenses asserted by Defendant present serious threats to the  
10 claims of the Plaintiff and the other Class Members. Defendant asserted that Defendant's practices  
11 complied with all applicable Labor laws. Defendant argued that Class Members were paid for all  
12 time worked and that all work time was properly recorded. Defendant argued there was no  
13 miscalculation of the regular rate when paying wages and no underpayment meal premiums and  
14 sick pay. Defendant contends that its meal and rest period policies fully complied with California  
15 law and Defendant did not fail to provide the opportunity for legally required meal and rest breaks.  
16 Defendant could argue that its payment of meal period premiums is evidence of lawful practices.  
17 Defendant contends that there was no failure to pay for business expenses and any cell phone usage  
18 was merely convenient and voluntary such that reimbursement was not legally required. Finally,  
19 Defendant could argue that the Supreme Court decision in *Brinker v. Superior Court*, 53 Cal. 4th  
20 1004 (2012), weakened Plaintiff's claims, on liability, value, and class certifiability as to the meal  
21 and rest period claims. Defendant also argues that based on its facially lawful practices, Defendant  
22 acted in good faith and without willfulness, which if accepted would negate the claims for waiting  
23 time penalties and/or inaccurate wage statements. If successful, Defendant's defenses could  
24 eliminate or substantially reduce any recovery to the Class. While Plaintiff believes that these  
25 defenses could be overcome, Defendant maintains these defenses have merit and therefore present a  
26 serious risk to recovery by the Class.

27           25. There was also a significant risk that, if the Action was not settled, Plaintiff would be  
28

1 unable to obtain a certified class and maintain the certified class through trial, and thereby not  
2 recover on behalf of any employees other than herself. At the time of the mediation, Defendant  
3 forcefully opposed the propriety of class certification, arguing that individual issues precluded class  
4 certification. Further, as demonstrated by the California Supreme Court decision in *Duran v. U.S.*  
5 *Bank National Assn.*, 59 Cal. 4th 1 (2014), there are significant hurdles to overcome for a class-  
6 wide recovery even where the class has been certified. While other cases have approved class  
7 certification in wage and hour claims, class certification in this action was hotly disputed and the  
8 maintenance of a certified class through trial was by no means a foregone conclusion.

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

12 27. Plaintiff will apply to the Court for Class Representative Service Payment in  
13 consideration for his service and for the risks undertaken on behalf of the Class. (Agreement at ¶  
14 3.2(a).) ) Plaintiff performed his duties admirably by working with Class Counsel over the course  
15 of litigation. The Declaration of the Plaintiff is submitted herewith in support. At this stage, the  
16 requested service award of \$10,000 is well within the accepted range of awards for purposes of  
17 preliminary approval. *See e.g. Andrews v. Plains All Am. Pipeline L.P.*, 2022 U.S. Dist. LEXIS  
18 172183, at \*11 (C.D. Cal. 2022) (finding that the requested service awards of \$15,000 each are  
19 appropriate); *Reynolds v. Direct Flow Med., Inc.*, 2019 U.S. Dist. LEXIS 149865, at \*19 (N.D. Cal.  
20 2019) (granting request for \$12,500 service award); *Mathein v. Pier 1 Imps. (U.S.), Inc.*, 2018 U.S.  
21 Dist. LEXIS 71386 (E.D. Cal. 2018) (awarding \$12,500 where average class member payment was  
22 \$351); *Holman v. Experian Info. Solutions, Inc.*, 2014 U.S. Dist. LEXIS 173698 (N.D. Cal. 2014)  
23 (approving \$10,000 service award where class member recovery was \$375); *Louie v. Kaiser*  
24 *Foundation Health Plan, Inc.*, 2008 WL 4473183, \*7 (S.D. Cal. Oct. 06, 2008) (awarding \$25,000  
25 service award to each of six plaintiffs in overtime class action); *Glass v. UBS Fin. Servs.*, 2007 WL  
26 221862, \*16-17 (N.D. Cal. Jan. 27 2007) (awarding \$25,000 service award in overtime class action  
27 and a pool of \$100,000 in enhancements ).

28 28. The stage of the proceedings at which this Settlement was reached also militates in

1 favor of preliminary approval and ultimately, final approval of the Settlement. Class Counsel has  
2 conducted a thorough investigation into the facts of the class action. Class Counsel began  
3 investigating the Class Members' claims before the Action were filed, and during the course of  
4 litigation, Class Counsel engaged in informal discovery to obtain necessary information. Class  
5 Counsel conducted a review and analysis of the relevant documents and data. Class Counsel was  
6 also experienced with the claims at issue here, as Class Counsel previously litigated and settled  
7 similar claims in other actions. Accordingly, the agreement to settle did not occur until Class  
8 Counsel possessed sufficient information to make an informed judgment regarding the likelihood of  
9 success on the merits and the results that could be obtained through further litigation.

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

18  
19 Class Certification Issues

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

24 All individuals who are or previously worked for Defendant in California, including  
25 any employees staffed with Defendant by a third party, and who were classified as  
non-exempt at any time during the Class Period.

26 (Agreement at ¶ 1.5.)

27 The Class Period is July 28, 2018 July 23, 2023. (Agreement at ¶ 1.13.)

28 a. **Numerosity** - Here, Plaintiff asserts that the 408 current and former

1 employees that comprise the Class can be identified based on Defendant's records and are  
2 sufficiently numerous for class certification.

3           b.       **Common Issues Predominate** - Here, Plaintiff contends that common  
4 questions of law and fact are present, specifically the common questions of whether Defendant's  
5 employment practices were lawful, whether Defendant failed to provide meal and rest periods to  
6 Class Members, whether Class members were lawfully compensated for all hours worked, Whether  
7 Defendants correctly calculated the regular rate, whether Defendants failed to provide required  
8 expense reimbursement, and whether Class Members are entitled to damages and penalties as a  
9 result of these practices. Plaintiff contends that certification of this Class is appropriate because  
10 Defendant allegedly engaged in uniform practices with respect to the Class Members. As a result,  
11 these common questions of liability could be answered on a class wide basis.

12           c.       **Typicality** - In this Action, Plaintiff contend that the typicality requirement is  
13 fully satisfied. Plaintiff, like every other member of the Class, was employed by Defendants as a  
14 non-exempt employee, and, like every other member of the Class, were subject to the same  
15 employment practices. Plaintiff, like every other member of the Class, also claims owed  
16 compensation as a result of the Defendant's uniform company policies and practices. Thus, the  
17 claims of Plaintiff and the members of the Class arise from the same course of conduct by  
18 Defendant, involve the same issues, and are based on the same legal theories.

19           d.       **Adequacy** - Plaintiff contends that the Class Members are adequately  
20 represented here because Plaintiff and representing counsel (a) do not have any conflicts of interest  
21 with other class members, and (b) will prosecute the case vigorously on behalf of the class. This  
22 requirement is met here. First, Plaintiff is well aware of his duties as the representative of the Class  
23 and has actively participated in the prosecution of this case to date. Plaintiff effectively  
24 communicated with Class Counsel, provided documents and information to Class Counsel, and  
25 participated in the investigation and resolution of the Action. The personal involvement of the  
26 Plaintiff was essential to the prosecution of the Action and the monetary settlement reached.  
27 Second, Plaintiff retained competent counsel who are experienced in employment class actions and  
28 who have no conflicts. Third, there is no antagonism between the interests of the Plaintiff and those

1 of the Class. Both the Plaintiff and the Class Members seek monetary relief under the same set of  
2 facts and legal theories.

3 31. Class Counsel's Adequacy of Representation and Absence of Conflict: Blumenthal  
4 Nordrehaug Bhowmik De Blouw LLP is experienced in prosecuting class action lawsuits and can  
5 competently represent the Class. Other lawyers at my firm and I have extensive class litigation  
6 experience. We have handled a number of class actions and complex cases and have acted both as  
7 counsel and as lead and co-lead counsel in a variety of these matters. We have successfully  
8 prosecuted and obtained significant recoveries in numerous class action lawsuits and other lawsuits  
9 involving complex issues of law and fact. My firm is particularly experienced in wage and hour  
10 employment law class actions, including claims for misclassification, overtime, expense  
11 reimbursement, unlawful deduction of wages, and missed rest and meal periods. Blumenthal  
12 Nordrehaug Bhowmik De Blouw LLP has been involved as class counsel in over hundreds of wage  
13 and hour class actions. Blumenthal Nordrehaug Bhowmik De Blouw LLP has been found to be  
14 adequate counsel by the courts throughout California. We have been approved as experienced class  
15 counsel by both state and federal courts in California in contested class certification proceedings. A  
16 true and correct copy of the resume of my firm is attached hereto as Exhibit #2. The Class in this  
17 settlement is defined as "all individuals who are or previously worked for Defendant in California,  
18 including any employees staffed with Defendant by a third party, and who were classified as  
19 non-exempt at any time during the Class Period." I have reviewed my firm's cases and  
20 representation of other plaintiffs and there is no conflict or representation which would prevent my  
21 firm from representing the interests of the Class this case. My firm only represents employees, and  
22 not employers. My firm has never represented Defendants nor any affiliate of the Defendants. My  
23 firm's only interest in the subject matter of this litigation is to ensure a recovery to the Class and to  
24 maximize that recovery. Finally, our allegiance to the Class and the claims of the Class is not  
25 inconsistent with our allegiance to pursue the claims on behalf of other employees and classes as  
26 the claims are all against different and distinct employers. I can think of no conflict that would  
27 arise in our representation of the Class and our adequate representation of the Class is evidenced by  
28 the successful prosecution of the class claims to reach an excellent recovery for the Class.

Moreover, neither the Plaintiff nor Class Counsel have any affiliation with the proposed Administrator for this settlement and have no affiliation or relationship with the proposed Cy Pres Recipient, Alliance for Children's Rights. Thus, the adequacy requirement for my firm is satisfied.

32. The Class Notice, drafted jointly and agreed upon by the Parties through their respective counsel and to be approved by the Court, includes all relevant information. (See Exhibit "A" to the Agreement.) A Spanish translation of the Class Notice Packet will be included in the mailing. (Agreement at ¶ 1.11.) The Class Notice, drafted jointly and agreed upon by the Parties through their respective counsel and to be approved by the Court, includes all relevant information. (See Exhibit "A" to the Agreement.) The Class Notice will include, among other information: (i) information regarding the Action; (ii) the impact on the rights of the Class Members if they do not opt out, including a description of the applicable release; (iii) information to the Class Members regarding how to opt out and how to object to the Settlement; (iv) the estimated Individual Class Payment for each of the Class Members; (iii) the amount of attorneys' fees and expenses to be sought; (v) the amount of the Plaintiff's service award request; and (vi) the anticipated expenses of the Administrator. The Class Notice will state that the Class Members shall have sixty (60) days from the date that the Class Notice is mailed to them (the "Response Deadline") to request exclusion (opt-out) or to submit a written objection. (Agreement at ¶¶ 1.42, 8.5, 8.7.) Class Members shall be given the opportunity to object to the Settlement and/or requests for attorneys' fees and expenses and to appear at the Final Approval Hearing. (Agreement at ¶ 8.7.) Class Members who do not submit a timely and proper request to opt-out will automatically receive a payment of their Individual Class Payment. This notice program was designed to meaningfully reach the Class Members and it advises them of all pertinent information concerning the Settlement.

33. The PAGA Claim -

a. **Approval of PAGA Settlements.** The decision in *O'Connor v. Uber*, 201 F.Supp.3d 1110, 1133 (N.D. Cal. 2016), and the LWDA's Response therein is illustrative. The LWDA first states that "when viewing the monetary relief allocated to PAGA claims under a settlement, the LWDA recognizes that the PAGA sum need not necessarily be viewed through the same lens as the relief obtained by absent class members on other claims (i.e., the percentage of

1 recovery-to-exposure on the PAGA claims need not necessarily equal the percentage of recovery on  
2 the other claims)." (LWDA Response at p.3). The LWDA also indicated that the payment of  
3 money to the aggrieved employees furthers the purposes of PAGA and that the Court considers that  
4 primary consideration. "The LWDA recognizes that this Court does not review the PAGA  
5 allocation in isolation, but rather reviews the settlement as a whole, to determine whether it is  
6 fundamentally fair, reasonable and adequate, with primary consideration for the interests of absent  
7 class members." (LWDA Response at p.4).

8           b.       **Valuation of the PAGA Claim.** For mediation, Plaintiff calculated the  
9 value of the alleged PAGA claim as to Aggrieved Employees for civil penalties to be between  
10 \$934,950 and \$1,869,900 for a single violation in every one of the 18,699 pay periods at issue in the  
11 PAGA Period, depending on whether the violation was \$50 per pay period as in the case of Labor  
12 Code § 558(a)(1) or the standard amount of \$100 per pay period for violation of Labor Code §  
13 1198. This valuation assumed that PAGA civil penalties would be awarded at the maximum rate  
14 per pay period but without stacking.<sup>3</sup> The PAGA allocation in the Settlement is the amount of  
15 \$30,000. This allocation is justified by several important considerations. First, the PAGA claim  
16 was subject to the same risks as the underlying class claims. Second, Defendants asserted  
17 additional defenses to the PAGA claim, not only as to liability but also as to the amount of the  
18 penalties. Defendants could also argue that no penalties prior to the PAGA notification should be  
19 awarded, and I am aware of one Court which has so ruled. These additional defenses present a risk  
20 to the PAGA claim and the potential that some or all of the PAGA penalties sought may not be  
21 awarded. Third, in *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), the court affirmed  
22 a judgment which only provided for a PAGA penalty of \$5 per violation. Therefore, at trial, any  
23 PAGA penalties awarded could be significantly less than Plaintiff's calculation even where Plaintiff  
24 prevailed on the PAGA claim. Even if we assume that violations for all 18,699 pay periods were

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25  
26       <sup>3</sup> Stacking is where more than one civil penalty is imposed in a pay period for the same conduct.  
27 The valuation of between \$934,950 and \$1,869,900 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 established, using the valuation from *Carrington* results in a potential recovery of only \$93,495  
2 under PAGA. This means that the PAGA allocation in the Agreement is a reasonable percentage of  
3 this potential PAGA recovery. Fourth, the interests of PAGA are also served by the Class recovery  
4 under the reasoning of the LWDA in *O'Connor v. Uber*.

5           c.       **Comparable PAGA Settlements.** In reaching the settlement of the PAGA  
6 claim, Class Counsel was also aware of what allocations other Courts have approved for similar  
7 PAGA settlements as compared to the total settlement amount. A class settlement that allocates  
8 approximately 2% of the total settlement value to resolve the PAGA claims applicable to the class  
9 is also supported by what has been approved in other wage-and-hour class settlements. Indeed,  
10 Courts typically approve PAGA settlement amounts in the range of between 0.27 to 2 percent of the  
11 total settlement. See *Davis v. Brown Shoe Co.*, 2015 U.S. Dist. LEXIS 149010 (E.D. Cal. 2015)  
12 (PAGA Payment of \$5,000 in a \$1.5 million class settlement); *Zamora v. Ryder Integrated*  
13 *Logistics, Inc.*, 2014 U.S. Dist. LEXIS 184096 (S.D. Cal. 2014) (\$7,500 payment to LWDA for  
14 PAGA on a \$1.5 million class settlement); *Lusby v. Gamestop Inc.*, 2015 U.S. Dist. LEXIS 42637  
15 (N.D. Cal. 2015) (PAGA Payment of \$5,000 in a \$500,000 class settlement); *Cruz v. Sky Chefs,*  
16 *Inc.*, 2014 U.S. Dist Lexis 17693 (N.D. Cal. 2014) (approving payment of \$10,000 to the LWDA  
17 for PAGA out of \$1,750,000 class settlement); *Chu v. Wells Fargo Investments, LLC*, 2011 WL  
18 672645, \*1 (N.D. Cal. 2011) (approving PAGA payment of \$7,500 to the LWDA out of \$6.9  
19 million common-fund settlement); *Franco v. Ruiz Food Products, Inc.*, 2012 WL 5941801, \*13  
20 (E.D. Cal. 2012) (approving PAGA payment of \$7,500 to the LWDA out of \$2.5 million  
21 common-fund settlement); *Hopson v. Hanesbrands Inc.*, 2009 WL 928133, \*9 (N.D. Cal. 2009)  
22 (approving PAGA allocation that was .49% of \$408,420.32 gross settlement); *Garcia v. Gordon*  
23 *Trucking, Inc.*, 10-cv-00324-AWI-SKO, Dkt. 149-3, 165 (E.D. Cal.) (approving a class settlement  
24 of \$3,700,000, with \$10,000 allocated to the PAGA claim); *McKenzie v. Federal Express Corp.*,  
25 CV 10-02420 GAF (PLAx), Dkt. 139 & 141 (C.D. Cal.) (court approved a settlement in an amount  
26 of \$8.25 million, with \$82,500 allotted to the PAGA claim); *DeStefan v Frito-Lay,*  
27 8:10-cv-00112-DOC (C.D. Cal.) (court approved a class settlement of \$2 million, with \$10,000  
28 allocated to PAGA); *Martino v. Ecolab Inc.*, No. 3:14CV04358 (N.D. Cal. 2017) (\$100,000 allotted

1 as PAGA penalties or 0.48% of \$21,000,000 settlement amount); *East v. Comprehensive*  
2 *Educational Services Inc.*, Fresno Superior Court Case No. 11-CECG-04226 (2015) (\$10,000  
3 allotted as PAGA penalties or 0.13% of \$7,595,846 settlement amount); *Bararsani v. Coldwell*  
4 *Banker Residential Brokerage Company*, Los Angeles Superior Court Case No. BC495767 (2016)  
5 (\$10,000 allotted as PAGA penalties or 0.22% of \$4,500,000 settlement amount); *Moppin v. Los*  
6 *Robles Medical Center*, No. 5:15CV01551 (C.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or  
7 0.40% of \$3,775,000 settlement amount); *Scott-George v. PVH Corporation*. No., 2:13CV00441  
8 (E.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or 0.46% of \$3,250,000 settlement amount);  
9 *Nehrlich v. RPM Mortgage Inc.*, Orange County Superior Court Case No.  
10 30-2013-00666783-CU-OE-CXC (2017) (\$10,000 allotted as PAGA penalties or 0.40% of  
11 \$2,500,000 settlement amount); *Rubio v. KTI Incorporated*, San Bernardino Superior Court Case  
12 No. CIVDS-14-06132 (2015) (\$1,000 allotted as PAGA penalties or 0.18% of \$550,000 settlement  
13 amount); *Gray v. Mountain View Child Care Inc.*, San Bernardino Superior Court Case No.  
14 CIVDS-14-02285 (2016) (\$2,500 allotted as PAGA penalties or 0.37% of \$675,000 settlement  
15 amount); *Perez v. West Coast Liquidators Inc. d/b/a Big Lots*, San Bernardino Superior Court Case  
16 No. CIVDS-14-17863 (2016) (\$3,000 allotted as PAGA penalties or 0.33% of \$900,000 settlement  
17 amount); *Penaloza vs. PPG Industries Inc.*, Los Angeles Superior Court No. BC471369 (2013)  
18 (\$5,000 allotted as PAGA penalties or 0.38% of \$1,300,000 settlement amount); *Mejia v. DHL*  
19 *Express (USA) Inc.*, No. 2:15CV00890 (C.D. Cal. 2017) (\$5,000 allotted as PAGA penalties or  
20 0.34% of \$1,450,000 settlement amount).

21  
22 34. Attorneys' Fees - The Class Counsel Fees Payment is capped at one-third of the  
23 Gross Settlement Amount. A fee award that is capped at one-third of the common fund is fair and  
24 reasonable, and at the time of final approval, my firm will present lodestar to further support the  
25 reasonableness of the requested fee award. My firm has been regularly awarded attorney's fees  
26 equal to one-third of the common fund in Court-approved wage and hour class settlements. Some  
27 of the class action awards obtained by Class Counsel in similar employment actions throughout the  
28 state bear out the reasonableness of a fee and costs award equivalent to one-third (1/3) of the total

1 settlement value: On December 4, 2018, in *Panda Express Wage and Hour Cases* (Los Angeles  
2 Superior Court, Case No. JCCP 4919) Judge Carolyn Kuhl awarded Class Counsel a one-third fee  
3 award in a wage and hour class settlement. On February 1, 2019, in *Solarcity Wage and Hour*  
4 *Cases* (San Mateo Superior Court, Case No. JCCP 4945) Judge Marie Weiner awarded Class  
5 Counsel a one-third fee award in a wage and hour class settlement. On July 30, 2019, in *Erickson v.*  
6 *John Muir Health*, (Contra Costa Superior Court Case No. MSC18-00307) Judge Edward Weil  
7 awarded Class Counsel a one-third fee award in a wage and hour class settlement. On December  
8 18, 2019, in *Velasco v. Lemonade Restaurant Group*, (Los Angeles Superior Court Case No.  
9 BC672235) Judge William Highberger awarded Class Counsel a one-third fee award in a wage and  
10 hour class settlement. On January 31, 2020, in *El Pollo Loco Wage and Hour Cases* (Orange  
11 County Superior Court Case No. JCCP 4957) Judge William Claster awarded Class Counsel a one-  
12 third award in a wage and hour class settlement. On December 3, 2020, in *Blackshear v. California*  
13 *Fine Wine & Spirits* (Sacramento Superior Court Case No. 34-2018-00245842) Judge Christopher  
14 Krueger awarded BNBD a one-third fee award in a wage and hour class settlement. On June 2,  
15 2021, in *Pacia v. CIM Group, L.P.* (Los Angeles Superior Court Case No. BC709666), Judge Amy  
16 D. Hogue awarded Class Counsel a one-third fee award in a wage and hour class settlement. On  
17 November 8, 2021, in *Securitas Wage and Hour Cases* (Los Angeles Superior Court Case No.  
18 JCCP4837) Judge David Cunningham awarded a one-third fee award in a wage and hour class  
19 settlement. On March 17, 2022, in *See's Candies Wage and Hour Cases* (Los Angeles Superior  
20 Court Case No. JCCP5004) Judge Maren Nelson awarded a one-third fee award in a wage and hour  
21 class action settlement. On April 12, 2022, in *O'Donnell v. Okta, Inc.*, (San Francisco Superior  
22 Court Case No. CGC-20-587665) Judge Richard Ulmer awarded a one-third fee award in a wage  
23 and hour class action settlement. On June 30, 2022, in *Armstrong, et al. v. Prometric LLC* (Los  
24 Angeles Superior Court Case No. 20STCV29967), Judge Maren E. Nelson awarded a one-third fee  
25 award in a wage and hour class action. On July 13, 2022, in *Crum v. S&D Carwash Management*  
26 *LLC*, (Sacramento Superior Court Case No. 2019-00251338), Judge Christopher E. Krueger  
27 awarded a one-third fee award in a wage and hour class action settlement. On August 10, 2022, in  
28 *Spears, et al. v. Health Net of California, Inc.*, (Sacramento Superior Court Case No. 34-2017-

00210560-CU-OE-GDS), Judge Christopher E. Krueger awarded a one-third fee award in a wage and hour class action settlement. On September 7, 2022, in *Lucchese, et al. v. Kone, Inc.*, (San Francisco Superior Court Case No. CGC-20-588225), Judge Richard B. Ulmer, Jr. awarded a one-third fee award in a wage and hour class action settlement. On November 4, 2022, in *Infinity Energy Wage and Hour Cases* (San Diego Superior Court, Case No. JCCP5139), Judge 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. On June 20, 2023, in *Gonzalez v. Pacific Western Bank* (San Bernardino County Superior Court Case No. CIVSB2127657) Judge David Cohn awarded a one-third fee award in a wage and hour class settlement, On June 30, 2023, in *Aguirre v. Headlands Ventures* (Sacramento County Superior Court Case No. 34-2021-00297290), Judge Jill Talley approved a one-third fee award in a wage and hour class settlement. On August 5, 2023, in *Correia v. Gallo Glass Company* (Stanislaus County Superior Court Case No. CV-21-006459) Judge Sonny Sandhu approved a one-third fee award in a wage and hour class settlement. On September 15, 2023, in *Moran v. Sharp Healthcare* (San Diego County Superior Court Case No. 37-2019-00050203), Judge Richard Whitney awarded a one-third fee award in a wage and hour class settlement. On October 10, 2023, in *Arango v. Schlumberger Technology*, (Orange County Case No. 30-2019-01056839-CU- OE-CXC), Judge William Claster approved a one-third fee award in a wage and hour class action. On October 16, 2023, in *Flores v. Walmart*, (San Bernardino County Superior Court Case No. CIVDS2023061) Judge Joseph T. Ortiz awarded a one-third fee award in a wage and hour class settlement. On October 20, 2023, in *Pond v. Glen Ivy Hot Springs* (Riverside County Superior Court Case No. CVRI2104986), Judge Harold W. Hopp awarded a one-third fee award in a wage and hour class settlement. On November 17, 2023, in *Silva v. Woodward HRT*

(Los Angeles County Superior Court Case No. 21STCV42692), Judge Maren Nelson awarded a one-third fee award in a wage and hour class settlement. On November 20, 2023, in *Steele v. Legoland California* (San Diego County Superior Court Case No. 37-2021-00052868), Judge Carolyn M. Caietti awarded a one-third fee award in a wage and hour class settlement. On November 29, 2023, in *Ochoa-Andrade v. See's Candies* (San Mateo County Superior Court Case no. 22-CIV-02481), Judge Marie Weiner approved 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 Payments - 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); *Aguilar 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 *Industrial Company*, U.S.D.C. Central District of California Case No. EDCV 16-186-VAP (Aug. 1,  
28 2018) (awarding \$10,000 service award).

1           36.    Potentially Related Other Actions - Besides this Action, I not aware of any other  
2 related cases pending against Defendant which would be impacted by this settlement. The Parties  
3 have confirmed this in the Agreement at paragraph 2.9.

4  
5           37.    Administration - After seeking bids from qualified administrators, the estimate from  
6 Apex Class Action is was selected, as it provided for an estimate of \$10,500 to perform the  
7 settlement administration for a Class of up 460, with any difference between the actual expenses  
8 and the budget of \$11,600 to be retained in the Net Settlement Amount for distribution to the Class.  
9 I have used Apex Class Action successfully as the administrator in more than ten settlements in the  
10 last few years and know them to be competent and experienced. My firm has no relationship or  
11 connection with Apex Class Action, and thus no conflict of interest exists. Attached hereto as  
12 Exhibit #4 is a true and correct copy of the Declaration of Sean Hartranft from Apex Class Action  
13 which includes the estimate for administration from Apex Class Action.

14  
15 Service on the LWDA:

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

19  
20           I declare under penalty of perjury under the laws of the State of California that the foregoing  
21 is true and correct. Executed this 11th day of March, 2024, at La Jolla, California.

22  
23 By:

24   
25 Kyle Nordrehaug  
26  
27  
28

**EXHIBIT #1**

## CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Sonny Rattler (“Plaintiff”) and defendant Pacific Coast Container, Inc. (“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 *Rattler v. Pacific Coast Container, Inc.*, Case No. 22CV015216, initiated on July 28, 2022, and pending in Superior Court of the State of California, County of Alameda.
- 1.2. “Administrator” means Apex Class Action, LLC, 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 individuals who were employed by Defendant in California and classified as all individuals who worked for Defendant in California who were classified as non-exempt at any time during the PAGA Period.
- 1.5. “Class” means all individuals who are or previously worked for Defendant in California, including any employees staffed with Defendant by a third party, and who were classified as non-exempt at any time during the Class Period.
- 1.6. “Class Counsel” means Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit Bhowmik of Blumenthal Nordrehaug Bhowmik De Blouw LLP and Shane Phayakapong of Shane Law, P.C.
- 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 July 28, 2018, through the earlier of preliminary approval or July 23, 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 Alameda.
- 1.17. “Defendant” means Pacific Coast Container, Inc.
- 1.18. “Defense Counsel” means Joseph R. Lordan, Vincent Fisher and Bo Kyung Kim of O’Hagan Meyer, LLP.
- 1.19. “Effective Date” shall be the date when the Court enters a Judgment on its Order

Granting Final Approval of the Settlement and the later of the following events: (i) if no objection to the settlement is made, the Effective Date is fifteen (15) days following the date of service to Defendant of the Court's final approval order; (ii) if an objection to the settlement is made but no appeal is filed, the Effective Date is fifteen (15) days following the date of the running appeal period; or (iii) If an appeal is filed, the Effective Date is fifteen (15) days following the date of the judgement is final and no longer subject to appeal.

- 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 Five Hundred Thousand Dollars (\$1,500,000) 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 Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment and the Administration Expenses Payment. 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. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.31. “PAGA Period” means the period of time from May 24, 2021, to July 23, 2023.
- 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.33. “PAGA Notice” means the Plaintiff’s April 29, 2022 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.34. “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.
- 1.35. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion.
- 1.36. “Plaintiff” means Sonny Rattler, the named plaintiff in the Action.
- 1.37. “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.
- 1.38. “Released Class Claims” means all class claims pled or could have been pled under federal, state or local law, whether known or unknown, in law or in equity based on the factual allegations contained in the Operative Complaint which occurred during the Class Period under federal, state or local law, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers’ compensation, and class claims outside of the Class Period.
- 1.39. “Released PAGA Claims” means claims pled or could have been pled, whether known or unknown based on the factual allegations contained in the Operative Complaint and PAGA letters sent by Plaintiff that occurred during the PAGA Period as to the Aggrieved Employees and expressly excluding all other claims, including claims

for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside of the PAGA Period. The PAGA release will include any violation of California Labor Code §§ 201, 202, 203, 204, 210, 218.5, 218, 218.6, 221, 226, 226.3, 226.6, 226.7, 233, 246, 246.5, 450, 510, 512, 515, 558, 1174, 1174.5, 1175, 1194, 1194.2, 1197, 1197.1, 1198, 2698 et seq., 2802, Cal. Bus. & Prof. Code §§ 17200, et. seq., and any Wage Order.

- 1.40. "Released Parties" means: Defendant, any potential "joint employer," and any and all of Defendant's affiliated companies and its respective parent companies, subsidiaries, affiliates, shareholders, members, agents (including, without limitation, an investment bankers, accountants, insurers, reinsurers, attorneys and any past, present or future officers, directors, employees, or other person acting on Defendant's behalf) predecessors, successors, and assigns.
- 1.41. "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.
- 1.42. "Response Deadline" means sixty (60) calendar days after the Administrator mails 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.
- 1.43. "Settlement" means the disposition of the Action and all related claims effectuated by this Agreement and the Judgment.
- 1.44. "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 July 28, 2022, Plaintiff commenced this Action by filing a Complaint against Defendant in the Superior Court of the State of California, County of Alameda, Case No. 22CV015216. 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;
  - (h) Failed to provide wages when due in violation of California Labor Code §§ 201, 202 and 203; and,
  - (i) Failed to pay sick wages in violation of California Labor Code §§ 201-204, 233 and 246.
- 2.2. On July 28, 2022, Plaintiff filed a Representative Action Complaint against Defendant in the Superior Court of the State of California, County of Alameda, asserting a single cause of action for violation of the Private Attorney General Act, Cal. Labor Code §§ 2698, et seq. ("PAGA"), Case No. 22CV015223 (hereinafter "PAGA Action").
- 2.3. On November 21, 2023, Plaintiff filed a First Amended Consolidated Class and Representative Action Complaint, consolidated the claims alleged in this Action and the separately filed PAGA Action.
- 2.4. The First Amended Consolidated Class and Representative Action Complaint is the operative complaint in the Action (the "Operative Complaint")
- 2.5. Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.
- 2.6. On May 24, 2023, the Parties participated in an all-day mediation presided over by Hon. Carl J. West (Ret.), 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 have merit or that Defendant bears any liability to Plaintiff or the Class 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.

### **3. MONETARY TERMS**

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay \$1,500,000 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. 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 \$500,000, and a Class Counsel Litigation Expenses Payment of not more than \$16,500. Defendant will not oppose requests for these payments provided that 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 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 \$11,600 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 \$11,600, the Administrator will retain the remainder in the Net Settlement Amount for distribution to Participating Class Members.
- (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. 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 on a pro rata basis.

#### **4. SETTLEMENT FUNDING**

- 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on its records through the mediation, Defendant has represented that 408 Class Members collectively worked a total of 45,700 workweeks at the mediation. Defendant also represented 304 aggrieved employees and a total of 18,699 PAGA Pay Periods at the mediation.
- 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 on 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 a Court-approved nonprofit organization or foundation consistent with Code of Civil Procedure Section 384(b) ("Cy Pres Recipient"). The Parties designate Alliance for Children's Rights as the Cy Pres Recipient. The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

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 upon entry of Final Judgment, , 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 or her 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 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 and the Cy Pres Recipient, if any. 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.

- 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/or the proposed Cy Pres Recipient; 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 and/or the proposed Cy Pres Recipient; (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 and/or the Cy Pres Recipient, if any. 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.

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 Apex Class Action, LLC to serve as the Administrator and verified that, as a condition of appointment, Apex Class Action, LLC 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) The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.
- (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 and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information 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 and attach copies of all Requests for Exclusion and objections received.
- (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 through mediation, Defendant provided figures as to the Class as set forth in paragraph 4.1 above at mediation. In the event the actual number of Class Workweeks set forth in paragraph 4.1 above increases by more than 10% above 45,700 (i.e., 50,270), the Gross Settlement Amount shall increase proportionally by the percentage increased above 10%.

**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 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(1), 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 reflected 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. **All Parties agree that no party shall issue any press release to the news media, or communicate in any way with any news media, concerning the settlement or litigation.**

- 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. 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.
- 13.14. 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.
- 13.15. 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.
- 13.16. 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.
- 13.17. 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: [norm@bamlawca.com](mailto:norm@bamlawca.com)  
[kyle@bamlawca.com](mailto:kyle@bamlawca.com)

*To Defendant:*

**O'Hagan Meyer LLP**

Joseph R. Lordan

E-Mail: JLordan@OHaganMeyer.com

Vincent R. Fisher

E-Mail: VFisher@OHaganMeyer.com

Bo Kyung Kim

E-Mail: BKim@OHaganMeyer.com

One Embarcadero Center, Suite 2100

San Francisco, CA 94111

Telephone 628.626.6909

- 13.18. 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.
- 13.19. 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 shall be extended for a period of not less than one (1) year starting from the date of the signing of the Agreement by all Parties until the entry of the Final Approval Order and Judgment of it not entered the date this Agreement shall not longer be of any force or effect..
- 13.20. 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.

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#### 14. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: Mar 4, 2024

Sonny J Rattler

Sonny J Rattler (Mar 4, 2024 16:42 PST)

Plaintiff Sonny J. Rattler

Dated: \_\_\_\_\_

\_\_\_\_\_  
For Defendant Pacific Coast Container, Inc.

Dated: 3/4/24

Kyle Nordrehaug

Kyle Nordrehaug

Blumenthal Nordrehaug Bhowmik De Blouw LLP

Attorney for Plaintiff

Dated: \_\_\_\_\_

\_\_\_\_\_  
Joseph L. Lordan

Vincent R. Fisher

Bo Kyung Kim

O'Hagan Meyer LLP

Attorney for Defendant Pacific Coast Container, Inc.

#### 14. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Plaintiff Sonny J. Rattler

Dated: 2-29-24

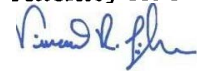
\_\_\_\_\_  


\_\_\_\_\_  
For Defendant Pacific Coast Container, Inc.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Kyle Nordrehaug  
Blumenthal Nordrehaug Bhowmik De Blouw LLP  
Attorney for Plaintiff

Dated: 3/6/2024

\_\_\_\_\_  


\_\_\_\_\_  
Joseph L. Lordan  
Vincent R. Fisher  
Bo Kyung Kim  
O'Hagan Meyer LLP  
Attorney for Defendant Pacific Coast Container, Inc.

**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**

***Rattler v. Pacific Coast Container, Inc., Superior Court of the State of California,  
County of Alameda, Case No. 22CV015216  
(Consolidated with Case No. 22CV015223)***

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

**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 Pacific Coast Container, Inc. (“Defendant”) for alleged wage and hour violations. The Action was filed by Plaintiff Sonny Rattler (“Plaintiff”) and seeks payment of (1) wages and other relief on behalf of all individuals who are or previously worked for Defendant in California, including any employees staffed with Defendant by a third party, and who were classified as non-exempt at any time during the Class Period (July 28, 2018 through July 23, 2023) (“Class Members”), and (2) penalties and other relief on behalf of all individuals who are or previously worked for Defendant in California, including any employees staffed with Defendant by a third party, and who were classified as non-exempt at any time during the PAGA Period (May 24, 2021 through July 23, 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 whether you act or do not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to

finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

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

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment, and/or a share of the PAGA Penalties. As a Participating Class Member, though, you will give up your right to assert Class Period wage 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.**

| <b>SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>You Don't Have to Do Anything to Participate in the Settlement</b>                                                  | 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).                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>You Can Opt-out of the Class Settlement but not the PAGA Settlement</b><br><br><b>The Opt-out Deadline is ____.</b> | <p>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.</p> <p>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.</p> |

|                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Participating Class Members Can Object to the Class Settlement</b></p> <p><b>Written Objections Must be Submitted by the Response Deadline</b><br/>_____</p>     | <p>All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You can object to the Settlement and/or the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable.</p> <p>See Section 8 of this Notice.</p>                                                                                        |
| <p><b>You Can Participate in the _____ Final Approval Hearing</b></p>                                                                                                  | <p>The Court’s Final Approval Hearing is scheduled to take place on _____ at _____ [a.m./p.m.], at the Alameda County Superior Court, in Department 21 before Judge Brad Seligman. This hearing may change as explained below in Section 9.</p> <p>You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 9 of this Notice</p> |
| <p><b>You Can Challenge the Calculation of Your Workweeks / Pay Periods</b></p> <p><b>Witten Challenges Must be Submitted by the Response Deadline</b><br/>(_____)</p> | <p>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</p>                                |

## 1. What is action about?

Plaintiff Sonny Rattler was an employee of Defendant. The Action accuses Defendant of violating 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, failure to pay sick wages, and engaging in unfair competition. Plaintiff also seeks civil penalties under the Private Attorneys General Act (“PAGA”).

Defendant denies that it has done anything wrong and disputes all the claims in the Action.

## 2. What does it mean that the action has settled?

So far, the Court has made no determination 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 an 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 do 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 **One Million Five Hundred Thousand Dollars (\$1,500,000) (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, and the PAGA Penalties for civil penalties under PAGA. Any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages shall be separately paid by Defendant. Defendant shall 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 on the Effective Date. The “Effective Date” shall be the date when the Court enters a Judgment on its Order Granting Final Approval of the Settlement and the later of the following events: (i) if no objection to the settlement is made, the Effective Date is fifteen (15) days following the date of service to Defendant of the Court’s final approval order; (ii) if an objection to the settlement is made but no appeal is filed, the Effective Date is fifteen (15) days following the date of the running appeal period; or (iii) If an appeal is filed, the Effective Date is fifteen (15) days following the date of the judgement is final and no longer subject to appeal. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all 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 \$12,000, for expenses, including expenses of 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 \$500,000, and an additional amount to reimburse actual litigation costs incurred by the Plaintiff not to exceed \$16,500. 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 Plaintiff as a service award, or such lesser amount as may be approved by the Court, to compensate for services on behalf of the Class in initiating and prosecuting the Action, and for the risks Plaintiff 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 State of California's Labor and Workforce Development Agency ("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 Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period, which is May 24, 2021, through July 23, 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 of 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 \$\_\_\_\_\_. 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 worked for 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 allegedly 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. 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 the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. 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 paid to a Court-approved nonprofit organization or foundation consistent with Code of Civil Procedure Section 384(b) ("Cy Pres Recipient"). The Cy Pres Recipient selected by the Parties, subject to Court approval, is \_\_\_\_\_. The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

Administrator. The Court has appointed a neutral company, \_\_\_\_\_ (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member challenges over Workweeks, mail and 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 9 of this Notice.

#### **4. What Do I Release Under the Settlement?**

Released Class Claims. Effective upon the entry of final judgment, 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 under federal, state or local law, whether known or unknown, in law or in equity based on the factual allegations contained in the Operative Complaint which occurred during the Class Period under federal, state or local law, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers’ compensation, and class claims outside of 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. Effective upon the entry of final judgment, 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 the Released PAGA Claim. The “Released PAGA Claims” are all claims pled or could have been pled, whether known or unknown based on the factual allegations contained in the Operative Complaint and PAGA letters sent by Plaintiff that occurred during the PAGA Period as to the Aggrieved Employees and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers’ compensation, and PAGA claims outside of the PAGA Period. The PAGA release will include any violation of California Labor Code §§ 201, 202, 203, 204, 210, 218.5, 218, 218.6, 221, 226, 226.3, 226.6, 226.7, 233, 246, 246.5, 450, 510, 512, 515, 558, 1174, 1174.5, 1175, 1194, 1194.2, 1197, 1197.1, 1198, 2698 et seq., 2802, Cal. Bus. & Prof. Code §§ 17200, et. seq., and any Wage Order.

Released Parties. The Released Parties are: Defendant, any potential “joint employer,” and any and all of Defendant’s affiliated companies and its respective parent companies, subsidiaries, affiliates, shareholders, members, agents (including, without limitation, investment bankers, accountants, insurers, reinsurers, attorneys and any past, present or future officers, directors, employees, or other person acting on Defendant’s behalf) predecessors, successors, and assigns.

## **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 (July 28, 2018 through July 23, 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 (May 24, 2021 through July 23, 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 \_\_\_\_\_ [sixty (60) 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.

#### **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 Class Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Class 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.

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 *Rattler v. Pacific Coast Container* 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 *Rattler v. Pacific*

*Coast Container*, Case No. 22CV015216. 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 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 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 Class Counsel's website at [www.bamlawca.com](http://www.bamlawca.com) under "Class Notices" for *Rattler v. Pacific Coast Container* or on the Court's website (<https://eportal.alameda.courts.ca.gov/>) and entering the Case No. 22CV015216.

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 \_\_\_\_\_** [sixty (60) 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, *Rattler v. Pacific Coast Container*, Case No. 22CV015216, 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: \_\_\_\_\_

Email Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

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 remotely. Instructions on how to do so are

available on the Court's website at <http://www.alameda.courts.ca.gov/>. Check the Court's website for the most current information. 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](mailto:kyle@bamlawca.com)

**COUNSEL FOR DEFENDANT:**

**O'Hagan Meyer LLP**  
Vincent R. Fisher  
E-Mail: [VFisher@OHaganMeyer.com](mailto:VFisher@OHaganMeyer.com)  
Bo Kyung Kim  
E-Mail: [BKim@OHaganMeyer.com](mailto:BKim@OHaganMeyer.com)  
One Embarcadero Center, Suite 2100  
San Francisco, CA 94111  
Telephone 628.626.6909

**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 23 of the Superior Court of California, County of Alameda, at 1221 Oak Street, Oakland, CA 94612, before Judge Brad Seligman. 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 a service payment 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 remotely or in person. Check the Court's website for the most current information concerning appearances and procedures at the Court - <http://www.alameda.courts.ca.gov/>. For assistance in making an appearance at the Final Approval Hearing, please contact Class Counsel.

It's possible the Court will reschedule the Final Approval Hearing. If the hearing is continued, notice will be posted on Class Counsel's website at [www.bamlawca.com](http://www.bamlawca.com) under "Class Notices" for *Rattler v. Pacific Coast Container*. In addition, hearing dates are posted on the Internet via the eCourt Public Portal for the California Superior Court for the County of Alameda (<https://portal.alameda.courts.ca.gov/>) and entering the Case No. 22CV015216.

**10. How Can I Get More Information?**

You may call the Administrator at \_\_\_\_\_ or write to *Rattler v. Pacific Coast Container* Administrator, c/o \_\_\_\_\_.

This Class Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement 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](http://www.bamlawca.com) under "Class Notices" for *Rattler v. Pacific Coast Container*. You may get more details by examining the Court's file on the Internet via the eCourt Public Portal for the California Superior Court for the County of Alameda (<https://portal.alameda.courts.ca.gov/>) and entering the Case No. 22CV015216. If you wish to view the Court files in person, you do so at the Clerk's Office at the Rene C. Davidson Courthouse, 1225 Fallon Street, Oakland, California 94612.

**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 Cy Pres Recipient selected by the Parties which is Alliance for Children's Rights.
- **What if You Lose Your Check** - If your check is lost or misplaced, you should contact the Administrator immediately to request a replacement.

**EXHIBIT B**

[ORDER GRANTING PRELIMINARY APPROVAL]

**EXHIBIT "B"**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA

SONNY RATTLER, an individual, on behalf  
of himself and on behalf of all persons  
similarly situated, and on behalf of the State of  
California, as private attorney general,

Plaintiff,

vs.

PACIFIC COAST CONTAINER, INC., a  
California Corporation; and DOES 1 through  
50, inclusive,

Defendants.

**CASE NO.: 22CV015216**

*[Consolidated with Case No. 22CV015223]*

**[PROPOSED] PRELIMINARY  
APPROVAL ORDER**

Hearing Date: \_\_\_\_\_  
Hearing Time: \_\_\_\_\_

Judge: Hon. Brad Seligman  
Dept: 23

Date Filed: July 28, 2022  
Trial Date: Not set

This matter came before the Honorable Brad Seligman of the Superior Court of the State of California, in and for the County Alameda, on \_\_\_\_\_[DATE], for hearing on the unopposed motion by Plaintiff Sonny Rattler ("Plaintiff") for preliminary approval of the Settlement with Defendant Pacific Coast Container, Inc. ("Defendant"). The Court, having considered the briefs,

PRELIMINARY APPROVAL ORDER

1 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  
4 **IT IS HEREBY ORDERED:**

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

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

13 3. The Gross Settlement Amount that Defendant shall pay is One Million Five  
14 Hundred Thousand Dollars (\$1,500,000). It appears to the Court on a preliminary basis that the  
15 settlement amount and terms are fair, adequate and reasonable as to all potential Class Members  
16 when balanced against the probable outcome of further litigation and the significant risks relating  
17 to certification, liability and damages issues. It further appears that investigation and research  
18 have been conducted such that counsel for the Parties are able to reasonably evaluate their  
19 respective positions. It further appears to the Court that the Settlement will avoid substantial  
20 additional costs by all Parties, as well as avoid the delay and risks that would be presented by the  
21 further prosecution of the Action. It further appears that the Settlement has been reached as the  
22 result of serious and non-collusive, arm's-length negotiations.

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

3         5.       The Agreement specifies for an attorneys' fees award not to exceed one-third of the  
4 Gross Settlement Amount, an award of litigation expenses incurred, not to exceed \$16,500, and  
5 proposed Class Representative Service Payment to the Plaintiff in an amount not to exceed  
6 \$10,000. The Court will not approve the amount of attorneys' fees and costs, nor the amount of  
7 any service award, until the Final Approval Hearing. Plaintiff will be required to present evidence  
8 supporting these requests, including lodestar, prior to final approval.

9         6.       The Court recognizes that Plaintiff and Defendant stipulate and agree to  
10 representative treatment and certification of a class for settlement purposes only. This stipulation  
11 will not be deemed admissible in this or any other proceeding should this Settlement not become  
12 final. For settlement purposes only, the Court conditionally certifies the Class which consists of  
13 "all individuals who are or previously worked for Defendant in California, including any  
14 employees staffed with Defendant by a third party, and who were classified as non-exempt at any  
15 time during the Class Period." The "Class Period" is July 28, 2018, through July 23, 2023.

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

26         8.       The Court provisionally appoints Plaintiff as the representatives of the Class. The  
27 Court provisionally appoints N Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit  
28

1 Bhowmik of Blumenthal Nordrehaug Bhowmik De Blouw LLP and Shane Phayakapong of Shane  
2 Law, P.C as Class Counsel for the Class.

3 9. The Agreement provides for a PAGA Penalties out of the Gross Settlement  
4 Amount of \$30,000, which shall be allocated \$22,500 to the Labor & Workforce Development  
5 Agency (“LWDA”) as the LWDA’s 75% share of the settlement of civil penalties paid under this  
6 Agreement pursuant to the PAGA and \$7,500 to the Aggrieved Employees. “Aggrieved  
7 Employees” are all individuals who are or previously worked for Defendant in California,  
8 including any employees staffed with Defendant by a third party, and who were classified as non-  
9 exempt at any time during the PAGA Period (May 24, 2021, through July 23, 2023). Pursuant to  
10 Labor Code section 2699, subdivision (1)(2), the LWDA will be provided notice of the Agreement  
11 and these settlement terms. The Court finds the PAGA Penalties to be reasonable.

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

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

4       12.     The Court hereby preliminarily approves the proposed procedure for exclusion  
5 from the Settlement. Any Class Member may individually choose to opt out of and be excluded  
6 from the Class as provided in the Class Notice by following the instructions for requesting  
7 exclusion from the Class that are set forth in the Class Notice. All requests for exclusion must be  
8 postmarked or received no later than sixty (60) calendar days after the date of the mailing of the  
9 Class Notice (“Response Deadline”). If a Class Notice Packet is re-mailed, the Response Deadline  
10 for requests for exclusion will be extended an additional fourteen (14) days. A Request for  
11 Exclusion may also be faxed or emailed to the Administrator as indicated in the Class Notice.  
12 Any such person who chooses to opt out of and be excluded from the Class will not be entitled to  
13 any recovery under the Class Settlement and will not be bound by the Class Settlement or have  
14 any right to object, appeal or comment thereon. Class Members who have not requested exclusion  
15 shall be bound by all determinations of the Court, the Agreement and the Judgment. A request for  
16 exclusion may only opt out that particular individual, and any attempt to effect an opt-out of a  
17 group, class, or subclass of individuals is not permitted and will be deemed invalid.

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

1           14.     A final approval hearing shall be held before this Court on \_\_\_\_\_  
2                     \_\_\_\_\_ at \_\_\_\_\_ in Department 23 of the Alameda County Superior Court to hear  
3 the motion for final approval and the motion for attorneys' fees and costs, and to determine all  
4 necessary matters concerning the Settlement, including: whether the proposed settlement of the  
5 Action on the terms and conditions provided for in the Agreement is fair, adequate and reasonable  
6 and should be finally approved by the Court; whether the Final Approval Order and Judgment  
7 should be entered herein; whether the plan of allocation contained in the Agreement should be  
8 approved as fair, adequate and reasonable to the Class Members; and to finally approve attorneys'  
9 fees and costs, service award, and the fees and expenses of the Administrator. All papers in  
10 support of the motion for final approval and the motion for attorneys' fees, costs and service  
11 award shall be filed with the Court and served on all counsel no later than sixteen (16) court days  
12 before the hearing and both motions shall be heard at this final approval hearing.

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

25           16.     In the event the Settlement does not become effective in accordance with the terms  
26 of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to  
27 become effective for any reason, this Order shall be rendered null and void and shall be vacated,  
28

1 and the Parties shall revert to their respective positions as of before entering into the Agreement,  
2 and expressly reserve their respective rights regarding the prosecution and defense of this Action,  
3 including all available defenses and affirmative defenses, and arguments that any claim in the  
4 Action could not be certified as a class action and/or managed as a representative action . In such  
5 an event, the Court’s orders regarding the Settlement, including this Order, shall not be used or  
6 referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of  
7 the Agreement with respect to the effect of the Agreement if it is not approved.

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

12 **IT IS SO ORDERED.**

13 Dated: \_\_\_\_\_

14 \_\_\_\_\_  
15 HON. BRAD SELIGMAN  
16 JUDGE OF THE SUPERIOR COURT OF CALIFORNIA  
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**EXHIBIT C**

[FINAL APPROVAL ORDER AND JUDGMENT]

**EXHIBIT "C"**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA

SONNY RATTLER, an individual, on behalf  
of himself and on behalf of all persons  
similarly situated, and on behalf of the State of  
California, as private attorney general,

Plaintiff,

vs.

PACIFIC COAST CONTAINER, INC., a  
California Corporation; and DOES 1 through  
50, inclusive,

Defendants.

**CASE NO.: 22CV015216**

*[Consolidated with Case No. 22CV015223]*

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

Hearing Date: \_\_\_\_\_  
Hearing Time: \_\_\_\_\_

Judge: Hon. Brad Seligman  
Dept: 23

Date Filed: July 28, 2022  
Trial Date: Not set

FINAL APPROVAL ORDER AND JUDGMENT

1 The unopposed motion of Plaintiff Sonny Rattler (“Plaintiff”) for an order finally  
2 approving the Class Action and PAGA Settlement Agreement (“Agreement”) with Defendant  
3 Pacific Coast Container, Inc. (“Defendant”), attorneys’ fees and costs, service payment, and the  
4 expenses of the Administrator duly came on for hearing on \_\_\_\_\_ before the  
5 Honorable Brad Seligman.

6 **I.**

7 **FINDINGS**

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

- 10 1. All terms used herein shall have the same meaning as defined in the Agreement.
- 11 2. This Court has jurisdiction over the subject matter of this litigation pending before  
12 the Superior Court for the State of California, in and for the County of Alameda, and over all  
13 Parties to this litigation, including the Class.
- 14 3. Based on a review of the papers submitted by Plaintiff and a review of the  
15 applicable law, the Court finds that the Gross Settlement Amount of One Million Five Hundred  
16 Thousand Dollars (\$1,500,000) and the terms set forth in the Agreement are fair, reasonable, and  
17 adequate.
- 18 4. The Court further finds that the Settlement was the result of arm’s length  
19 negotiations conducted after Class Counsel had adequately investigated the claims and became  
20 familiar with the strengths and weaknesses of those claims. In particular, the amount of the  
21 Settlement, and the assistance of an experienced mediator in the settlement process, among other  
22 factors, support the Court’s conclusion that the Settlement is fair, reasonable, and adequate.

23 **Preliminary Approval of the Settlement**

- 24 5. On \_\_\_\_\_, the Court granted preliminary approval of the Settlement. At  
25 this same time, the Court approved conditional certification of the Class for settlement purposes  
26 only.

1           **Notice to the Class**

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

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

22           **Fairness of the Settlement**

23           8.       The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*  
24 48 Cal.App.4th 1794, 1801 (1996).

25           a.       The settlement was reached through arm's-length bargaining between the  
26 Parties during an all-day mediation before Hon. Carl J. West (Ret.), a respected jurist and  
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1 experienced mediator of wage and hour class actions. There has been no collusion between the  
2 Parties in reaching the Settlement.

3           b.       Plaintiff and Class Counsel's investigation and discovery have been  
4 sufficient to allow the Court and counsel to act intelligently.

5           c.       Counsel for all Parties are experienced in similar employment class action  
6 litigation. Class Counsel recommended approval of the Agreement.

7           d.       The percentage of objectors and requests for exclusion is small. \_\_\_\_  
8 objections were received. \_\_\_\_\_ requests for exclusion were received.

9           e.       The participation rate was high. \_\_\_\_\_ Class Members will be mailed a  
10 settlement payment, representing \_\_\_\_% of the overall Class.

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

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

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

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

24           **Class Representative Service Payment**

25       12.      The Agreement provides for a Class Representative Service Payment of not more  
26 than \$10,000 to the Plaintiff, subject to the Court's approval. The Court finds that Class  
27 Representative Service Payment in the amount of \$\_\_\_\_\_ to the Plaintiff is reasonable in  
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1 light of the risks and burdens undertaken by the Plaintiff in this litigation and for his time and  
2 effort in bringing and prosecuting this matter on behalf of the Class.

3 **Administration Expenses Payment**

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

10 **PAGA Penalties**

11 14. The Agreement provides for a PAGA Penalties out of the Gross Settlement  
12 Amount of \$30,000, which shall be allocated \$22,500 to the Labor & Workforce Development  
13 Agency ("LWDA") as the LWDA's 75% share of the settlement of civil penalties paid under this  
14 Agreement pursuant to the PAGA and \$7,500 to be distributed to the Aggrieved Employees and  
15 allocated by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties  
16 (\$7,500) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during  
17 the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay  
18 Periods. "Aggrieved Employees" are all individuals who are or previously worked for Defendant  
19 in California, including any employees staffed with Defendant by a third party, and who were  
20 classified as non-exempt at any time during the PAGA Period (May 24, 2021 through July 23,  
21 2023). Pursuant to Labor Code section 2699, subdivision (l)(2), the LWDA was provided notice  
22 of the Agreement and these settlement terms and has not indicated any objection thereto. The  
23 Court finds the PAGA Penalties to be reasonable.

24 **II.**

25 **ORDERS**

26 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:  
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1           15.     The Class is certified for the purposes of settlement only. The Class is defined as  
2 follows:

3           All individuals who are or previously worked for Defendant in California,  
4 including any employees staffed with Defendant by a third party, and who were  
5 classified as non-exempt at any time during the Class Period (July 28, 2018 through  
6 July 23, 2023).

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

10           17.     The Agreement is hereby finally approved as fair, reasonable, adequate, and in the  
11 best interest of the Class. Defendant shall fully fund the Gross Settlement Amount, and also fund  
12 the amounts necessary to fully pay Defendant’s share of payroll taxes in accordance with the  
13 Agreement, by transmitting the funds to the Administrator no later than 15 days after the Effective  
14 Date.

15           18.     Class Counsel are awarded attorneys’ fees in the amount of \$\_\_\_\_\_ and  
16 costs in the amount of \$\_\_\_\_\_. Class Counsel shall not seek or obtain any other  
17 compensation or reimbursement from Defendants, Plaintiff or members of the Class.

18           19.     The payment of Class Representative Service Payment in the amount of \$\_\_\_\_\_ to the Plaintiff is approved.

19           20.     The payment of \$\_\_\_\_\_ to the Administrator for its fees and expenses is  
20 approved.

21           21.     The PAGA Penalties amount of \$30,000 is approved and is to be distributed in  
22 accordance with the Agreement.

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

26           23.     Neither the Agreement nor this Settlement is an admission by Defendant, nor is this  
27 Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of any  
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1 wrongdoing by Defendant or that this Action is appropriate for class or representative treatment  
2 (other than for settlement purposes). Neither this Final Approval Order and Judgment, the  
3 Agreement, nor any document referred to herein, nor any action taken to carry out the Agreement  
4 is, may be construed as, or may be used as an admission by or against Defendant of any fault,  
5 wrongdoing or liability whatsoever. The entering into or carrying out of the Agreement, and any  
6 negotiations or proceedings related thereto, shall not in any event be construed as, or deemed to be  
7 evidence of, an admission or concession with regard to the denials or defenses by Defendant.  
8 Notwithstanding these restrictions, Defendant may file in the Action or in any other proceeding  
9 this Final Approval Order and Judgment, the Agreement, or any other papers and records on file in  
10 the Action as evidence of the Settlement to support a defense of *res judicata*, collateral estoppel,  
11 release, or other theory of claim or issue preclusion or similar defense as to the Released Class  
12 Claims and/or Released PAGA Claims.

13         24. Notice of entry of this Final Approval Order and Judgment shall be given to all  
14 Parties by Class Counsel on behalf of Plaintiff and all Class Members. The Final Approval Order  
15 and Judgment shall be posted on Class Counsel's website as set forth in the Class Notice to the  
16 Class. It shall not be necessary to send notice of entry of this Final Approval Order and Judgment  
17 to individual Class Members.

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

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

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

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

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

7           29.     Effective upon the entry of final judgment, Plaintiff, Participating Class Members,  
8 Aggrieved Employees and the LWDA will release claims against all Released Parties as follows:

9                   (a)     All Participating Class Members, on behalf of themselves and their  
10 respective former and present representatives, agents, attorneys, heirs, administrators, successors,  
11 and assigns, release Released Parties from the Released Class Claims. The "Released Class  
12 Claims" are all class claims pled or could have been pled under federal, state or local law, whether  
13 known or unknown, in law or in equity based on the factual allegations contained in the Operative  
14 Complaint which occurred during the Class Period under federal, state or local law, and expressly  
15 excluding all other claims, including claims for vested benefits, wrongful termination,  
16 unemployment insurance, disability, social security, workers' compensation, and class claims  
17 outside of the Class Period.

18                   (b)     All Aggrieved Employees and the LWDA are deemed to release, on behalf  
19 of themselves and their respective former and present representatives, agents, attorneys, heirs,  
20 administrators, successors, and assigns, the Released Parties from the Released PAGA Claim. The  
21 "Released PAGA Claims" are all claims pled or could have been pled, whether known or  
22 unknown based on the factual allegations contained in the Operative Complaint and PAGA letters  
23 sent by Plaintiff that occurred during the PAGA Period as to the Aggrieved Employees and  
24 expressly excluding all other claims, including claims for vested benefits, wrongful termination,  
25 unemployment insurance, disability, social security, workers' compensation, and PAGA claims  
26 outside of the PAGA Period. The PAGA release will include any violation of California Labor  
27 Code §§ 201, 202, 203, 204, 210, 218.5, 218, 218.6, 221, 226, 226.3, 226.6, 226.7, 233, 246,  
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1 246.5, 450, 510, 512, 515, 558, 1174, 1174.5, 1175, 1194, 1194.2, 1197, 1197.1, 1198, 2698 et  
2 seq., 2802, Cal. Bus. & Prof. Code §§ 17200, et. seq., and any Wage Order.

3 (c) Plaintiff and his or her respective former and present spouses,  
4 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release  
5 and discharge Released Parties from all claims, transactions, or occurrences that occurred during  
6 the Class Period, as fully set forth in the Agreement.

7 30. For any Class Member or Aggrieved Employee whose Individual Class Payment  
8 check or Individual PAGA Payment check is uncashed and cancelled after the void date, the  
9 Administrator shall transmit the funds represented by such checks to the CyPres Recipient, which  
10 is Alliance for Children's Rights, consistent with the requirements of California Code of Civil  
11 Procedure Section 384.

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

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

18  
19 Dated: \_\_\_\_\_

20 \_\_\_\_\_  
21 HON. BRAD SELIGMAN  
22 JUDGE OF THE SUPERIOR COURT OF CALIFORNIA  
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**EXHIBIT #2**

**Blumenthal Nordrehaug Bhowmik De Blouw LLP**

2255 Calle Clara, La Jolla, California 92037

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**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**

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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 (9<sup>th</sup> 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. 4<sup>th</sup> 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 (9<sup>th</sup> 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 (9<sup>th</sup> 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

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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. Culinart 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 Court, 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

**EXHIBIT #3**

**BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP**

**2255 CALLE CLARA**

**LA JOLLA, CALIFORNIA 92037**

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WRITERS EXT:

1004

April 27, 2022

CA2590

**VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT**

Labor and Workforce Development Agency  
Online Filing

Pacific Coast Container, Inc.  
Certified Mail #70161370000022510672  
Michael McDonnell  
432 Estudillo Avenue  
San Leandro, CA 94577

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 Pacific Coast Container, Inc. in California and classified as non-exempt employees during the time period of April 27, 2021 until a date as determined by the Court. Our offices represent Plaintiff Sonny Rattler (“Plaintiff”) and other Aggrieved Employees in a lawsuit against Pacific Coast Container, Inc. (“Defendant”). Plaintiff was employed by Defendant in California as a non-exempt employee from January of 2019 to January of 2022 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 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. 5<sup>th</sup> 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). Further, Defendant violated Cal. Lab. Code Section 226(a)(8) by failing to list the correct name of the legal entity that employed Plaintiff and other Aggrieved Employees. 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 1 1070(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.

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF ALAMEDA**

SONNY RATTLER, an individual, on behalf  
of himself and on behalf of all persons  
similarly situated,

Plaintiff,

vs.

PACIFIC COAST CONTAINER, INC., a  
California Corporation; and DOES 1 through  
50, inclusive,

Defendants.

Case No. \_\_\_\_\_

**CLASS ACTION COMPLAINT FOR:**

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
3. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq.*;
4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
6. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226; and,
7. FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802; and,
8. FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203.

**DEMAND FOR A JURY TRIAL**

1 Plaintiff Sonny Rattler (“PLAINTIFF”), an individual, on behalf of himself and all other  
2 similarly situated current and former employees alleges on information and belief, except for  
3 his own acts and knowledge which are based on personal knowledge, the following:

4  
5 **THE PARTIES**

6 1. Defendant Pacific Coast Container, Inc. (“DEFENDANT”) is a California  
7 Corporation that at all relevant times mentioned herein conducted and continues to conduct  
8 substantial business in the state of California.

9 2. DEFENDANT provides logistics services. The Company offers transportation,  
10 warehousing and storage, and other related services.

11 3. PLAINTIFF was employed by DEFENDANT in California from January of 2019  
12 to January of 2022 and was at all times classified by DEFENDANT as a non-exempt employee  
13 entitled to the legally required meal and rest periods and payment of minimum and overtime  
14 wages due for all time worked.

15 4. PLAINTIFF brings this Class Action on behalf of himself and a California class,  
16 defined as all individuals who are or previously were employed by DEFENDANT in California  
17 and classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the  
18 period beginning four (4) years prior to the filing of this Complaint and ending on the date as  
19 determined by the Court (the “CALIFORNIA CLASS PERIOD”). The amount in controversy  
20 for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars  
21 (\$5,000,000.00).

22 5. PLAINTIFF brings this Class Action on behalf of himself and a CALIFORNIA  
23 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during  
24 the CALIFORNIA CLASS PERIOD caused by DEFENDANT’s policy and practice which  
25 failed to lawfully compensate these employees. DEFENDANT’s policy and practice alleged  
26 herein was an unlawful, unfair and deceptive business practice whereby DEFENDANT retained  
27 and continues to retain wages due PLAINTIFF and the other members of the CALIFORNIA  
28 CLASS. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction

1 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and  
2 the other members of the CALIFORNIA CLASS who have been economically injured by  
3 DEFENDANT's past and current unlawful conduct, and all other appropriate legal and  
4 equitable relief.

5 6. The true names and capacities, whether individual, corporate, subsidiary,  
6 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently  
7 unknown to PLAINTIFF who therefore sues these Defendants by such fictitious names pursuant  
8 to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege  
9 the true names and capacities of Does 1 through 50, inclusive, when they are ascertained.  
10 PLAINTIFF is informed and believes, and based upon that information and belief alleges, that  
11 the Defendants named in this Complaint, including DOES 1 through 50, inclusive, are  
12 responsible in some manner for one or more of the events and happenings that proximately  
13 caused the injuries and damages hereinafter alleged.

14 7. The agents, servants and/or employees of the Defendants and each of them acting  
15 on behalf of the Defendants acted within the course and scope of his, her or its authority as the  
16 agent, servant and/or employee of the Defendants, and personally participated in the conduct  
17 alleged herein on behalf of the Defendants with respect to the conduct alleged herein.  
18 Consequently, the acts of each Defendant are legally attributable to the other Defendants and  
19 all Defendants are jointly and severally liable to PLAINTIFF and the other members of the  
20 CALIFORNIA CLASS, for the loss sustained as a proximate result of the conduct of the  
21 Defendants' agents, servants and/or employees.

### 22 23 **THE CONDUCT**

24 8. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was  
25 required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked,  
26 meaning the time during which an employee is subject to the control of an employer, including  
27 all the time the employee is suffered or permitted to work. DEFENDANT requires PLAINTIFF  
28 and CALIFORNIA CLASS Members to work without paying them for all the time they are

1 under DEFENDANT's control. Among other things, DEFENDANT requires PLAINTIFF to  
2 work while clocked out during what is supposed to be PLAINTIFF's off-duty meal break.  
3 PLAINTIFF is from time to time interrupted by work assignments while clocked out for what  
4 should be PLAINTIFF's off-duty meal break. DEFENDANT, as a matter of established  
5 company policy and procedure, administers a uniform practice of rounding the actual time  
6 worked and recorded by PLAINTIFF and CALIFORNIA CLASS Members, always to the  
7 benefit of DEFENDANT, so that during the course of their employment, PLAINTIFF and  
8 CALIFORNIA CLASS Members are paid less than they would have been paid had they been  
9 paid for actual recorded time rather than "rounded" time. Additionally, during the  
10 CALIFORNIA CLASS PERIOD, DEFENDANT engaged in the practice of requiring  
11 PLAINTIFF and CALIFORNIA CLASS Members to perform work off the clock before and  
12 after clocking in and out in that DEFENDANT, as a condition of employment, required these  
13 employees to wait for and submit to loss prevention inspections before and after clocking in and  
14 out for meal breaks and at the beginning and end of each scheduled shift for which  
15 DEFENDANT did not provide compensation for time spent waiting for and submitting to  
16 DEFENDANT's loss prevention inspections off the clock. Further, DEFENDANT engaged  
17 in the practice of requiring PLAINTIFF and CALIFORNIA CLASS Members to perform work  
18 off the clock in that DEFENDANT, as a condition of employment, required these employees  
19 to complete mandatory COVID-19 screening prior to clocking into DEFENDANT's  
20 timekeeping system for the workday. As a result, PLAINTIFF and other CALIFORNIA  
21 CLASS Members forfeit minimum wage, overtime wage compensation, and off-duty meal  
22 breaks by working without their time being correctly recorded and without compensation at the  
23 applicable rates. DEFENDANT's policy and practice not to pay PLAINTIFF and other  
24 CALIFORNIA CLASS Members for all time worked, is evidenced by DEFENDANT's  
25 business records.

26 9. State and federal law provides that employees must be paid overtime and meal and  
27 rest break premiums at one-and-one-half times their "regular rate of pay." PLAINTIFF and  
28 other CALIFORNIA CLASS Members are compensated at an hourly rate plus incentive pay that

1 is tied to specific elements of an employee's performance.

2       10. The second component of PLAINTIFF's and other CALIFORNIA CLASS  
3 Members' compensation is DEFENDANT's non-discretionary incentive program that paid  
4 PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their  
5 performance for DEFENDANT. The non-discretionary incentive program provided all  
6 employees paid on an hourly basis with incentive compensation when the employees met the  
7 various performance goals set by DEFENDANT. However, when calculating the regular rate  
8 of pay in order to pay overtime and meal and rest break premiums to PLAINTIFF and other  
9 CALIFORNIA CLASS Members, DEFENDANT failed to include the incentive compensation  
10 as part of the employees' "regular rate of pay" for purposes of calculating overtime pay and  
11 meal and rest break premium pay. Management and supervisors described the incentive  
12 program to potential and new employees as part of the compensation package. As a matter of  
13 law, the incentive compensation received by PLAINTIFF and other CALIFORNIA CLASS  
14 Members must be included in the "regular rate of pay." The failure to do so has resulted in a  
15 underpayment of overtime compensation and meal and rest break premiums to PLAINTIFF and  
16 other CALIFORNIA CLASS Members by DEFENDANT.

17       11. As a result of their rigorous work schedules, PLAINTIFF and other  
18 CALIFORNIA CLASS Members were from time to time unable to take thirty (30) minute off  
19 duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and  
20 other CALIFORNIA CLASS Members were required from time to time to perform work as  
21 ordered by DEFENDANT for more than five (5) hours during some shifts without receiving a  
22 meal break. Further, DEFENDANT from time to time failed to provide PLAINTIFF and  
23 CALIFORNIA CLASS Members with a second off-duty meal period for some workdays in  
24 which these employees were required by DEFENDANT to work ten (10) hours of work.  
25 DEFENDANT also engaged in the practice of rounding the meal period times to avoid paying  
26 penalties to PLAINTIFF and other CALIFORNIA CLASS Members. PLAINTIFF and other  
27 members of the CALIFORNIA CLASS therefore forfeit meal breaks without additional  
28 compensation and in accordance with DEFENDANT's corporate policy and practice.

1           12. During the CALIFORNIA CLASS PERIOD, PLAINTIFF and other  
2 CALIFORNIA CLASS Members were also required from time to time to work in excess of four  
3 (4) hours without being provided ten (10) minute rest periods. Further, these employees were  
4 denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two  
5 (2) to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes  
6 for some shifts worked of between six (6) and eight (8) hours from time to time, and a first,  
7 second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours  
8 or more from time to time. PLAINTIFF and other CALIFORNIA CLASS Members were also  
9 not provided with one hour wages in lieu thereof. Additionally, the applicable California Wage  
10 Order requires employers to provide employees with off-duty rest periods, which the California  
11 Supreme Court defined as time during which an employee is relieved from all work related  
12 duties and free from employer control. In so doing, the Court held that the requirement under  
13 California law that employers authorize and permit all employees to take rest period means that  
14 employers must relieve employees of all duties and relinquish control over how employees  
15 spend their time which includes control over the locations where employees may take their rest  
16 period. Employers cannot impose controls that prohibit an employee from taking a brief walk -  
17 five minutes out, five minutes back. Here, DEFENDANT's policy restricted PLAINTIFF and  
18 other CALIFORNIA CLASS Members from unconstrained walks and is unlawful based on  
19 DEFENDANT's rule which states PLAINTIFF and other CALIFORNIA CLASS Members  
20 cannot leave the work premises during their rest period.

21           13. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to accurately  
22 record and pay PLAINTIFF and other CALIFORNIA CLASS Members for the actual amount  
23 of time these employees worked. Pursuant to the Industrial Welfare Commission Wage Orders,  
24 DEFENDANT was required to pay PLAINTIFF and other CALIFORNIA CLASS Members  
25 for all time worked, meaning the time during which an employee was subject to the control of  
26 an employer, including all the time the employee was permitted or suffered to permit this work.  
27 DEFENDANT required these employees to work off the clock without paying them for all the  
28 time they were under DEFENDANT's control. As such, DEFENDANT knew or should have

1 known that PLAINTIFF and the other members of the CALIFORNIA CLASS were under  
2 compensated for all time worked. As a result, PLAINTIFF and other CALIFORNIA CLASS  
3 Members forfeited time worked by working without their time being accurately recorded and  
4 without compensation at the applicable minimum wage and overtime wage rates. To the extent  
5 that the time worked off the clock does not qualify for overtime premium payment,  
6 DEFENDANT fails to pay minimum wages for the time worked off-the-clock in violation of  
7 Cal. Lab. Code §§ 1194, 1197, and 1197.1.

8 14. From time to time, DEFENDANT also failed to provide PLAINTIFF and the  
9 other members of the CALIFORNIA LABOR SUB-CLASS with complete and accurate wage  
10 statements which failed to show, among other things, the correct gross and net wages earned.  
11 Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her employees  
12 with an accurate itemized wage statement in writing showing, among other things, gross wages  
13 earned and all applicable hourly rates in effect during the pay period and the corresponding  
14 amount of time worked at each hourly rate. Aside, from the violations listed above in this  
15 paragraph, DEFENDANT failed to issue to PLAINTIFF an itemized wage statement that lists  
16 all the requirements under California Labor Code 226 *et seq.* As a result, DEFENDANT from  
17 time to time provided PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
18 CLASS with wage statements which violated Cal. Lab. Code § 226.

19 15. Cal. Lab. Code § 204(d) provides, the requirements of this section shall be  
20 deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the  
21 wages are paid not more than seven (7) calendar days following the close of the payroll period.  
22 Cal. Lab. Code § 210 provides:

23 [I]n addition to, and entirely independent and apart from, any other penalty provided in  
24 this article, every person who fails to pay the wages of each employee as provided in  
25 Sections. . . 204. . . shall be subject to a civil penalty as follows: (1) For any initial  
26 violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For each  
subsequent violation, or any willful or intentional violation, two hundred dollars (\$200)  
for each failure to pay each employee, plus 25 percent of the amount unlawfully  
withheld.

27 16. DEFENDANT from time to time failed to pay PLAINTIFF and members of the  
28 CALIFORNIA LABOR SUB-CLASS Members within seven (7) days of the close of the payroll

1 period in accordance with Cal. Lab. Code § 204(d).

2 17. DEFENDANT underpaid sick pay wages to PLAINTIFF and other CALIFORNIA  
3 CLASS Members by failing to pay such wages at the regular rate of pay in violation of Cal. Lab.  
4 Code Section 246. Specifically, PLAINTIFF and other non-exempt employees earn non-  
5 discretionary remuneration. Rather than pay sick pay at the regular rate of pay, DEFENDANT  
6 underpaid sick pay to PLAINTIFF and other CALIFORNIA CLASS Members at their base  
7 rates of pay.

8 18. Cal. Lab. Code Section 246(1)(2) requires that paid sick time for nonexempt  
9 employees be calculated by dividing the employee's total wages, not including overtime  
10 premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days  
11 of employment.

12 19. DEFENDANT violated Cal. Lab. Code Section 246 by failing to pay sick pay at  
13 the regular rate of pay. PLAINTIFF and CALIFORNIA CLASS Members routinely earned non-  
14 discretionary incentive wages which increased their regular rate of pay. However, when sick pay  
15 was paid, it was paid at the base rate of pay for PLAINTIFF and members of the CALIFORNIA  
16 CLASS, as opposed to the correct, higher regular rate of pay, as required under Cal. Lab. Code  
17 Section 246.

18 20. As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFF and  
19 other members of the CALIFORNIA CLASS their correct wages and accordingly owe waiting  
20 time penalties pursuant to Cal. Lab. Code Section 203. Further, PLAINTIFF is informed and  
21 believes and based thereon alleges that such failure to pay sick pay at regular rate was willful,  
22 such that PLAINTIFF and members of the CALIFORNIA CLASS whose employment has  
23 separated are entitled to waiting time penalties pursuant to Cal. Lab. Code Sections 201-203.

24 21. Pursuant to Cal. Lab. Code Section 221, "It shall be unlawful for any employer  
25 to collect or receive from an employee any part of wages theretofore paid by said employer to  
26 said employee." DEFENDANT failed to pay all compensation due to PLAINTIFF and other  
27 CALIFORNIA LABOR SUB-CLASS Members, made unlawful deductions from compensation  
28 payable to PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members, failed to disclose

1 all aspects of the deductions from compensation payable to PLAINTIFF and CALIFORNIA  
2 LABOR SUB-CLASS Members, and thereby failed to pay these employees all wages due at  
3 each applicable pay period and upon termination. PLAINTIFF and members of the  
4 CALIFORNIA LABOR SUB-CLASS seek recovery of all illegal deductions from wages  
5 according to proof, related penalties, interest, attorney fees and costs.

6 22. DEFENDANT intentionally and knowingly failed to reimburse and indemnify  
7 PLAINTIFF and the other CALIFORNIA CLASS Members for required business expenses  
8 incurred by the PLAINTIFF and other CALIFORNIA CLASS Members in direct consequence  
9 of discharging their duties on behalf of DEFENDANT. Under California Labor Code Section  
10 2802, employers are required to indemnify employees for all expenses incurred in the course  
11 and scope of their employment. Cal. Lab. Code § 2802 expressly states that "an employer shall  
12 indemnify his or her employee for all necessary expenditures or losses incurred by the employee  
13 in direct consequence of the discharge of his or her duties, or of his or her obedience to the  
14 directions of the employer, even though unlawful, unless the employee, at the time of obeying  
15 the directions, believed them to be unlawful."

16 23. In the course of their employment PLAINTIFF and other CALIFORNIA CLASS  
17 Members as a business expense, were required by DEFENDANT to use their own personal  
18 cellular phones as a result of and in furtherance of their job duties as employees for  
19 DEFENDANT but are not reimbursed or indemnified by DEFENDANT for the cost associated  
20 with the use of their personal cellular phones for DEFENDANT's benefit. Specifically,  
21 PLAINTIFF and other CALIFORNIA CLASS Members were required by DEFENDANT to use  
22 their personal cellular phones. As a result, in the course of their employment with  
23 DEFENDANT, PLAINTIFF and other members of the CALIFORNIA CLASS incurred  
24 unreimbursed business expenses which included, but were not limited to, costs related to the use  
25 of their personal cellular phones all on behalf of and for the benefit of DEFENDANT.

26 24. Specifically as to PLAINTIFF, DEFENDANT failed to provide all the legally  
27 required off-duty meal and rest breaks to PLAINTIFF as required by the applicable Wage Order  
28 and Labor Code and failed to pay PLAINTIFF all minimum and overtime wages due to

1 PLAINTIFF. DEFENDANT did not have a policy or practice which provided timely off-duty  
2 meal and rest breaks to PLAINTIFF and also failed to compensate PLAINTIFF for  
3 PLAINTIFF's missed meal and rest breaks. The nature of the work performed by the  
4 PLAINTIFF did not prevent PLAINTIFF from being relieved of all of PLAINTIFF's duties for  
5 the legally required off-duty meal periods. As a result, DEFENDANT's failure to provide  
6 PLAINTIFF with the legally required meal periods is evidenced by DEFENDANT's business  
7 records. The amount in controversy for PLAINTIFF individually does not exceed the sum or  
8 value of \$75,000.

### 9 **JURISDICTION AND VENUE**

10 25. This Court has jurisdiction over this Action pursuant to California Code of Civil  
11 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This  
12 action is brought as a Class Action on behalf of PLAINTIFF and similarly situated employees  
13 of DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.

14 26. Venue is proper in this Court pursuant to California Code of Civil Procedure,  
15 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT and  
16 DEFENDANT (i) currently maintains and at all relevant times maintained offices and facilities  
17 in this County and/or conducts substantial business in this County, and (ii) committed the  
18 wrongful conduct herein alleged in this County against members of the CALIFORNIA CLASS.

### 19 **THE CALIFORNIA CLASS**

20 27. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and Deceptive  
21 Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class  
22 Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as  
23 all individuals who are or previously were employed by DEFENDANT in California and  
24 classified as non-exempt employees (the "CALIFORNIA CLASS") at any time during the  
25 period beginning four (4) years prior to the filing of this Complaint and ending on the date as  
26 determined by the Court (the "CALIFORNIA CLASS PERIOD"). The amount in controversy  
27  
28

1 for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars  
2 (\$5,000,000.00).

3 28. To the extent equitable tolling operates to toll claims by the CALIFORNIA  
4 CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted  
5 accordingly.

6 29. DEFENDANT, as a matter of company policy, practice and procedure, and in  
7 violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order  
8 requirements, and the applicable provisions of California law, intentionally, knowingly, and  
9 wilfully, engaged in a practice whereby DEFENDANT failed to record all meal and rest breaks  
10 missed by PLAINTIFF and other CALIFORNIA CLASS Members, even though DEFENDANT  
11 enjoyed the benefit of this work, required employees to perform this work and permits or suffers  
12 to permit this work.

13 30. DEFENDANT has the legal burden to establish that each and every  
14 CALIFORNIA CLASS Member was paid accurately for all meal and rest breaks missed as  
15 required by California laws. The DEFENDANT, however, as a matter of policy and procedure  
16 failed to have in place during the CALIFORNIA CLASS PERIOD and still fails to have in  
17 place a policy or practice to ensure that each and every CALIFORNIA CLASS Member is paid  
18 as required by law. This common business practice is applicable to each and every  
19 CALIFORNIA CLASS Member can be adjudicated on a class-wide basis as unlawful, unfair,  
20 and/or deceptive under Cal. Business & Professions Code §§ 17200, *et seq.* (the "UCL") as  
21 causation, damages, and reliance are not elements of this claim.

22 31. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA  
23 CLASS Members is impracticable.

24 32. DEFENDANT violated the rights of the CALIFORNIA CLASS under California  
25 law by:

- 26 (a) Committing an act of unfair competition in violation of , Cal. Bus. & Prof.  
27 Code §§ 17200, *et seq.* (the "UCL"), by unlawfully, unfairly and/or  
28 deceptively having in place company policies, practices and procedures

1 that failed to record and pay PLAINTIFF and the other members of the  
2 CALIFORNIA CLASS for all time worked, including minimum wages  
3 owed and overtime wages owed for work performed by these employees;  
4 and,

- 5 (b) Committing an act of unfair competition in violation of the UCL, by  
6 failing to provide the PLAINTIFF and the other members of the  
7 CALIFORNIA CLASS with the legally required meal and rest periods.

8 33. This Class Action meets the statutory prerequisites for the maintenance of a Class  
9 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

- 10 (a) The persons who comprise the CALIFORNIA CLASS are so numerous  
11 that the joinder of all such persons is impracticable and the disposition of  
12 their claims as a class will benefit the parties and the Court;
- 13 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues  
14 that are raised in this Complaint are common to the CALIFORNIA  
15 CLASS will apply to every member of the CALIFORNIA CLASS;
- 16 (c) The claims of the representative PLAINTIFF are typical of the claims of  
17 each member of the CALIFORNIA CLASS. PLAINTIFF, like all the  
18 other members of the CALIFORNIA CLASS, was classified as a non-  
19 exempt employee paid on an hourly basis who was subjected to the  
20 DEFENDANT's deceptive practice and policy which failed to provide the  
21 legally required meal and rest periods to the CALIFORNIA CLASS and  
22 thereby underpaid compensation to PLAINTIFF and CALIFORNIA  
23 CLASS. PLAINTIFF sustained economic injury as a result of  
24 DEFENDANT's employment practices. PLAINTIFF and the members of  
25 the CALIFORNIA CLASS were and are similarly or identically harmed  
26 by the same unlawful, deceptive and unfair misconduct engaged in by  
27 DEFENDANT; and,
- 28 (d) The representative PLAINTIFF will fairly and adequately represent and

1 protect the interest of the CALIFORNIA CLASS, and has retained  
2 counsel who are competent and experienced in Class Action litigation.  
3 There are no material conflicts between the claims of the representative  
4 PLAINTIFF and the members of the CALIFORNIA CLASS that would  
5 make class certification inappropriate. Counsel for the CALIFORNIA  
6 CLASS will vigorously assert the claims of all CALIFORNIA CLASS  
7 Members.

8 34. In addition to meeting the statutory prerequisites to a Class Action, this action is  
9 properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

10 (a) Without class certification and determination of declaratory, injunctive,  
11 statutory and other legal questions within the class format, prosecution of  
12 separate actions by individual members of the CALIFORNIA CLASS will  
13 create the risk of:

14 1) Inconsistent or varying adjudications with respect to individual  
15 members of the CALIFORNIA CLASS which would establish  
16 incompatible standards of conduct for the parties opposing the  
17 CALIFORNIA CLASS; and/or,

18 2) Adjudication with respect to individual members of the  
19 CALIFORNIA CLASS which would as a practical matter be  
20 dispositive of interests of the other members not party to the  
21 adjudication or substantially impair or impede their ability to  
22 protect their interests.

23 (b) The parties opposing the CALIFORNIA CLASS have acted or refused to  
24 act on grounds generally applicable to the CALIFORNIA CLASS, making  
25 appropriate class-wide relief with respect to the CALIFORNIA CLASS  
26 as a whole in that DEFENDANT failed to pay all wages due to members  
27 of the CALIFORNIA CLASS as required by law;

28 1) With respect to the First Cause of Action, the final relief on behalf

1 of the CALIFORNIA CLASS sought does not relate exclusively to  
2 restitution because through this claim PLAINTIFF seeks  
3 declaratory relief holding that the DEFENDANT's policy and  
4 practices constitute unfair competition, along with declaratory  
5 relief, injunctive relief, and incidental equitable relief as may be  
6 necessary to prevent and remedy the conduct declared to constitute  
7 unfair competition;

8 (c) Common questions of law and fact exist as to the members of the  
9 CALIFORNIA CLASS, with respect to the practices and violations of  
10 California law as listed above, and predominate over any question  
11 affecting only individual CALIFORNIA CLASS Members, and a Class  
12 Action is superior to other available methods for the fair and efficient  
13 adjudication of the controversy, including consideration of:

14 1) The interests of the members of the CALIFORNIA CLASS in  
15 individually controlling the prosecution or defense of separate  
16 actions in that the substantial expense of individual actions will be  
17 avoided to recover the relatively small amount of economic losses  
18 sustained by the individual CALIFORNIA CLASS Members when  
19 compared to the substantial expense and burden of individual  
20 prosecution of this litigation;

21 2) Class certification will obviate the need for unduly duplicative  
22 litigation that would create the risk of:

23 A. Inconsistent or varying adjudications with respect to  
24 individual members of the CALIFORNIA CLASS, which  
25 would establish incompatible standards of conduct for the  
26 DEFENDANT; and/or,

27 B. Adjudications with respect to individual members of the  
28 CALIFORNIA CLASS would as a practical matter be

dispositive of the interests of the other members not parties  
to the adjudication or substantially impair or impede their  
ability to protect their interests;

3) In the context of wage litigation because a substantial number of  
individual CALIFORNIA CLASS Members will avoid asserting  
their legal rights out of fear of retaliation by DEFENDANT, which  
may adversely affect an individual's job with DEFENDANT or  
with a subsequent employer, the Class Action is the only means to  
assert their claims through a representative; and,

4) A class action is superior to other available methods for the fair  
and efficient adjudication of this litigation because class treatment  
will obviate the need for unduly and unnecessary duplicative  
litigation that is likely to result in the absence of certification of  
this action pursuant to Cal. Code of Civ. Proc. § 382.

35. This Court should permit this action to be maintained as a Class Action pursuant  
to Cal. Code of Civ. Proc. § 382 because:

(a) The questions of law and fact common to the CALIFORNIA CLASS  
predominate over any question affecting only individual CALIFORNIA  
CLASS Members because the DEFENDANT's employment practices are  
applied with respect to the CALIFORNIA CLASS;

(b) A Class Action is superior to any other available method for the fair and  
efficient adjudication of the claims of the members of the CALIFORNIA  
CLASS because in the context of employment litigation a substantial  
number of individual CALIFORNIA CLASS Members will avoid  
asserting their rights individually out of fear of retaliation or adverse  
impact on their employment;

(c) The members of the CALIFORNIA CLASS are so numerous that it is  
impractical to bring all members of the CALIFORNIA CLASS before the

1 Court;

2 (d) PLAINTIFF, and the other CALIFORNIA CLASS Members, will not be  
3 able to obtain effective and economic legal redress unless the action is  
4 maintained as a Class Action;

5 (e) There is a community of interest in obtaining appropriate legal and  
6 equitable relief for the acts of unfair competition, statutory violations and  
7 other improprieties, and in obtaining adequate compensation for the  
8 damages and injuries which DEFENDANT's actions have inflicted upon  
9 the CALIFORNIA CLASS;

10 (f) There is a community of interest in ensuring that the combined assets of  
11 DEFENDANT are sufficient to adequately compensate the members of  
12 the CALIFORNIA CLASS for the injuries sustained;

13 (g) DEFENDANT has acted or refused to act on grounds generally applicable  
14 to the CALIFORNIA CLASS, thereby making final class-wide relief  
15 appropriate with respect to the CALIFORNIA CLASS as a whole;

16 (h) The members of the CALIFORNIA CLASS are readily ascertainable from  
17 the business records of DEFENDANT; and,

18 (i) Class treatment provides manageable judicial treatment calculated to bring  
19 a efficient and rapid conclusion to all litigation of all wage and hour  
20 related claims arising out of the conduct of DEFENDANT as to the  
21 members of the CALIFORNIA CLASS.

22 36. DEFENDANT maintains records from which the Court can ascertain and identify  
23 by job title each of DEFENDANT's employees who have been intentionally subjected to  
24 DEFENDANT's company policy, practices and procedures as herein alleged. PLAINTIFF will  
25 seek leave to amend the Complaint to include any additional job titles of similarly situated  
26 employees when they have been identified.

27 ///

28 ///

**THE CALIFORNIA LABOR SUB-CLASS**

37. PLAINTIFF further brings the Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth causes Action on behalf of a California sub-class, defined as all members of the CALIFORNIA CLASS who are or previously were employed by DEFENDANT in California and classified as non exempt employees (the “CALIFORNIA LABOR SUB-CLASS”) at any time during the period three (3) years prior to the filing of the complaint and ending on the date as determined by the Court (the “CALIFORNIA LABOR SUB-CLASS PERIOD”) pursuant to Cal. Code of Civ. Proc. § 382. The amount in controversy for the aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under five million dollars (\$5,000,000.00).

38. DEFENDANT, in violation of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order requirements, and the applicable provisions of California law, intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT failed to correctly calculate compensation for the time worked by PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS and reporting time wages owed to these employees, even though DEFENDANT enjoyed the benefit of this work, required employees to perform this work and permitted or suffered to permit this work. DEFENDANT has denied these CALIFORNIA LABOR SUB-CLASS Members wages to which these employees are entitled in order to unfairly cheat the competition and unlawfully profit. To the extent equitable tolling operates to toll claims by the CALIFORNIA LABOR SUB-CLASS against DEFENDANT, the CALIFORNIA LABOR SUB-CLASS PERIOD should be adjusted accordingly.

39. DEFENDANT maintains records from which the Court can ascertain and identify by name and job title, each of DEFENDANT’s employees who have been intentionally subjected to DEFENDANT’s company policy, practices and procedures as herein alleged. PLAINTIFF will seek leave to amend the complaint to include any additional job titles of similarly situated employees when they have been identified.

40. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all CALIFORNIA LABOR SUB-CLASS Members is impracticable.

1           41. Common questions of law and fact exist as to members of the CALIFORNIA  
2 LABOR SUB-CLASS, including, but not limited, to the following:

- 3           (a) Whether DEFENDANT unlawfully failed to correctly calculate and pay  
4 compensation due to members of the CALIFORNIA LABOR SUB-  
5 CLASS for missed meal and rest breaks in violation of the California  
6 Labor Code and California regulations and the applicable California Wage  
7 Order;  
8           (b) Whether DEFENDANT failed to provide the PLAINTIFF and the other  
9 members of the CALIFORNIA LABOR SUB-CLASS with accurate  
10 itemized wage statements;  
11           (c) Whether DEFENDANT has engaged in unfair competition by the  
12 above-listed conduct;  
13           (d) The proper measure of damages and penalties owed to the members of the  
14 CALIFORNIA LABOR SUB-CLASS; and,  
15           (e) Whether DEFENDANT's conduct was willful.

16           42. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS  
17 under California law by:

- 18           (a) Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to correctly pay the  
19 PLAINTIFF and the members of the CALIFORNIA LABOR SUB-  
20 CLASS all wages due for overtime worked, for which DEFENDANT is  
21 liable pursuant to Cal. Lab. Code § 1194;  
22           (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to  
23 accurately pay PLAINTIFF and the members of the CALIFORNIA  
24 LABOR SUB-CLASS the correct minimum wage pay for which  
25 DEFENDANT is liable pursuant to Cal. Lab. Code §§ 1194 and 1197;  
26           (c) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the  
27 members of the CALIFORNIA LABOR SUB-CLASS with an accurate  
28 itemized statement in writing showing the corresponding correct amount

1 of wages earned by the employee;

2 (d) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide  
3 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
4 CLASS with all legally required off-duty, uninterrupted thirty (30) minute  
5 meal breaks and the legally required off-duty rest breaks;

6 (e) Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that  
7 when an employee is discharged or quits from employment, the employer  
8 must pay the employee all wages due without abatement, by failing to  
9 tender full payment and/or restitution of wages owed or in the manner  
10 required by California law to the members of the CALIFORNIA LABOR  
11 SUB-CLASS who have terminated their employment; and,

12 (f) Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF and  
13 the CALIFORNIA LABOR SUB-CLASS members with necessary  
14 expenses incurred in the discharge of their job duties.

15 43. This Class Action meets the statutory prerequisites for the maintenance of a Class  
16 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

17 (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS are  
18 so numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS  
19 Members is impracticable and the disposition of their claims as a class  
20 will benefit the parties and the Court;

21 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues  
22 that are raised in this Complaint are common to the CALIFORNIA  
23 LABOR SUB-CLASS and will apply to every member of the  
24 CALIFORNIA LABOR SUB-CLASS;

25 (c) The claims of the representative PLAINTIFF are typical of the claims of  
26 each member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF,  
27 like all the other members of the CALIFORNIA LABOR SUB-CLASS,  
28 was a non-exempt employee paid on an hourly basis who was subjected

1 to the DEFENDANT's practice and policy which failed to pay the correct  
2 amount of wages due to the CALIFORNIA LABOR SUB-CLASS.  
3 PLAINTIFF sustained economic injury as a result of DEFENDANT's  
4 employment practices. PLAINTIFF and the members of the  
5 CALIFORNIA LABOR SUB-CLASS were and are similarly or  
6 identically harmed by the same unlawful, deceptive, and unfair  
7 misconduct engaged in by DEFENDANT; and,

- 8 (d) The representative PLAINTIFF will fairly and adequately represent and  
9 protect the interest of the CALIFORNIA LABOR SUB-CLASS, and has  
10 retained counsel who are competent and experienced in Class Action  
11 litigation. There are no material conflicts between the claims of the  
12 representative PLAINTIFF and the members of the CALIFORNIA  
13 LABOR SUB-CLASS that would make class certification inappropriate.  
14 Counsel for the CALIFORNIA LABOR SUB-CLASS will vigorously  
15 assert the claims of all CALIFORNIA LABOR SUB-CLASS Members.

16 44. In addition to meeting the statutory prerequisites to a Class Action, this action is  
17 properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

- 18 (a) Without class certification and determination of declaratory, injunctive,  
19 statutory and other legal questions within the class format, prosecution of  
20 separate actions by individual members of the CALIFORNIA LABOR  
21 SUB-CLASS will create the risk of:
- 22 1) Inconsistent or varying adjudications with respect to individual  
23 members of the CALIFORNIA LABOR SUB-CLASS which  
24 would establish incompatible standards of conduct for the parties  
25 opposing the CALIFORNIA LABOR SUB-CLASS; or,
  - 26 2) Adjudication with respect to individual members of the  
27 CALIFORNIA LABOR SUB-CLASS which would as a practical  
28 matter be dispositive of interests of the other members not party to

1 the adjudication or substantially impair or impede their ability to  
2 protect their interests.

3 (b) The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted  
4 or refused to act on grounds generally applicable to the CALIFORNIA  
5 LABOR SUB-CLASS, making appropriate class-wide relief with respect  
6 to the CALIFORNIA LABOR SUB-CLASS as a whole in that  
7 DEFENDANT fails to pay all wages due. Including the correct wages for  
8 all time worked by the members of the CALIFORNIA LABOR SUB-  
9 CLASS as required by law;

10 (c) Common questions of law and fact predominate as to the members of the  
11 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and  
12 violations of California Law as listed above, and predominate over any  
13 question affecting only individual CALIFORNIA LABOR SUB-CLASS  
14 Members, and a Class Action is superior to other available methods for  
15 the fair and efficient adjudication of the controversy, including  
16 consideration of:

17 1) The interests of the members of the CALIFORNIA LABOR SUB-  
18 CLASS in individually controlling the prosecution or defense of  
19 separate actions in that the substantial expense of individual  
20 actions will be avoided to recover the relatively small amount of  
21 economic losses sustained by the individual CALIFORNIA  
22 LABOR SUB-CLASS Members when compared to the substantial  
23 expense and burden of individual prosecution of this litigation;

24 2) Class certification will obviate the need for unduly duplicative  
25 litigation that would create the risk of:

26 A. Inconsistent or varying adjudications with respect to  
27 individual members of the CALIFORNIA LABOR SUB-  
28 CLASS, which would establish incompatible standards of

conduct for the DEFENDANT; and/or,

B. Adjudications with respect to individual members of the CALIFORNIA LABOR SUB-CLASS would as a practical matter be dispositive of the interests of the other members not parties to the adjudication or substantially impair or impede their ability to protect their interests;

3) In the context of wage litigation because a substantial number of individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANT, which may adversely affect an individual's job with DEFENDANT or with a subsequent employer, the Class Action is the only means to assert their claims through a representative; and,

4) A class action is superior to other available methods for the fair and efficient adjudication of this litigation because class treatment will obviate the need for unduly and unnecessary duplicative litigation that is likely to result in the absence of certification of this action pursuant to Cal. Code of Civ. Proc. § 382.

45. This Court should permit this action to be maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382 because:

(a) The questions of law and fact common to the CALIFORNIA LABOR SUB-CLASS predominate over any question affecting only individual CALIFORNIA LABOR SUB-CLASS Members;

(b) A Class Action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the CALIFORNIA LABOR SUB-CLASS because in the context of employment litigation a substantial number of individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their rights individually out of fear of

1                   retaliation or adverse impact on their employment;

2           (c)    The members of the CALIFORNIA LABOR SUB-CLASS are so  
3                   numerous that it is impractical to bring all members of the CALIFORNIA  
4                   LABOR SUB-CLASS before the Court;

5           (d)    PLAINTIFF, and the other CALIFORNIA LABOR SUB-CLASS  
6                   Members, will not be able to obtain effective and economic legal redress  
7                   unless the action is maintained as a Class Action;

8           (e)    There is a community of interest in obtaining appropriate legal and  
9                   equitable relief for the acts of unfair competition, statutory violations and  
10                  other improprieties, and in obtaining adequate compensation for the  
11                  damages and injuries which DEFENDANT's actions have inflicted upon  
12                  the CALIFORNIA LABOR SUB-CLASS;

13          (f)    There is a community of interest in ensuring that the combined assets of  
14                  DEFENDANT are sufficient to adequately compensate the members of  
15                  the CALIFORNIA LABOR SUB-CLASS for the injuries sustained;

16          (g)    DEFENDANT has acted or refused to act on grounds generally applicable  
17                  to the CALIFORNIA LABOR SUB-CLASS, thereby making final class-  
18                  wide relief appropriate with respect to the CALIFORNIA LABOR SUB-  
19                  CLASS as a whole;

20          (h)    The members of the CALIFORNIA LABOR SUB-CLASS are readily  
21                  ascertainable from the business records of DEFENDANT. The  
22                  CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA  
23                  CLASS Members who worked for DEFENDANT in California at any  
24                  time during the CALIFORNIA LABOR SUB-CLASS PERIOD; and,

25          (i)    Class treatment provides manageable judicial treatment calculated to bring  
26                  a efficient and rapid conclusion to all litigation of all wage and hour  
27                  related claims arising out of the conduct of DEFENDANT as to the  
28                  members of the CALIFORNIA LABOR SUB-CLASS.

1 **FIRST CAUSE OF ACTION**

2 **For Unlawful Business Practices**

3 **[Cal. Bus. And Prof. Code §§ 17200, *et seq.*]**

4 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All Defendants)**

5 46. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and  
6 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this  
7 Complaint.

8 47. DEFENDANT is a “person” as that term is defined under Cal. Bus. and Prof.  
9 Code § 17021.

10 48. California Business & Professions Code §§ 17200, *et seq.* (the “UCL”) defines  
11 unfair competition as any unlawful, unfair, or fraudulent business act or practice. Section  
12 17203 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair  
13 competition as follows:

14 Any person who engages, has engaged, or proposes to engage in unfair  
15 competition may be enjoined in any court of competent jurisdiction. The court  
16 may make such orders or judgments, including the appointment of a receiver, as  
17 may be necessary to prevent the use or employment by any person of any practice  
which constitutes unfair competition, as defined in this chapter, or as may be  
necessary to restore to any person in interest any money or property, real or  
personal, which may have been acquired by means of such unfair competition.

18 Cal. Bus. & Prof. Code § 17203.

19 49. By the conduct alleged herein, DEFENDANT has engaged and continues to  
20 engage in a business practice which violates California law, including but not limited to, the  
21 applicable Industrial Wage Order(s), the California Code of Regulations and the California  
22 Labor Code including Sections 204, 210, 221, 226.7, 246, 510, 512, 1194, 1197, 1197.1, 1198,  
23 2802 and the Fair Labor Standards Act and federal regulations promulgated thereunder, for  
24 which this Court should issue declaratory and other equitable relief pursuant to Cal. Bus. &  
25 Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute  
26 unfair competition, including restitution of wages wrongfully withheld.

27 50. By the conduct alleged herein, DEFENDANT’s practices were unlawful and  
28 unfair in that these practices violate public policy, were immoral, unethical, oppressive,

1 unscrupulous or substantially injurious to employees, and were without valid justification or  
2 utility for which this Court should issue equitable and injunctive relief pursuant to Section  
3 17203 of the California Business & Professions Code, including restitution of wages wrongfully  
4 withheld.

5 51. By the conduct alleged herein, DEFENDANT's practices were deceptive and  
6 fraudulent in that DEFENDANT's policy and practice failed to provide the legally mandated  
7 meal and rest periods, the required amount of compensation for missed meal and rest periods  
8 and overtime and minimum wages owed, failed to timely pay wages, and failed to reimburse  
9 al necessary business expenses incurred, and failed to provide Fair Labor Standards Act  
10 overtime wages due for overtime worked as a result of failing to include non-discretionary  
11 incentive compensation into their regular rates of pay for purposes of computing the proper  
12 overtime pay due to a business practice that cannot be justified, pursuant to the applicable Cal.  
13 Lab. Code, and Industrial Welfare Commission requirements in violation of Cal. Bus. Code §§  
14 17200, *et seq.*, and for which this Court should issue injunctive and equitable relief, pursuant  
15 to Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully withheld.

16 52. By the conduct alleged herein, DEFENDANT's practices were also unlawful,  
17 unfair and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the  
18 other members of the CALIFORNIA CLASS to be underpaid during their employment with  
19 DEFENDANT.

20 53. By the conduct alleged herein, DEFENDANT's practices were also unlawful,  
21 unfair and deceptive in that DEFENDANT's policies, practices and procedures failed to provide  
22 all legally required meal breaks to PLAINTIFF and the other members of the CALIFORNIA  
23 CLASS as required by Cal. Lab. Code §§ 226.7 and 512.

24 54. Therefore, PLAINTIFF demands on behalf of himself and on behalf of each  
25 CALIFORNIA CLASS Member, one (1) hour of pay for each workday in which an off-duty  
26 meal period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay  
27 for each workday in which a second off-duty meal period was not timely provided for each ten  
28 (10) hours of work.

1           55. PLAINTIFF further demands on behalf of himself and each member of the  
2 CALIFORNIA LABOR SUB-CLASS, one (1) hour of pay for each workday in which an off  
3 duty paid rest period was not timely provided as required by law.

4           56. By and through the unlawful and unfair business practices described herein,  
5 DEFENDANT has obtained valuable property, money and services from PLAINTIFF and the  
6 other members of the CALIFORNIA CLASS, including earned wages for all time worked, and  
7 has deprived them of valuable rights and benefits guaranteed by law and contract, all to the  
8 detriment of these employees and to the benefit of DEFENDANT so as to allow DEFENDANT  
9 to unfairly compete against competitors who comply with the law.

10           57. All the acts described herein as violations of, among other things, the Industrial  
11 Welfare Commission Wage Orders, the California Code of Regulations, and the California  
12 Labor Code, were unlawful and in violation of public policy, were immoral, unethical,  
13 oppressive and unscrupulous, were deceptive, and thereby constitute unlawful, unfair and  
14 deceptive business practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*

15           58. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to,  
16 and do, seek such relief as may be necessary to restore to them the money and property which  
17 DEFENDANT has acquired, or of which PLAINTIFF and the other members of the  
18 CALIFORNIA CLASS have been deprived, by means of the above described unlawful and  
19 unfair business practices, including earned but unpaid wages for all time worked.

20           59. PLAINTIFF and the other members of the CALIFORNIA CLASS are further  
21 entitled to, and do, seek a declaration that the described business practices are unlawful, unfair  
22 and deceptive, and that injunctive relief should be issued restraining DEFENDANT from  
23 engaging in any unlawful and unfair business practices in the future.

24           60. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain,  
25 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices  
26 of DEFENDANT. Further, the practices herein alleged presently continue to occur unabated.  
27 As a result of the unlawful and unfair business practices described herein, PLAINTIFF and the  
28 other members of the CALIFORNIA CLASS have suffered and will continue to suffer

1 irreparable legal and economic harm unless DEFENDANT is restrained from continuing to  
2 engage in these unlawful and unfair business practices.

3  
4 **SECOND CAUSE OF ACTION**

5 **For Failure To Pay Minimum Wages**

6 **[Cal. Lab. Code §§ 1194, 1197 and 1197.1]**

7 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS**

8 **and Against All Defendants)**

9 61. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-  
10 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior  
11 paragraphs of this Complaint.

12 62. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
13 bring a claim for DEFENDANT's willful and intentional violations of the California Labor  
14 Code and the Industrial Welfare Commission requirements for DEFENDANT's failure to  
15 accurately calculate and pay minimum wages to PLAINTIFF and CALIFORNIA CLASS  
16 Members.

17 63. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and  
18 public policy, an employer must timely pay its employees for all hours worked.

19 64. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the  
20 commission is the minimum wage to be paid to employees, and the payment of a less wage than  
21 the minimum so fixed is unlawful.

22 65. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,  
23 including minimum wage compensation and interest thereon, together with the costs of suit.

24 66. DEFENDANT maintained a wage practice of paying PLAINTIFF and the other  
25 members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct amount of  
26 time they work. As set forth herein, DEFENDANT's policy and practice was to unlawfully and  
27 intentionally deny timely payment of wages due to PLAINTIFF and the other members of the  
28 CALIFORNIA LABOR SUB-CLASS.

1           67. DEFENDANT's unlawful wage and hour practices manifested, without  
2 limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of  
3 implementing a policy and practice that denies accurate compensation to PLAINTIFF and the  
4 other members of the CALIFORNIA LABOR SUB-CLASS in regards to minimum wage pay.

5           68. In committing these violations of the California Labor Code, DEFENDANT  
6 inaccurately calculated the correct time worked and consequently underpaid the actual time  
7 worked by PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS.  
8 DEFENDANT acted in an illegal attempt to avoid the payment of all earned wages, and other  
9 benefits in violation of the California Labor Code, the Industrial Welfare Commission  
10 requirements and other applicable laws and regulations.

11           69. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,  
12 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not  
13 receive the correct minimum wage compensation for their time worked for DEFENDANT.

14           70. During the CALIFORNIA LABOR SUB-CLASS PERIOD, DEFENDANT  
15 required, permitted or suffered PLAINTIFF and CALIFORNIA LABOR SUB-CLASS  
16 Members to work without paying them for all the time they were under DEFENDANT's  
17 control. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the other  
18 members of the CALIFORNIA LABOR SUB-CLASS were paid less for time worked that they  
19 were entitled to, constituting a failure to pay all earned wages.

20           71. By virtue of DEFENDANT's unlawful failure to accurately pay all earned  
21 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
22 CLASS for the true time they worked, PLAINTIFF and the other members of the  
23 CALIFORNIA LABOR SUB-CLASS have suffered and will continue to suffer an economic  
24 injury in amounts which are presently unknown to them and which will be ascertained  
25 according to proof at trial.

26           72. DEFENDANT knew or should have known that PLAINTIFF and the other  
27 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for their time  
28 worked. DEFENDANT elected, either through intentional malfeasance or gross nonfeasance,

1 to not pay employees for their labor as a matter of company policy, practice and procedure, and  
2 DEFENDANT perpetrated this scheme by refusing to pay PLAINTIFF and the other members  
3 of the CALIFORNIA LABOR SUB-CLASS the correct minimum wages for their time worked.

4 73. In performing the acts and practices herein alleged in violation of California labor  
5 laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for  
6 all time worked and provide them with the requisite compensation, DEFENDANT acted and  
7 continues to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other  
8 members of the CALIFORNIA LABOR SUB-CLASS with a conscious and utter disregard for  
9 their legal rights, or the consequences to them, and with the despicable intent of depriving them  
10 of their property and legal rights, and otherwise causing them injury in order to increase  
11 company profits at the expense of these employees.

12 74. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
13 therefore request recovery of all unpaid wages, according to proof, interest, statutory costs, as  
14 well as the assessment of any statutory penalties against DEFENDANT, in a sum as provided  
15 by the California Labor Code and/or other applicable statutes. To the extent minimum wage  
16 compensation is determined to be owed to the CALIFORNIA LABOR SUB-CLASS Members  
17 who have terminated their employment, DEFENDANT's conduct also violates Labor Code §§  
18 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties  
19 under Cal. Lab. Code § 203, which penalties are sought herein on behalf of these  
20 CALIFORNIA LABOR SUB-CLASS Members. DEFENDANT's conduct as alleged herein  
21 was willful, intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA  
22 LABOR SUB-CLASS Members are entitled to seek and recover statutory costs.

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1 **THIRD CAUSE OF ACTION**

2 **For Failure To Pay Overtime Compensation**

3 **[Cal. Lab. Code §§ 510, *et seq.*]**

4 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**  
5 **Defendants)**

6 75. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,  
7 reallege and incorporate by this reference, as though full set forth herein, the prior paragraphs  
8 of this Complaint.

9 76. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
10 bring a claim for DEFENDANT's willful and intentional violations of the California Labor  
11 Code and the Industrial Welfare Commission requirements for DEFENDANT's failure to pay  
12 these employees for all overtime worked, including, work performed in excess of eight (8)  
13 hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any  
14 workweek.

15 77. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and  
16 public policy, an employer must timely pay its employees for all hours worked.

17 78. Cal. Lab. Code § 510 further provides that employees in California shall not be  
18 employed more than eight (8) hours per workday and more than forty (40) hours per workweek  
19 unless they receive additional compensation beyond their regular wages in amounts specified  
20 by law.

21 79. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,  
22 including minimum wage and overtime compensation and interest thereon, together with the  
23 costs of suit. Cal. Lab. Code § 1198 further states that the employment of an employee for  
24 longer hours than those fixed by the Industrial Welfare Commission is unlawful.

25 80. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and  
26 CALIFORNIA LABOR SUB-CLASS Members were required, permitted or suffered by  
27 DEFENDANT to work for DEFENDANT and were not paid for all the time they worked,  
28 including overtime work.

1           81. DEFENDANT's unlawful wage and hour practices manifested, without  
2 limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of  
3 implementing a policy and practice that failed to accurately record overtime worked by  
4 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members and denied accurate  
5 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
6 CLASS for overtime worked, including, the overtime work performed in excess of eight (8)  
7 hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any  
8 workweek.

9           82. In committing these violations of the California Labor Code, DEFENDANT  
10 inaccurately recorded overtime worked and consequently underpaid the overtime worked by  
11 PLAINTIFF and other CALIFORNIA LABOR-SUB CLASS Members. DEFENDANT acted  
12 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation  
13 of the California Labor Code, the Industrial Welfare Commission requirements and other  
14 applicable laws and regulations.

15           83. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,  
16 the PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not  
17 receive full compensation for overtime worked.

18           84. Cal. Lab. Code § 515 sets out various categories of employees who are exempt  
19 from the overtime requirements of the law. None of these exemptions are applicable to the  
20 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS. Further,  
21 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS were not  
22 subject to a valid collective bargaining agreement that would preclude the causes of action  
23 contained herein this Complaint. Rather, PLAINTIFF brings this Action on behalf of himself  
24 and the CALIFORNIA LABOR SUB-CLASS based on DEFENDANT's violations of non-  
25 negotiable, non-waiveable rights provided by the State of California.

26           85. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the  
27 other members of the CALIFORNIA LABOR SUB-CLASS have been paid less for overtime  
28 worked that they are entitled to, constituting a failure to pay all earned wages..

1           86.     DEFENDANT failed to accurately pay the PLAINTIFF and the other members  
2 of the CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which  
3 was in excess of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510,  
4 1194 & 1198, even though PLAINTIFF and the other members of the CALIFORNIA LABOR  
5 SUB-CLASS were required to work, and did in fact work, overtime as to which DEFENDANT  
6 failed to accurately record and pay as evidenced by DEFENDANT's business records and  
7 witnessed by employees.

8           87.     By virtue of DEFENDANT's unlawful failure to accurately pay all earned  
9 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
10 CLASS for the true amount of time they worked, PLAINTIFF and the other members of the  
11 CALIFORNIA LABOR SUB-CLASS have suffered and will continue to suffer an economic  
12 injury in amounts which are presently unknown to them and which will be ascertained  
13 according to proof at trial.

14           88.     DEFENDANT knew or should have known that PLAINTIFF and the other  
15 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for all overtime  
16 worked. DEFENDANT elected, either through intentional malfeasance or gross nonfeasance,  
17 to not pay employees for their labor as a matter of company policy, practice and procedure, and  
18 DEFENDANT perpetrated this scheme by refusing to pay PLAINTIFF and the other members  
19 of the CALIFORNIA LABOR SUB-CLASS for overtime worked.

20           89.     In performing the acts and practices herein alleged in violation of California labor  
21 laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for  
22 all overtime worked and provide them with the requisite overtime compensation, DEFENDANT  
23 acted and continues to act intentionally, oppressively, and maliciously toward PLAINTIFF and  
24 the other members of the CALIFORNIA LABOR SUB-CLASS with a conscious of and utter  
25 disregard for their legal rights, or the consequences to them, and with the despicable intent of  
26 depriving them of their property and legal rights, and otherwise causing them injury in order  
27 to increase company profits at the expense of these employees.

28           90.     PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS

1 therefore request recovery of all overtime wages, according to proof, interest, statutory costs,  
2 as well as the assessment of any statutory penalties against DEFENDANT, in a sum as provided  
3 by the California Labor Code and/or other applicable statutes. To the extent minimum and/or  
4 overtime compensation is determined to be owed to the CALIFORNIA LABOR SUB-CLASS  
5 Members who have terminated their employment, DEFENDANT's conduct also violates Labor  
6 Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time  
7 penalties under Cal. Lab. Code § 203, which penalties are sought herein on behalf of these  
8 CALIFORNIA LABOR SUB-CLASS Members. DEFENDANT's conduct as alleged herein  
9 was willful, intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA  
10 LABOR SUB-CLASS Members are entitled to seek and recover statutory costs.

#### **FOURTH CAUSE OF ACTION**

##### **For Failure to Provide Required Meal Periods**

**[Cal. Lab. Code §§ 226.7 & 512 ]**

**(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All  
Defendants)**

17 91. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,  
18 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs  
19 of this Complaint.

20 92. During the CALIFORNIA CLASS PERIOD, DEFENDANT from time to time  
21 failed to provide all the legally required off-duty meal breaks to PLAINTIFF and the other  
22 CALIFORNIA LABOR SUB-CLASS Members as required by the applicable Wage Order and  
23 Labor Code. The nature of the work performed by PLAINTIFF and CALIFORNIA LABOR  
24 SUB-CLASS MEMBERS did not prevent these employees from being relieved of all of their  
25 duties for the legally required off-duty meal periods. As a result of their rigorous work  
26 schedules, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were from  
27 time to time not fully relieved of duty by DEFENDANT for their meal periods. Additionally,  
28 DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS

1 Members with legally required meal breaks prior to their fifth (5th) hour of work is evidenced  
2 by DEFENDANT's business records from time to time. Further, DEFENDANT failed to  
3 provide PLAINTIFF and CALIFORNIA CLASS Members with a second off-duty meal period  
4 in some workdays in which these employees were required by DEFENDANT to work ten (10)  
5 hours of work from time to time. As a result, PLAINTIFF and other members of the  
6 CALIFORNIA LABOR SUB-CLASS therefore forfeited meal breaks without additional  
7 compensation and in accordance with DEFENDANT's strict corporate policy and practice.

8 93. DEFENDANT further violates California Labor Code §§ 226.7 and the applicable  
9 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR SUB-  
10 CLASS Members who were not provided a meal period, in accordance with the applicable  
11 Wage Order, one additional hour of compensation at each employee's regular rate of pay for  
12 each workday that a meal period was not provided.

13 94. As a proximate result of the aforementioned violations, PLAINTIFF and  
14 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according  
15 to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of  
16 suit.

17  
18 **FIFTH CAUSE OF ACTION**

19 **For Failure to Provide Required Rest Periods**

20 **[Cal. Lab. Code §§ 226.7 & 512 ]**

21 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**  
22 **Defendants)**

23 95. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,  
24 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs  
25 of this Complaint.

26 96. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were from  
27 time to time required to work in excess of four (4) hours without being provided ten (10) minute  
28 rest periods. Further, these employees from time to time were denied their first rest periods of

1 at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and  
2 second rest period of at least ten (10) minutes for some shifts worked of between six (6) and  
3 eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for some  
4 shifts worked of ten (10) hours or more from time to time. PLAINTIFF and other  
5 CALIFORNIA LABOR SUB-CLASS Members were also not provided with one hour wages  
6 in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF and other  
7 CALIFORNIA LABOR SUB-CLASS Members were periodically denied their proper rest  
8 periods by DEFENDANT and DEFENDANT's managers.

9 97. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable  
10 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR SUB-  
11 CLASS Members who were not provided a rest period, in accordance with the applicable Wage  
12 Order, one additional hour of compensation at each employee's regular rate of pay for each  
13 workday that rest period was not provided.

14 98. As a proximate result of the aforementioned violations, PLAINTIFF and  
15 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according  
16 to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of  
17 suit.

## 18 **SIXTH CAUSE OF ACTION**

### 19 **For Failure to Provide Accurate Itemized Statements**

20 **[Cal. Lab. Code § 226]**

21 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**  
22 **Defendants)**

23 99. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-  
24 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior  
25 paragraphs of this Complaint.

26 100. Cal. Labor Code § 226 provides that an employer must furnish employees with  
27 an "accurate itemized" statement in writing showing:

28 (1) gross wages earned,

1 (2) total hours worked by the employee, except for any employee whose  
2 compensation is solely based on a salary and who is exempt from payment of  
overtime under subdivision (a) of Section 515 or any applicable order of the  
Industrial Welfare Commission,  
3 (3) the number of piece-rate units earned and any applicable piece rate if the employee  
is paid on a piece-rate basis,  
4 (4) all deductions, provided that all deductions made on written orders of the  
employee may be aggregated and shown as one item,  
5 (5) net wages earned,  
6 (6) the inclusive dates of the period for which the employee is paid,  
7 (7) the name of the employee and his or her social security number, except that by  
January 1, 2008, only the last four digits of his or her social security number or an  
employee identification number other than a social security number may be shown on  
the itemized statement,  
8 (8) the name and address of the legal entity that is the employer, and  
9 (9) all applicable hourly rates in effect during the pay period and the corresponding  
number of hours worked at each hourly rate by the employee.

10 101. From time to time, DEFENDANT also failed to provide PLAINTIFF and the  
11 other members of the CALIFORNIA LABOR SUB-CLASS with complete and accurate  
12 wage statements which failed to show, among other things, the correct gross and net wages  
13 earned. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her  
14 employees with an accurate itemized wage statement in writing showing, among other  
15 things, gross wages earned and all applicable hourly rates in effect during the pay period and  
16 the corresponding amount of time worked at each hourly rate. Aside, from the violations  
17 listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF an itemized  
18 wage statement that lists all the requirements under California Labor Code 226 *et seq.* As a  
19 result, DEFENDANT from time to time provided PLAINTIFF and the other members of the  
20 CALIFORNIA LABOR SUB-CLASS with wage statements which violated Cal. Lab. Code  
21 § 226.

22 102. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab.  
23 Code § 226, causing injury and damages to PLAINTIFF and the other members of the  
24 CALIFORNIA LABOR SUB-CLASS. These damages include, but are not limited to, costs  
25 expended calculating the correct wages for all missed meal and rest breaks and the amount  
26 of employment taxes which were not properly paid to state and federal tax authorities.  
27 These damages are difficult to estimate. Therefore, PLAINTIFF and the other members of  
28 the CALIFORNIA LABOR SUB-CLASS may elect to recover liquidated damages of fifty

1 dollars (\$50.00) for the initial pay period in which the violation occurred, and one hundred  
2 dollars (\$100.00) for each violation in a subsequent pay period pursuant to Cal. Lab. Code §  
3 226, in an amount according to proof at the time of trial (but in no event more than four  
4 thousand dollars (\$4,000.00) for PLAINTIFF and each respective member of the  
5 CALIFORNIA LABOR SUB-CLASS herein).

6  
7 **SEVENTH CAUSE OF ACTION**

8 **For Failure to Reimburse Employees for Required Expenses**

9 **[Cal. Lab. Code § 2802]**

10 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**  
11 **Defendants)**

12 103. PLAINTIFF and the other CALIFORNIA LABOR SUB-CLASS members  
13 reallege and incorporate by this reference, as though fully set forth herein, the prior  
14 paragraphs of this Complaint.

15 104. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

19 105. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802,  
20 by failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-  
21 CLASS members for required expenses incurred in the discharge of their job duties for  
22 DEFENDANT's benefit. DEFENDANT failed to reimburse PLAINTIFF and the  
23 CALIFORNIA LABOR SUB-CLASS members for expenses which included, but were not  
24 limited to, costs related to using their personal cellular phones on behalf of and for the  
25 benefit of DEFENDANT. Specifically, PLAINTIFF and other CALIFORNIA LABOR  
26 SUB-CLASS Members were required by DEFENDANT to use their personal cellular  
27 phones in order to perform work related job tasks. DEFENDANT's policy and practice was  
28

1 to not reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for  
2 expenses resulting from using their personal cellular phones for DEFENDANT within the  
3 course and scope of their employment for DEFENDANT. These expenses were necessary  
4 to complete their principal job duties. DEFENDANT is estopped by DEFENDANT's  
5 conduct to assert any waiver of this expectation. Although these expenses were necessary  
6 expenses incurred by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members,  
7 DEFENDANT failed to indemnify and reimburse PLAINTIFF and the CALIFORNIA  
8 LABOR SUB-CLASS members for these expenses as an employer is required to do under  
9 the laws and regulations of California.

10 106. PLAINTIFF therefore demands reimbursement for expenditures or losses  
11 incurred by herself and the CALIFORNIA LABOR SUB-CLASS members in the discharge  
12 of their job duties for DEFENDANT, or their obedience to the directions of DEFENDANT,  
13 with interest at the statutory rate and costs under Cal. Lab. Code § 2802.

14 **EIGHTH CAUSE OF ACTION**

15 **For Failure to Pay Wages When Due**

16 **[ Cal. Lab. Code §§ 201, 202, 203]**

17 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS**  
18 **and Against All Defendants)**

19 104. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-  
20 CLASS, reallege and incorporate by reference, as though fully set forth herein, the prior  
21 paragraphs of this Complaint.

22 105. Cal. Lab. Code § 200 provides, in relevant part, that:  
23 As used in this article:

- 24 (a) "Wages" includes all amounts for labor performed by employees of  
every description, whether the amount is fixed or ascertained by the  
25 standard of time, task, piece, Commission basis, or other method of calculation.  
26 (b) "Labor" includes labor, work, or service whether rendered or  
performed under contract, subcontract, partnership, station plan, or other  
27 agreement if the labor to be paid for is performed personally by the person  
demanding payment.

28 106. Cal. Lab. Code § 201 provides, in relevant part, "that If an employer

1 discharges an employee, the wages earned and unpaid at the time of discharge are due and  
2 payable immediately.”

3 107. Cal. Lab. Code § 202 provides, in relevant part, that:

4 If an employee not having a written contract for a definite period quits his  
5 or her employment, his or her wages shall become due and payable not  
6 later than 72 hours thereafter, unless the employee has given 72 hours  
7 previous notice of his or her intention to quit, in which case the employee  
8 is entitled to his or her wages at the time of quitting. Notwithstanding any  
9 other provision of law, an employee who quits without providing a 72-  
10 hour notice shall be entitled to receive payment by mail if he or she so  
11 requests and designates a mailing address. The date of the mailing shall  
12 constitute the date of payment for purposes of the requirement to provide  
13 payment within 72 hours of the notice of quitting.

14 108. There was no definite term in PLAINTIFF’s or any CALIFORNIA LABOR  
15 SUB-CLASS Members’ employment contract.

16 109. Cal. Lab. Code § 203 provides, in relevant part, that:

17 If an employer willfully fails to pay, without abatement or reduction, in  
18 accordance with Sections 201, 201.5, 202, and 205.5, any wages of an  
19 employee who is discharged or who quits, the wages of the employee shall  
20 continue as a penalty from the due date thereof at the same rate until paid  
21 or until an action therefor is commenced; but the wages shall not continue  
22 for more than 30 days.

23 110. The employment of PLAINTIFF and many CALIFORNIA LABOR SUB-  
24 CLASS Members has terminated and DEFENDANT has not tendered payment of all wages  
25 owed as required by law.

26 111. Therefore, as provided by Cal Lab. Code § 203, on behalf of herself and the  
27 members of the CALIFORNIA LABOR SUB-CLASS whose employment has terminated  
28 and who have not been fully paid their wages due to them, PLAINTIFF demands thirty days  
of pay as penalty for not paying all wages due at time of termination for all employees who  
terminated employment during the CALIFORNIA LABOR SUB-CLASS PERIOD and  
demands an accounting and payment of all wages due, plus interest and statutory costs as  
allowed by law.

### **PRAYER FOR RELIEF**

WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and

severally, as follows:

1. On behalf of the CALIFORNIA CLASS:

- A) That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
- B) An order temporarily, preliminarily and permanently enjoining and restraining DEFENDANT from engaging in similar unlawful conduct as set forth herein;
- C) An order requiring DEFENDANT to pay all wages and all sums unlawfully withheld from compensation due to PLAINTIFF and the other members of the CALIFORNIA CLASS; and,
- D) Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund for restitution of the sums incidental to DEFENDANT's violations due to PLAINTIFF and to the other members of the CALIFORNIA CLASS.

2. On behalf of the CALIFORNIA LABOR SUB-CLASS:

- A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
- B) Compensatory damages, according to proof at trial, including compensatory damages for minimum and overtime compensation due PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS, during the applicable CALIFORNIA LABOR SUB-CLASS PERIOD plus interest thereon at the statutory rate;
- C) The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per each member of the CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226;
- D) Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the applicable IWC Wage Order;

- 1 E) For liquidated damages pursuant to California Labor Code Sections 1194.2 and  
2 1197;
- 3 F) The amount of the expenses PLAINTIFF and each member of the CALIFORNIA  
4 LABOR SUBCLASS incurred in the course of their job duties, plus interest, and  
5 costs of suit.; and,
- 6 G) The wages of all terminated employees in the CALIFORNIA LABOR  
7 SUB-CLASS as a penalty from the due date thereof at the same rate until paid or  
8 until an action therefore is commenced, in accordance with Cal. Lab. Code § 203.

9 3. On all claims:

- 10 A) An award of interest, including prejudgment interest at the legal rate;
- 11 B) Such other and further relief as the Court deems just and equitable; and,
- 12 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the  
13 law, including, but not limited to, pursuant to Labor Code §221, §226, §1194,  
14 and/or §2802.

15 Dated: April 22, 2022

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

17  
18 By: \_\_\_\_\_  
19 Norman B. Blumenthal  
20 Attorneys for Plaintiff  
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**DEMAND FOR A JURY TRIAL**

PLAINTIFF demands a jury trial on issues triable to a jury.

Dated: April 22, 2022

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: \_\_\_\_\_  
Norman B. Blumenthal  
Attorneys for Plaintiff

**SHANE LAW, P.C.**  
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**EXHIBIT #4**

**BLUMENTHAL NORDREHAUG BHOWMIK  
DE BLOUW LLP**

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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

SONNY RATTLER, an individual, on behalf  
of himself and on behalf of all persons  
similarly situated, and on behalf of the State of  
California, as private attorney general,

Plaintiff,

vs.

PACIFIC COAST CONTAINER, INC., a  
California Corporation; and DOES 1 through  
50, inclusive,

Defendants.

**CASE NO.: 22CV015216**

*[Consolidated with Case No. 22CV015223]*

**DECLARATION OF SEAN  
HARTRANFT IN SUPPORT OF  
MOTION FOR PRELIMINARY  
APPROVAL OF CLASS ACTION AND  
PAGA SETTLEMENT**

Hearing Date: April 3, 2024\_

Hearing Time: 2:30 p.m.

Judge: Hon. Tara Desautels

Dept: 23

Date Filed: July 28, 2022

Trial Date: Not set

**DECLARATION OF SEAN HARTRANFT**

I, Sean Hartranft, declare as follows:

1. I am the Chief Executive Officer of Apex Class Action LLC., a class action settlement administration company headquartered in Irvine, California. I have personal knowledge of the facts outlined in this declaration and, if called as a witness, I could and would competently testify thereto.

2. Apex Class Action's team has been directly involved with class action administration for a combined 15 years and has successfully managed numerous class action cases during that time. Our team comprises experienced professionals with extensive knowledge of class action settlement administration. In addition, Apex Class Action has the necessary technology and infrastructure to efficiently manage large-scale class action cases. We utilize state-of-the-art software and systems to ensure that all aspects of the administration process are executed accurately and efficiently.

3. The legal practitioners or parties involved do not possess any form of ownership stake or affiliation with Apex Class Action.

4. Apex Class Action has extensive expertise in the dissemination of class action notices and administration of class action settlements. Our range of services includes first-class mail via the United States Postal Service, a bilingual toll-free call center, interactive & static website development and support, enterprise database management, response processing, and Qualified Settlement Fund (QSF) distribution for class actions of various sizes. We uphold the highest level of confidentiality in all our operations, and any class data and communication received by us will be treated with the utmost confidentiality and will not be disclosed to any unauthorized party. Attached is our current CV as **Exhibit A**, highlighting our primary competencies in class action administration.

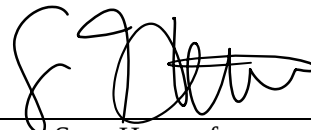
5. Apex Class Action ensures that Client and Class Member Information is only used for the purposes specified in the relevant agreements or court orders governing the provision of its legal services. To safeguard class member information, Apex Class Action has implemented a comprehensive process to identify, assess, and mitigate risks in all areas of its operations, regularly evaluating the effectiveness of its security measures. Access to class member information is limited to employees, agents, or subcontractors who require it to perform their duties, and Apex Class Action conducts background checks on all personnel with access to sensitive personal information, to ensure they do not pose a threat to the

1 security of client or class member information. To guarantee the security of the settlement administration  
2 process, Apex Class Action maintains Professional Liability and Cyber Liability Insurance coverage, as  
3 required by legal standards and best practices in the legal profession.

4 6. Apex Class Action disbursement process involves (i) obtaining a Federal Employer  
5 Identification Number (FEIN) from the Internal Revenue Service (IRS) under the name of the settlement  
6 case; (ii) establishing a QSF to manage the distribution of settlement funds; (iii) conducting preliminary  
7 and final calculations to determine the individual settlement amounts, including attorneys' fees, costs,  
8 enhancement awards, and any other court-approved designees; (iv) calculating and reporting state and  
9 federal taxes as applicable; (v) and disseminating approved settlement funds and tax forms via First-Class  
10 USPS mail.

11 7. The administration fees for Apex Class Action's management of this settlement will not  
12 exceed \$10,500.00, as specified in **Exhibit B**. This document presents a comprehensive plan detailing the  
13 specific administration services that will be provided.

14  
15 I declare under penalty of perjury under the laws of the state of California that the foregoing is  
16 true and correct. Executed this 11th day of March 2024, in Irvine, California.

17  
18 

19 Sean Hartranft

# EXHIBIT A



## CASE TYPES

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- Wage & Hour
- Private Attorneys  
General Act (PAGA)
- Belaire West
- Class Certification
- Fair Labor Standards  
Act (FLSA)
- Telephone Consumer  
Protection Act (TCPA)
- Employee Retirement  
Income Security Act  
(ERISA)
- Consumer
- Product Liability

## SUMMARY

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Apex Class Action is a team of experienced professionals with a strong understanding of the legal processes and procedures surrounding the settlement of class action lawsuits. As an organization, we possess excellent communication and organizational skills that are combined with innovative technology to efficiently manage complex projects and timelines.

From pre-settlement consultation to final disbursement, our technology platform and data security management measures are centered around integration, automation, and observability to ensure that class members are quickly and accurately paid.

## PRELIMINARY CONSULTATION

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Our complimentary preliminary consultation is used to create a framework for ensuring that all parties understand the project's scope, timeline, and budget. After establishing objectives and expectations between the plaintiff and defense counsel, our team will explore any additional opportunities to identify potential class members. Going as far as providing a detailed interactive banner ad campaign and print media options to achieve maximum reach.

## CASE MANAGEMENT

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Our expert Data Managers and Senior Case Executives oversee the administration of all class action lawsuits, ensuring compliance with court orders, settlement agreements, and industry standards. We work closely with the plaintiff and defense counsel to manage the settlement process, including the funding and distribution of settlement funds to eligible class members.

Our mailing and notification services start with data scrubbing and creation of a class database to ensure the correct contact information of all class members. Furthermore, the class data base will then be validated using the USPS National Change of Address (NCOA) database. Court certified translation with over 65 languages are available.. If mail is returned as undeliverable, all notices will be re-mailed after obtaining an updated address through skip tracing the class members' contact information.



To ensure transparency throughout the entire process, a steady cadence of reports, as defined during the preliminary consultation, is generated throughout the administration process for both the plaintiff and defense counsel.

Our ability to offer cost-effective pricing is based on our expertise in utilizing cutting-edge technology, highly skilled professionals, and an optimized process. If the courts approve the use of the latest electronic notification methods, such as email and banner ads, this solution will provide both certainty and cost-effectiveness. By utilizing electronic disbursement, we can offer a highly efficient strategy where settlement awards are delivered directly to class members without the potential drawbacks associated with traditional mail delivery.

## **TAX COMPLIANCE & CASE RESOLUTION**

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Apex's proprietary technology to manage the qualified settlement fund (QSF) administration allows us to efficiently handle the process from procurement of an FDIC-insured bank account all the way to preparing and filing 1120-SF tax returns. Our full suite of QSF services includes:

- Preparing Documents
- Opening FID-Insured Bank Account
- Timely Reporting of QSF Balance
- Prepare And File 1120-SF Tax Returns with Quarterly Tax Obligations
- Obtaining QSF Tax ID
- Treasury Management
- QSF Audit Reports

## **CONTACT**

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**Address**  
PO Box 54668  
Irvine, CA 92619

**Email**  
[Info@apexclassaction.com](mailto:Info@apexclassaction.com)

**Phone**  
1.800.355.0700

# **EXHIBIT B**



**Quotation Request:**

Kyle Nordrehaug  
Blumenthal Nordrehaug Bhowmik De Blouw LLP  
kyle@bamlawca.com  
858.551.1223

**Case Name:**

Date:  
RFP Number:

**Sonny Rattler v. Pacific Coast Container**

Wednesday, July 12, 2023  
12230015

**Prepared By:**

Sean Hartranft  
Apex Class Action LLC  
Sean@apexclassaction.com  
949.878.3676

| Settlement Specifications        |     |
|----------------------------------|-----|
| Estimated Class Size:            | 460 |
| Certified Language Translation:  | Yes |
| Static Settlement Website        | Yes |
| Percentage of Undeliverable Mail | 20% |

| Professional Services | Fee Calculation | Rate(s) | Quantity | Estimated Cost |
|-----------------------|-----------------|---------|----------|----------------|
|-----------------------|-----------------|---------|----------|----------------|

| Data Analytics and Standardization                                                                                 |          |          |   |          |
|--------------------------------------------------------------------------------------------------------------------|----------|----------|---|----------|
| Import and Standardize Data*                                                                                       | Per Hour | \$125.00 | 2 | \$250.00 |
| Data Analyst                                                                                                       | Per Hour | \$150.00 | 2 | \$300.00 |
| *Data provided must be in a workable format. Apex can standardize provided data at an additional cost of \$150/hr. |          |          |   |          |
| Sub Total:                                                                                                         |          |          |   | \$550.00 |

| Mailing of Class Notice                                    |             |            |     |            |
|------------------------------------------------------------|-------------|------------|-----|------------|
| Form Set Up                                                | Per Hour    | \$120.00   | 1   | \$120.00   |
| Print & Mail Class Notice                                  | Per Piece   | \$1.50     | 460 | \$690.00   |
| USPS First Class Postage                                   | Per Piece   | \$0.60     | 460 | \$276.00   |
| Remail Undeliverable Mail (Skip-Trace)                     | Per Piece   | \$2.00     | 92  | \$184.00   |
| Receive and Process Undeliverable Mail                     | Per Hour    | \$75.00    | 1   | \$75.00    |
| Process Class Member Correspondence via mail, e-mail & fax | Per Piece   | \$75.00    | 2   | \$150.00   |
| NCOA Address Update (USPS)                                 | Static Rate | \$79.00    | 1   | \$79.00    |
| Certified Language Translation: Spanish                    | Static Rate | \$1,200.00 | 1   | \$1,200.00 |
| Sub Total:                                                 |             |            |     | \$2,774.00 |

| Project Management         |          |          |   |          |
|----------------------------|----------|----------|---|----------|
| Project Management         | Per Hour | \$150.00 | 2 | \$300.00 |
| Project Coordinator        | Per Hour | \$90.00  | 2 | \$180.00 |
| Data Analyst and Reporting | Per Hour | \$140.00 | 1 | \$140.00 |
| Sub Total:                 |          |          |   | \$620.00 |



# APEX

**CLASS ACTION ADMINISTRATION**

| Professional Services | Fee Calculation | Rate(s) | Quantity | Estimated Cost |
|-----------------------|-----------------|---------|----------|----------------|
|-----------------------|-----------------|---------|----------|----------------|

| Toll-Free Contact Center, Website & Reporting |             |          |   |          |
|-----------------------------------------------|-------------|----------|---|----------|
| Bilingual Toll-Free Contact Center            | Static Rate | \$80.00  | 1 | \$80.00  |
| Settlement Website: Static Apex URL           | Static Rate | \$500.00 | 1 | \$500.00 |
| Settlement Status Reports                     | Static Rate | \$750.00 | 1 | Waived   |
| Sub Total:                                    |             |          |   | \$580.00 |

| Distribution & Settlement Fund Management                   |             |            |     |            |
|-------------------------------------------------------------|-------------|------------|-----|------------|
| Settlement Calculations (Preliminary and Final)             | Per Hour    | \$140.00   | 3   | \$420.00   |
| Account Management and Reconciliation                       | Per Hour    | \$140.00   | 3   | \$420.00   |
| Print & Mail Distribution Settlement Check (W-2/1099)       | Per Piece   | \$1.50     | 460 | \$690.00   |
| USPS First Class Postage                                    | Per Piece   | \$0.60     | 460 | \$276.00   |
| Remail Distribution to Updated Address (Skip Trace)         | Per Piece   | \$2.00     | 46  | \$92.00    |
| Reminder Postcard, USPS Postcard Postage                    | Per Piece   | \$1.00     | 138 | \$138.00   |
| Reminder Notice via Social Media Platforms and E-mail       | Static Rate | \$125.00   | 1   | \$125.00   |
| Individual Income Tax Preparation & Reporting               | Per Hour    | \$100.00   | 10  | \$1,000.00 |
| QSF Income Tax Reporting (per calendar year)                | Per Year    | \$1,250.00 | 1   | \$1,250.00 |
| Unclaimed Funds: State Controller's Unclaimed Property Fund | Static Rate | \$500.00   | 1   | \$500.00   |
| Sub Total:                                                  |             |            |     | \$4,911.00 |

| Post Distribution Reconciliation  |          |          |   |            |
|-----------------------------------|----------|----------|---|------------|
| Bank Account Reconciliation       | Per Hour | \$135.00 | 3 | \$405.00   |
| Project Management Reconciliation | Per Hour | \$100.00 | 3 | \$300.00   |
| Declarations                      | Per Hour | \$120.00 | 3 | \$360.00   |
| Sub Total:                        |          |          |   | \$1,065.00 |

|                                     |  |  |  |  |
|-------------------------------------|--|--|--|--|
| <b>WILL NOT EXCEED: \$10,500.00</b> |  |  |  |  |
|-------------------------------------|--|--|--|--|

Thank you for your business!



## Terms & Conditions

The following Terms and Conditions govern the provision of all services to be provided by Apex Class Action and its affiliates ("Apex") to the Client. These terms and conditions are binding and shall apply to all services provided by Apex in relation to any related services or products.

1. Services: Apex commits to providing the Client with the administrative services detailed in the attached Proposal (the "Services").

2. Payment Terms: As compensation for the legal services to be provided, the Client agrees to pay Apex all fees detailed in the Proposal. The fees quoted in the Proposal (and any subsequent proposals for additional services) are estimates based on the information provided to Apex by the Client. Apex makes no representation that the estimated fees in the Proposal or any subsequent proposals for additional services shall equal the actual fees charged by Apex to the Client, which fees (including individual line items) may be greater or less than estimated. If additional services are requested on an hourly basis and are not specifically detailed in the Proposal, Apex will prepare estimates for such services subject to approval by the Client. In the performance of such additional services, Apex will charge standard hourly fees which shall apply.

3. Incurred Expenses: In relation to the provision of services outlined in this agreement, the Client agrees to reimburse Apex for all reasonable out-of-pocket expenses incurred. Such expenses may include, but are not limited to, costs associated with postage, media production or publication, banking fees, brokerage fees, messenger and delivery service expenses, travel expenses, filing fees, office supplies, meals, staff overtime expenses, and other related costs and expenses. If not otherwise specified in writing, fees for print notice and certain expenses, such as media publication and postage, must be paid immediately upon invoicing and, in certain cases, at least ten (10) days prior to the date on which such expenses will be incurred.

4. Invoicing: Apex shall present invoices for its fees and expenses on a monthly basis, except as provided in Section 3. The Client agrees to pay each invoice within 30 days of receipt. In case of non-payment within 90 days of the billing date, an additional service charge of 1.5% per month may apply. Apex reserves the right to increase its prices, charges, and rates annually, subject to reasonable adjustments. If any price increases exceed 10%, Apex shall give thirty (30) days' notice to the Client. In the event of any unpaid invoices beyond 120 days of the due date, Apex reserves the right to withhold services and reports until payment is received, subject to notice to the Client. It is important to note that Apex's failure to provide services and reports in such instances shall not constitute a default under this agreement.

5. Case Duration: The duration of these Terms and Conditions, except for the data storage obligations stated in Section 13, shall be in effect until 30 days following the completion of the Services as described in the Proposal. The parties may extend these Terms and Conditions in writing for a mutually agreed-upon period beyond this initial 30-day period.

6. Termination of Services: Either party may terminate the Services by providing thirty (30) days written notice to the other party. Alternatively, termination may occur immediately upon written notice for Cause, as defined below. Cause means (i) Apex's gross negligence or willful misconduct that causes serious and material harm to the Client; (ii) the Client's failure to pay Apex invoices for more than one hundred twenty (120) days from the date of the invoice; or (iii) the accrual of invoices or unpaid services where Apex reasonably believes it will not be paid. Termination of the Services shall not relieve the Client of its obligation to pay Apex for services rendered prior to the termination.

7. Independent Contractor: As an independent contractor, Apex will provide services under the terms of this agreement. It is agreed that neither Apex nor any of its employees will be considered an employee of the Client. Consequently, Apex and its employees will not be eligible for any benefits provided by the Client to its employees. The Client will not make any tax deductions from the payments due to Apex for state or federal tax purposes. Apex will be solely responsible for paying all taxes and other payments due on payments received from the Client under this agreement.

8. Apex warrants that the Services outlined in the Proposal will be performed in accordance with the standards generally adhered to by professionals providing similar services. It is acknowledged that the Services may entail the likelihood of some human and machine errors, omissions, delays, and losses that may result in damage. However, Apex shall not be held liable for such errors, omissions, delays, or losses unless they are caused by its gross negligence or willful misconduct. In the event of any breach of this warranty by Apex, the Client's sole remedy will be limited to Apex's rerunning, at its expense, any inaccurate output provided that such inaccuracies occurred solely as a result of Apex's gross negligence or willful misconduct under this agreement.

9. Limitation of Liability: The Client acknowledges that Apex shall not be held liable for any consequential, special, or incidental damages incurred by the Client in relation to the performance of Services, whether the claim is based on breach of warranty, contract, tort (including negligence), strict liability, or any other grounds. Under no circumstances shall Apex's liability to the Client, for any Losses (including court costs and reasonable attorney's fees), arising out of or in connection with these Terms and Conditions, exceed the total amount charged or chargeable to the Client for the specific service(s) that caused the Losses.

10. Indemnification: The Client agrees to indemnify and hold harmless Apex from any losses, suits, actions, judgments, fines, costs, liabilities, or claims arising from any action or proceeding relating to the Services provided by Apex, regardless of whether or not it results in liability (collectively referred to as "Indemnified Claims"). However, this indemnification provision shall not apply to the extent that such Indemnified Claims are caused by Apex's willful misconduct, gross negligence, or breach of these Terms and Conditions. This provision shall survive termination of the Services.

11. Confidentiality: Apex will uphold strict confidentiality between Apex and the Client and applies to all non-public records, documents, systems, procedures, processes, software, and other information received by either party in connection with the performance of services under these terms. Both Apex and the Client agree to keep confidential all such non-public information, including any material marked or identified as confidential or proprietary. Any such confidential information shall not be disclosed, provided, disseminated, or otherwise made available to any third party, except as required to fulfill the parties' obligations under these terms. The parties acknowledge that in the event of any request to disclose any confidential information in connection with a legal or administrative proceeding, or otherwise to comply with a legal requirement, prompt notice of such request must be given to the other party to enable that party to seek an appropriate protective order or other remedy or to waive compliance with the relevant provisions of these terms. If the Client seeks a protective order or another remedy, Apex, at the Client's expense, will cooperate with and assist the Client in such efforts. If the Client fails to obtain a protective order or waives compliance with the relevant provisions of these terms, Apex will disclose only that portion of the confidential information that it determines it is required to disclose. This confidentiality provision shall survive termination of the services provided. Both parties acknowledge and agree that any breach of these terms may cause irreparable harm to the non-breaching party and that injunctive relief may be necessary to prevent any actual or threatened breach. The terms set forth between the parties supersede all prior negotiations, understandings, and agreements between the parties concerning confidentiality. These terms may only be amended in writing and signed by both parties.

12. Ownership of the programs, system data, and materials provided by Apex to the Client during the course of providing services herein shall solely belong to Apex. It is acknowledged that fees and expenses paid by the Client do not confer any rights in such property. It is also understood that the said property is made available to the Client solely for the purpose of using it during and in connection with the services provided by Apex.

13. Upon the completion of the administration and unless retention instructions are ordered by the court, Apex will notify the client that it will destroy and/or return all confidential information and property within 90 days upon the client's written request. Alternatively, the material may be stored for one year at a monthly fee of \$1.50 per storage box for paper documents and \$0.01 per image for electronic copies over a period of three years, which compensates Apex for its electronic and hard-copy storage costs. Apex will not be liable for any damages, liability, or expenses incurred in connection with any delay in delivery of, or damage to disks, magnetic tapes, or any input data provided by the client or its representatives unless Apex has agreed in writing to assume such responsibility.

14. COMPLETE AGREEMENT. These Terms and Conditions, along with the attached Proposal, represent the complete agreement and understanding between the parties and override any prior agreements (whether written or oral) between Apex and the Client regarding the subject matter. Any modification to these Terms and Conditions may only be made in writing and must be signed by both Apex and the Client. The headings in this document are included for convenience only and do not alter or restrict any provisions in these Terms and Conditions. They may not be used in the interpretation of these Terms and Conditions.

15. This provision outlines the requirements for providing notice or other communication under this agreement. All such communications must be in writing and can be delivered either by personal delivery or through U.S. Mail with prepaid postage or overnight courier. Once delivered personally or sent through the mail, the notice will be considered given after five (5) days from the deposit date in the U.S. Mail. Alternatively, if sent through an overnight courier, the notice will be considered given one business day after delivery to the such courier. It's important to note that the notice must be provided to a responsible officer or principal of the Client or Apex, depending on the case.

16. Force Majeure: In the event of any failure or delay in performance due to circumstances beyond Apex's control, including but not limited to strikes, lockouts, fires, floods, acts of God or public enemy, riots, civil disorders, insurrections, war or war conditions, or interference by civil or military authorities, Apex shall not be held liable for any resulting loss or damage. The time for performance under this agreement shall be extended for a period equal to the duration of the disabling cause and a reasonable time thereafter. This provision shall constitute a force majeure clause and shall be construed accordingly.

17. The applicable state and federal laws shall govern the interpretation and enforcement of these Terms and Conditions. No choice of law or conflict of laws provisions shall affect this governing law provision.

18. Severability: This applies to all clauses and covenants contained within these Terms and Conditions. In the event that any clause or covenant is deemed invalid, illegal, or unenforceable, the remaining provisions shall remain valid and enforceable to the fullest extent permissible by law. The validity, legality, and enforceability of the remaining provisions shall in no way be affected or impaired by the invalidity, illegality, or unenforceability of any provision deemed so.

19. Nonwaiver: This applies to these Terms and Conditions. This means that any failure by one party to enforce a provision of these terms on one or more occasions shall not be construed as a waiver of that provision. In other words, any failure to enforce a provision does not give up the right to enforce it in the future. All provisions of these Terms and Conditions remain in full force and effect, regardless of any prior failure to enforce them.