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20 DAMAGE SERVICES and MARK RALPH

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

19 JOSHUA BECKER, an Individual, on behalf
20 of himself and all other aggrieved employees
21 of Defendants in the State of California,

22 Plaintiff,

23 vs.

24 DOUGLAS D. DE HART, INC., dba
25 SERVICEMASTER ABSOLUTE WATER &
26 FIRE DAMAGE SERVICES, a California
27 Corporation; MARK RALPH, an Individual;
28 and DOES 1-10, Inclusive,

Defendants.

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

02/15/2024 at 02:01:00 PM

Clerk of the Superior Court
By Mariejo Guyot, Deputy Clerk

Case No. 37-2022-00024627-CU-OE-CTL

UNLIMITED CIVIL CASE

**STIPULATION FOR SETTLEMENT AND
APPROVING SETTLEMENT UNDER
PRIVATE ATTORNEYS' GENERAL ACT
OF 2004; ~~[PROPOSED]~~ ORDER**

1 By and through their respective counsel of record, named Plaintiff JOSHUA BECKER
2 (“Plaintiff”) and Defendant DOUGLAS D. DE HART, INC., dba SERVICEMASTER ABSOLUTE
3 WATER & FIRE DAMAGE SERVICES (“Defendant”) (collectively “Parties”) submit this Joint
4 Stipulation (“Stipulation”) together with a Proposed Order for this Court’s review and approval of
5 their “PAGA SETTLEMENT AGREEMENT” (“PAGA Settlement”) (Exhibit 1 hereto).

6 Through this Stipulation, Plaintiff respectfully requests the Court grant the Proposed Order,
7 which provides for granting of approval of a total settlement pursuant to the Private Attorneys’
8 General Act (Labor Code §2698 *et seq.*) in the amount of \$15,000.00. Pursuant to Section 3.2.1 of
9 the PAGA Settlement, Plaintiff will earmark up to \$2,000 for costs associated with the prosecution
10 of the PAGA Action. Pursuant to Section 3.2.2 of the PAGA Settlement, Plaintiff will earmark up
11 to \$3,000 for costs associated with the administration of the PAGA Penalty proceeds to the
12 California Labor & Workforce Development Agency (“LWDA”) and aggrieved employees. The
13 remainder, after the deducting for PAGA Counsel Litigation and Administrator Expenses, will be
14 \$10,000.00. From this amount, and pursuant to Section 3.2.3 of the PAGA Settlement and Labor
15 Code §2698 *et seq.*, \$7,500.00 will be apportioned to penalties payable to the LWDA, with the
16 remaining \$2,500.00 to be divided equally among allegedly “aggrieved” employees.

17 Pursuant to Labor Code section 2699(1)(2), the proposed PAGA Settlement requires the
18 Court to approve the settlement.

19 **RECITALS**

20 1. On June 23, 2022, Plaintiff filed an individual complaint for wage and hour
21 violations. On September 2, 2022, Plaintiff filed a first amended complaint on behalf of himself and
22 all other aggrieved employees in California who have worked for Defendant for the following
23 claims: unpaid regular and minimum wages; unpaid overtime; noncompliant meal and rest periods;
24 wage statements that were inaccurate, untimely, and/or not provided at all; illegal offsets against
25 wages; unreimbursed necessary, work-related expenses; failure to timely pay earned wages during
26 employment; final pay violations; breach of contract; wrongful termination; retaliation and
27 discrimination; and unfair competition.

1 2. Plaintiff provided the requisite notice to the LWDA detailing the claims and factual
2 bases on June 29, 2022 (Exhibit 2) and with an amended notice on November 14, 2023 (Exhibit 3).
3 The LWDA did not take any action.

4 3. The Parties agree, for purposes of this PAGA Settlement only, that the Plaintiff has
5 standing to prosecute the claims alleged in the Complaint.

6 4. The Parties engaged in informal discovery and decided to begin potential settlement
7 discussions. After participating in private mediation with the Honorable Ronald S. Prager (Ret.) and
8 exchanging relevant information prior to mediation, including supporting and/or negating evidence
9 regarding claims, solvency, and the number of aggrieved employees, the Parties were able to reach
10 a resolution of this matter, expressed in Exhibit 1.

11 5. The Parties and their counsel recognize the expense and length of continued
12 proceedings necessary to litigate the disputes through trial and through any possible appeals. The
13 Parties and their counsel have also taken into account the uncertainty and risk of the outcome of
14 further litigation, and the difficulties and delays inherent in such litigation. The Parties and their
15 counsel are also aware of the burdens of proof necessary to establish liability for the claims alleged
16 and the affirmative defenses asserted. Thus, reaching this Settlement now has the potential for
17 having a higher value today than it might have later if this litigation were to continue. Based on the
18 foregoing, the Parties believe that a settlement of \$15,000.00 is fair, adequate, and reasonable.

19 6. The Parties submit that the PAGA Settlement provides fair and reasonable payment
20 penalties for the benefit of the LWDA and the approximate 120 employees who qualify as PAGA
21 aggrieved employees.

22 7. Contingent on this Court's approval of the Parties' settlement of the PAGA claims,
23 the Parties have fully and finally settled all PAGA claims that were or could have been asserted
24 against Defendant by Plaintiff and Plaintiff now seeks court approval of the Settlement pursuant to
25 Labor Code sections 2698, *et seq.*

26 8. Pursuant to Labor Code 2699(L)(2), on January 29, 2024,
27 Plaintiff served the fully executed settlement agreement on the LWDA for consideration. (Exhibit
28 4). See also ROA #34 for proof of submission.

STIPULATION

Thus, the Parties do stipulate and agree:

9. The LWDA did not exercise its right to prosecute this action in response to Plaintiff's PAGA letter dated June 29, 2022, or amended letter on November 14, 2023. (Exhibit 2)

10. The LWDA did not exercise its right to object to this settlement, after it was provided notice of the settlement on January 29, 2024.

11. Plaintiff therefore requests that the Court approve all terms described in this Stipulation of the PAGA Settlement.

12. Plaintiff worked for Defendant from approximately November 2013 to on or around September 10, 2021.

13. On September 2, 2022, Plaintiff filed the amended above captioned lawsuit asserting one representative cause of action against Defendant under PAGA and fourteen individual causes of action, as stated above.

14. Plaintiff and Defendant conducted informal discovery.

15. Plaintiff and Defendant participated in private mediation with the retired Honorable Ronald S. Prager on September 5, 2023, to resolve Plaintiff's individual and PAGA claims.

16. Defendant denies each and every allegation in the PAGA claims, including whether Plaintiff has standing to act as a PAGA representative, and is prepared to proceed to trial, absent settlement.

17. Both parties face a risk of loss at trial and the attendant risk of having costs of suit.

18. Similarly, Defendant concluded there were benefits associated with settling. Although Defendant disputes the various allegations and causes of action in the PAGA action, Defendant took into account the disputed factual and legal issues involved in the PAGA action; the risk attending further defense; the expense, time, and burden of protracted litigation; and the desire to put the controversy to rest. Based on these factors, Defendant and Defendant's counsel agreed to this settlement without any admission of fault or liability.

19. Pursuant to Labor Code section 2699(l)(2), the proposed PAGA settlement requires the Court to review and approve the following agreement:

1 a. PAGA Payment: Fifteen Thousand Dollars (\$15,000.00) shall be allocated
2 to resolve the Representative PAGA Claims and will be paid pursuant to the PAGA Settlement
3 Agreement (attached as Exhibit 1).

4 i. The Administrator shall issue one check to the LWDA in the amount
5 of \$7,500.00, which is 75% of the PAGA Payment pursuant to
6 Labor Code section 2699(i);

7 ii. The Administrator shall distribute the remaining \$2,500.00, which is
8 25% of the PAGA Payment, to current and former aggrieved
9 pursuant to Labor Code section 2699(i);

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

15 20. Upon the Court's approval, Plaintiff will give notice of this settlement to the
16 LWDA, and the Parties will complete the Settlement Administration process described in the
17 PAGA Settlement.

18 21. The Parties have also entered into a Confidential Settlement Agreement and
19 General Release (the "Settlement Agreement") with respect to the individual claims with no party
20 admitting any fault and for the purpose of resolving the disputed claims. The Settlement
21 Agreement is subject to the Court's approval of this Stipulation and entry of the Proposed Order.

22 22. The PAGA Settlement and the Settlement Agreement dispose of the present case in
23 its entirety. The case will be dismissed without prejudice upon entry of the Proposed Order. After
24 Defendants fulfill their obligations under the PAGA Settlement and the Settlement Agreement,
25 Plaintiff shall dismiss the case with prejudice.

26 23. If any enforcement of the PAGA Settlement and/or the Settlement Agreement is
27 necessary until Plaintiff dismisses the case with prejudice, the Court reserves jurisdiction under
28

1 Code of Civil Procedure §664.6 to enforce the PAGA Settlement and/or the Settlement
2 Agreement.

3 24. The PAGA Settlement and the Settlement Agreement contain the entire
4 understanding and agreement between the Parties concerning the resolution of all disputes
5 between them and have been executed without reliance on any promise, representation or warranty
6 not contained in each respective document. While the Settlement Agreement will not be filed with
7 the Court, if enforcement of its provisions by the Court becomes necessary, it explicitly provides
8 for its admissibility per California Evidence Code §1123 and for its enforceability per California
9 Code of Civil Procedure §664.6.

10 25. It is further stipulated that no changes or additions to, or modifications of this
11 Stipulation, the PAGA Settlement, and/or the Settlement Agreement shall be valid unless set forth
12 in writing and executed by all Parties hereto.

13 26. It is further stipulated that this Stipulation may be signed in counterpart which
14 counterparts shall constitute one agreement between the parties.

15 27. It is further stipulated that this Stipulation shall be binding upon and inure to the
16 benefit of the parties hereto and their respective successors, assigns, heirs, and personal
17 representatives.

18 28. It is further stipulated that if any of the provisions of this Stipulation (or portions
19 thereof) is held by a court of competent jurisdiction to be invalid for any reason, the validity and
20 enforceability of the remaining of any such provision or portions thereof and the remaining
21 provisions of this Stipulation shall not be affected.

22 29. It is further stipulated that each individual signing this Stipulation and any other
23 documents executed in connection with this Stipulation, whether signed individually or on behalf
24 of a person or entity, warrants and represents that he or she has full authority to so execute the
25 stipulation on behalf of the parties on whose behalf he or she signs. Each separately
26 acknowledges and represents that this representation and warranty is an essential and material
27 provision of this Stipulation and shall survive execution hereof. The parties hereto each
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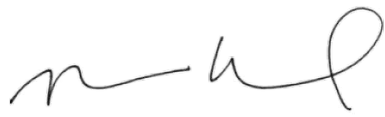
1 respectively represent that any attorney signing this Stipulation and that documents executed with
2 this Stipulation on their behalf respectively, have been duly authorized and empowered to do so.

3 30. It is further stipulated that copies of the Stipulation or the PAGA Settlement may
4 be used in lieu of the originals for all purposes.

5 Now, therefore, the Parties stipulate, agree, and request that the Court approve the penalties
6 sought as part of the PAGA Settlement, the entire action be dismissed without prejudice, and that
7 the Court retain jurisdiction to enforce the terms of the Settlement Agreement.

8 IT IS SO STIPULATED AND AGREED.

9
10 Dated: 1/29/2024



Nathan N. Kased,
Kased Law Group APC,
Attorney for Plaintiffs

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12
13 Dated: 1/29/2024



Steven D. Eheart
Fisher & Phillips LLP,
Attorney for Defendants

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~~**[PROPOSED]**~~ **ORDER**

The Court having considered the above Stipulation and good cause appearing:

IT IS HEREBY ORDERED THAT the Court approves the Parties' PAGA Settlement Agreement attached as Exhibit 1, pursuant to Labor Code section 2699 (k)(2). The matter shall be dismissed without prejudice with the Court retaining jurisdiction to enforce the terms of the Confidential Settlement Agreement and General Release as set forth therein, per California Code of Civil Procedure §664.6.



Dated: 03/01/2024

Honorable Loren G. Freestone
Judge of the Superior Court

EXHIBIT 1

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff Joshua Becker (“Plaintiff”), on behalf of similarly situated aggrieved PAGA members, and Defendant Douglas D. De Hart, Inc. (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1 “Action” the matter entitled *Joshua Becker v. Douglas D. De Hart, Inc., et al.*, San Diego County Superior Court Case No. 37-2022-00024627-CU-OE-CTL, filed on or about June 23, 2022.
- 1.2 “Administrator” means Phoenix Settlement Administrators, 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 approval of this Settlement.
- 1.4 “Aggrieved Employee” consists of all persons within the State of California who are or were employed by Defendant in the State of California during the PAGA Period (defined below).
- 1.5 “Aggrieved Employee Data” means Aggrieved Employee identifying information in Defendant’s possession including the Aggrieved Employee’s name, last-known mailing address, Social Security number and number of PAGA Pay Periods.
- 1.6 “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces and direct contact by the Administrator with Aggrieved Employees.
- 1.7 “Court” means the Superior Court of California, County of San Diego.
- 1.8 “Defense Counsel” means Danielle Hultenius Moore and Steven D. Eheart of Fisher & Phillips LLP.
- 1.9 “Effective Date” means the date by when the Court enters a Judgment on its Order Approving the PAGA Settlement.
- 1.10 “Gross Settlement Amount” means \$15,000.00 which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA

Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment and the Administrator's Expenses Payment.

- 1.11 "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.
- 1.12 "Judgment" means the judgment entered by the Court based upon the Final Approval.
- 1.13 "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subdivision (i).
- 1.14 "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subdivision (i).
- 1.15 "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, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment and the Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees as Individual PAGA Payments.
- 1.16 "PAGA Counsel" means Nathan N. Kased and Jennifer B. Cottis of the Kased Law Group APC, the attorneys representing the Plaintiff in the Action.
- 1.17 "PAGA Counsel Fees Payment" and "PAGA Counsel Litigation Expenses Payment" mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.
- 1.18 "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.19 "PAGA Period" means the period from December 28, 2020 through the Effective Date.
- 1.20 "PAGA" means the Private Attorneys General Act (Lab. Code, § 2698. et seq.).
- 1.21 "PAGA Notice" means Plaintiff's June 29, 2022, and November 14, 2023 letters to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subdivision (a).
- 1.22 "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$2,500.00) and the 75% to LWDA (\$7,500.00) in settlement of PAGA claims.
- 1.23 "Plaintiff" means Joshua Becker, the named plaintiff in the Action.

- 1.24 “Approval Order” means the proposed Court Order Granting Approval of PAGA Settlement.
- 1.25 “Released PAGA Claims” means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.
- 1.26 “Released Parties” means Defendant, Mark Ralph, and each of Defendant’s former and present directors, officers, shareholders, owners, employees, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.
- 1.27 “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.28 “Defendant” means named Defendant Douglas D. De Hart, Inc.

2. RECITALS.

- 2.1 On June 23, 2022, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for (1) Wrongful Termination in Violation of Public Policy; (2) Unlawful Retaliation and Discrimination; (3) Breach of Contract; (4) Failure to Pay Earned Wages (Cal. Lab. Code § 204); (5) Failure to Pay Minimum Wages (Cal. Lab. Code §§ 1182.12, 1194, et seq., 1197, 1198; IWC Wage Order No. 16-2001); (6) Failure to Pay Minimum Wages (San Diego Municipal Code §§ 39.0107, 39.0112); (7) Failure to Pay Overtime Compensation (Cal. Lab. Code §§ 510, 1194, 1198; IWC Wage Order No. 16-2001); (8) Failure to Pay Meal Period Compensation (Cal. Lab. Code §§ 226.7, 512, 1198; IWC Wage Order No. 16-2001); (10) Failure to Pay Rest Period Compensation (Cal. Lab. Code §§ 226.7, 1198; IWC Wage Order No. 16-2001); 10. Failure to Furnish Wage and Hour Statements (Cal. Lab. Code § 226); (11) Failure to Pay All Wages Earned at Separation (Cal. Lab. Code §§ 201, 203); (12) Illegal Offset Against Wages (Cal. Lab. Code §§ 221, 224; IWC Wage Order No. 16-2001); (13) Failure to Indemnify for All Necessary Expenditures (Cal. Lab. Code § 2802; IWC Wage Order No. 16-2001); and (14) Unfair Competition (Cal. Bus. & Prof. Code § 17200, et seq.) (the “Complaint”).
- 2.2 On June 29, 2022, pursuant to Labor Code section 2699.3, subdivision (a), Plaintiff gave timely written notice to Defendant and the LWDA by submitting the PAGA Notice.
- 2.3 On September 2, 2022, Plaintiff filed a First Amended Complaint including all fourteen causes of action in the Complaint and adding a fifteenth cause of action for Civil Penalties for Violations of the Labor Code (Cal. Lab. Code, § 2698, et seq.) (the “Operative Complaint”). Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint, and denies any and all liability for the causes of action alleged.
- 2.4 On September 6, 2023, the Parties participated in an all-day mediation presided over by Honorable Judge Ronald S. Prager (Ret.), which led to this Agreement to settle the Action.

- 2.5 The Parties have entered into a separate Confidential Settlement Agreement and Release (the “Individual Settlement Agreement”) regarding Plaintiff’s individual, non-PAGA claims. In the Individual Settlement Agreement, Plaintiff expressly waives and relinquishes, among other things, the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code. The Individual Settlement Agreement is contingent on Court approval of this Agreement, and this Agreement is contingent on execution and compliance with the Individual Settlement Agreement.
- 2.6 On November 14, 2023, Plaintiff gave timely written notice to Defendant and the LWDA of a supplemental PAGA Notice.
- 2.7 The Parties, PAGA Counsel, and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

- 3.1 Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay \$15,000.00 and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 6.1 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 3.2 Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:
- 3.2.1 To PAGA Counsel: PAGA Counsel Litigation Expenses Payment. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed \$2,000.00. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff’s Counsel arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of

any of these Payments.

3.2.2 To the Administrator: An Administrator Expenses Payment not to exceed \$3,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$3,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.3 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$10,000.00 to be paid from the Gross Settlement Amount, with 75% (\$7,500.00) allocated to the LWDA PAGA Payment and 25% (\$2,500.00) allocated to the Individual PAGA Payments.

3.2.3.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$2,500.00) 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.

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

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1 Aggrieved Employee Pay Periods. Based on a review of its records, Defendant estimates there are 120 Aggrieved Employees.

4.2 Aggrieved Employee Data. Within 15 days of the Effective Date, Defendant will deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employees' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

4.3 Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than 14 days after the Effective Date.

4.4 Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Fees Payment, and the PAGA Counsel Litigation Expenses Payment. Disbursement of the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

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

4.4.2 The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees 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 Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

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

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

5. **RELEASES OF CLAIMS.** Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Plaintiff and PAGA Counsel will release claims against all Released Parties as follows:

5.1 Release by Aggrieved Employees:

All Aggrieved Employees will be bound by a release of all claims for civil penalties that were alleged or could have been alleged in the Operative Complaint under the Labor Code and PAGA (including but not limited to meal period violations and failure to pay premiums; rest period violations and failure to pay premiums; inaccurate wage statements; failure to maintain accurate records; failure to timely pay wages during employment; failure to pay minimum, regular, and overtime wages; failure to pay all sick pay; failure to reimburse; and failure to timely pay final wages) and that arose during the PAGA Period.

5.2 Release by PAGA Counsel:

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

6. MOTION, APPLICATION, OR STIPULATION FOR APPROVAL OF SETTLEMENT.

6.1 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code section 2699, subdivision (f)(2)) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed declaration or written confirmation from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; (iii) a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Lab. Code, §2699, subd. (1)(1)), and this Agreement (Lab. Code, § 2699, subd. (1)(2)); and (iv) all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In their Declarations, Plaintiff and PAGA Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2 Responsibilities of PAGA Counsel. PAGA Counsel is responsible for expeditiously finalizing and filing the stipulation, application, or motion for approval of this Settlement no later than 30 days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Preliminary

Approval to the Administrator.

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

7. SETTLEMENT ADMINISTRATION.

- 7.1 Selection of Administrator. The Parties have jointly selected Phoenix Settlement Administrators to serve as the Administrator and verified that, as a condition of appointment, Phoenix Settlement Administrators agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.
- 7.4 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8. AGGRIEVED EMPLOYEE SIZE ESTIMATES.

Based on its records, Defendant estimates that there are 120 Aggrieved Employees who worked approximately 2,984 Pay Periods between the start of the PAGA Period and the date of mediation.

9. CONTINUING JURISDICTION OF THE COURT. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters and (iii) addressing such post-Judgment matters as are permitted by law.

- 9.1 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties and their respective counsel

waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, and extraordinary writs and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10. ADDITIONAL PROVISIONS.

- 10.1 No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If for any reason the Court does not approve this Settlement, Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest Defendant's defenses. The Settlement, this Agreement, and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).
- 10.2 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibit shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants or inducements made to or by any Party.
- 10.3 Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by 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.
- 10.4 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence, and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 10.5 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer or encumber to any person or entity and portion of any liability, claim, demand, action, cause

of action or right released and discharged by the Party in this Settlement.

- 10.6 No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant, nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 10.7 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 10.8 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 10.9 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 10.10 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 10.11 Confidentiality. Plaintiff and PAGA Counsel agree that they have not and will not publish the resolution of this case. PAGA Counsel shall not report the resolution of this case in any medium or in any publication, shall not post or report anything regarding the claims of Plaintiff, the claims of the Aggrieved Employees, or the resolution of this case on their website which identify Plaintiff or Defendant by name, and shall not contact any reporters or media regarding the resolution of this case. However, PAGA Counsel is authorized to make disclosure to the Court for the purpose of obtaining the approval of the settlement and may discuss the settlement with the Aggrieved Employees and the Administrator. This disclosure is limited to court filings and neither Plaintiff, PAGA Counsel, nor their representatives are permitted to disseminate or publish, distribute or discuss the information provided to the Court in those filings outside the filings themselves and any hearing held on those filings, unless ordered otherwise by the Court. Plaintiff may disclose the terms of the Settlement with his tax advisor, attorneys, and spouse.
- 10.12 Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Evidence Code section 1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute or California Rules of Court rule. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendant unless, prior to the Administrator's payment of

all Settlement Funds, Defendant makes a written request to PAGA Counsel for the return, rather than the destruction, of Aggrieved Employee Data.

- 10.13 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 10.14 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 10.15 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

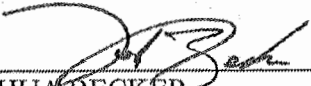
Kased Law Group APC
Attn: Nathan Kased
2535 Kettner Boulevard, Suite 2A2
San Diego, Ca 92101

To Defendant:

Fisher & Phillips LLP
Attn: Danielle Hultenius Moore
4747 Executive Drive, Suite 1000
San Diego, CA 92121

[The Remainder of This Page Intentionally Left Blank]

- 10.16 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 10.17 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to Code of Civil Procedure section 583.330 to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.



JOSHUA BECKER

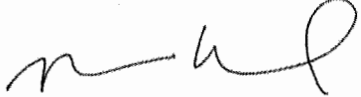
01/13/2024
(date)

 President

FOR DOUGLAS D. DE HART, INC.

01/18/2024
(date)

APPROVED AS TO FORM:



Counsel for Plaintiff

1/16/2024
(date)



Counsel for Defendant

1/19/2024
(date)

Exhibit A

NOTICE OF PAGA SETTLEMENT AND RELEASE OF CLAIMS

Joshua Becker v. Douglas D. De Hart, Inc., et al.

County of San Diego Superior Court, Case No. 37-2022-00024627-CU-OE-CTL

<<Name>>
<<Address>>
<<City>>, <<State>> <<Zip Code>>
XX - XX - _____

I. NOTICE OF PAGA SETTLEMENT

The San Diego County Superior Court (the “Court”) has approved a settlement in the above-captioned action filed by Joshua Becker (“Plaintiff”) on behalf of himself and all other aggrieved employees.

In this lawsuit, Plaintiff is seeking to recover civil penalties for alleged violations of the California Labor Code on behalf of the California Labor and Workforce Development Agency (“LWDA”) and other aggrieved employees under the California Private Attorneys General Act (the “PAGA”). These civil penalties are based on Plaintiff’s allegations that Douglas D. De Hart, Inc. (“De Hart”): failed to provide minimum wages to Aggrieved Employees; failed to provide overtime and double time wages to Aggrieved Employees; failed to provide Aggrieved Employees legally compliant meal and rest periods and, as a result, failed to pay meal and rest period premiums; failed to pay Aggrieved Employees earned wages and all wages during employment; failed to pay Aggrieved Employees earned wages and all wages due at separation; failed to keep and provide accurate itemized wage statements to Aggrieved Employees; failed to reimburse Aggrieved Employees necessary business-related expenses and costs; and failed to provide notice of paid sick time and accrual, and as a result of the foregoing, are liable for civil penalties under PAGA.

The Court has ***not*** made a determination about the merits of Plaintiff’s claims. This Notice is not to be understood as an expression of any opinion by the Court as to the merits of Plaintiff’s claims.

De Hart denies Plaintiff’s allegations. It maintains that it was in compliance with the California Labor Code at all times and enters into this Settlement with no admission of liability and solely for the purposes of compromising and settling the action to avoid the cost and operational burden of continued litigation.

You are receiving this Notice because you are in the group of employees referred to as “Aggrieved Employees,” which is defined as: all persons within the State of California who are or were employed by De Hart in the State of California between December 28, 2020 and the date the Court enters a Judgment on its Order Approving the PAGA Settlement (“PAGA Period”).

II. INDIVIDUAL PAGA PAYMENT

Each individual PAGA payment was calculated on a pro rata basis (*i.e.*, proportional) based on the number of pay periods worked by each Aggrieved Employee during the PAGA Period. Your

individual PAGA payment has been calculated at \$[AMOUNT PAID TO THIS EMPLOYEE]. Your payment is enclosed with this Notice.

III. RELEASE

The Court has approved the Parties' Settlement Agreement ("Settlement"). By operation of the Settlement's terms, all Aggrieved Employees (including you) will release De Hart, Mark Ralph, and each of De Hart's former and present directors, officers, shareholders, owners, employees, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates ("Released Parties") from all claims for civil penalties that were alleged or could have been alleged in the Operative Complaint under the Labor Code and PAGA (including but not limited to meal period violations and failure to pay premiums; rest period violations and failure to pay premiums; inaccurate wage statements; failure to maintain accurate records; failure to timely pay wages during employment; failure to pay minimum, regular, and overtime wages; failure to pay all sick pay; failure to reimburse; and failure to timely pay final wages) and that arose during the PAGA Period.

Upon entry of the Order approving the Settlement, any Aggrieved Employee covered by this Agreement (including you) is barred from proceeding with any of the PAGA Released Claims released by this Settlement.

IV. SETTLEMENT ADMINISTRATOR

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

You may call the Settlement Administrator, Phoenix Settlement Administrators, at 800-523-5773 with any questions.

Settlement checks will be void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall direct all unclaimed funds to the California State Controller's Office under the unclaimed property laws in the name of the Aggrieved Employee to whom the check was issued. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT 2



Reply to:
2535 Kettner Blvd, Ste 2A2
San Diego, CA 92101
nathan@kasedlegal.com

June 29, 2022

VIA ONLINE SUBMISSION
PAGAFilings@dir.ca.gov

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

William H. Sauls
Agent for Service of Process
Douglas D. De Hart, Inc.
dba ServiceMaster Absolute Water & Fire
Damage Services
427 C St # 416
San Diego, CA 92101
cc: 3033 Fifth Ave, San Diego, CA 92103

Mark Ralph
Individually and as CEO
Douglas D. De Hart, Inc.
dba ServiceMaster Absolute Water & Fire
Damage Services
796 Energy Way
Chula Vista, CA 91911
(Served In Individual Capacity)

Re: Notice Pursuant to Labor Code § 2699.3(a) re: Joshua Becker and all Aggrieved Employees

To Whom It May Concern:

This letter serves as notice to the Labor & Workforce Development Agency ("LWDA") of the Labor Code violations of Mark Ralph and Douglas D. De Hart, Inc. dba ServiceMaster Absolute Water & Fire Damage Services (individually, "Mr. Ralph," and "ServiceMaster," or collectively, "Employers"). We submit this notice in accordance with Labor Code § 2699.3(a).

Employers formerly employed our client, Joshua Becker ("Mr. Becker"). We submit this notice on behalf of our client and all other aggrieved employees that were employed by Mark Ralph and/or Douglas D. De Hart, Inc. dba ServiceMaster Absolute Water & Fire Damage Services. In compliance with Labor Code § 2699.3(a)(1), Mr. Becker furnished Employers with a copy of this notice by certified mail. Unless the LWDA proceeds against Employers, Mr. Becker intends to pursue a representative civil action against Employers, in accordance with Labor Code § 2698, *et seq.*

Mr. Becker has already filed a civil complaint for his individual claims and will amend his complaint to include claims under the Private Attorneys General Act ("PAGA") if the LWDA does not investigate Mr. Becker's claims. A true and correct copy of the complaint on file in San Diego Superior Court is attached hereto as **Exhibit A**, incorporated by reference herein.

San Diego
2535 Kettner Boulevard, Suite 2A2
San Diego, CA 92101
P: +1 619.333.6373 | F: +1 619.399.3040

Los Angeles
400 Continental Boulevard, 6th Floor
El Segundo, CA 90245
P: +1 310.697.3200

www.kasedlegal.com

I. Statutes of Limitations Tolling

Pertinent to the instant matter, the Judicial Council Emergency Rule 9, as amended May 29, 2020, suspended from April 6, 2020 to October 1, 2020 the statutes of limitations for civil causes of action that exceed 180 days. Thus, the statute of limitations on Mr. Becker's representative claims under PAGA, typically a one-year period, were tolled between April 6, 2020 and October 1, 2020. As such, for purposes of Mr. Becker's representative claims on behalf of himself, the aggrieved, and the State of California, the statutory period relates back one year from on or about December 28, 2021.

II. Labor Code Violations

Employers have violated at least the following specifically enumerated Labor Code sections, in addition to any other Labor Code sections implicated by the actions described in the Facts & Theories and Liability & Damages portions of this notice letter: §§ 201, 203, 204, 221, 224, 226, 226.7, 510, 512, 1182.12, 1174, 1194, 1194.2, 1197, 1198, and 2802.

III. Facts & Theories

Douglas D. De Hart, Inc. dba ServiceMaster Absolute Water & Fire Damage Services ("the Company" or "ServiceMaster") is a fire, water, and storm damage cleanup service company operating throughout San Diego with its principal place of business located at 796 Energy Way, Chula Vista, CA 91911. On information and belief, ServiceMaster has operated continuously from this location throughout the relevant liability periods. The Company is generally in the business of restoring homes subjected to water and fire damage to pre-loss condition. Its primary clients are homeowners, business principles, and insurance companies. On information and belief, the Company performs mostly "insurance work."

ServiceMaster has employed approximately 60-plus workers, throughout the relevant liability period. In terms of workforce complexion, about five of the 60 are project managers; 15 to 20 are "pack out" laborers, i.e., the personnel who move home items out of storage; 10 to 15 are demolition laborers; four or so are estimators; and the remainder work in operations and administration. Throughout the relevant liability periods, Mr. Ralph, the Company's principal executive and owner, was the primary decision maker regarding terms and conditions of employment for all employees, including project managers.

ServiceMaster employed Mr. Becker from in or around November 2013 to on or about September 10, 2021. He originally started as a demolition laborer at \$10.00 per hour. After four months of employment, Mr. Becker was elevated to project manager, and he would remain in that role until his termination.

For most of his employment, Mr. Becker was a project manager for the Company, overseeing and performing demolition after floods and/or other events. He oversaw other employees and was employed on a salary basis. Mr. Becker also typically inspected and took photos of loss; interfaced with insurance adjusters regarding claims; contacted and coordinated necessary personnel for restoration, such plumbers, electricians, and asbestos abatement specialists; assessed and physically performed demolition; and like duties. After a typical full 14 or so hours onsite, Mr. Becker typically

completed related paperwork from home. This entailed all project-related items, including contracts, work authorizations, diagramming of the subject home, uploading and indexing of loss photos on a Company storage drive, among other tasks.

In addition to salary that Mr. Becker was to receive, the Company maintained an incentive/bonus structure, which vested when various metrics were met. This incentive was expressly written to be “in addition to” the employee’s regular salary. In effect, the complicated compensation structure acted to deprive Mr. Becker of his justly earned compensation.

Under the incentive/bonus structure to which Mr. Becker and others were subjected, an employee received a percentage of each project based on billing. For example, if the Company secured a \$10,000 project from one of its clients and Mr. Becker was promised, say 15% under the incentive scheme, Mr. Becker would receive \$1,500 gross, subject to tax withholdings. **From the net wages, the Company would further deduct for labor assigned to Mr. Becker, as well as deduct for equipment, supplies, and insurance fees assessed by the client.** In 2017, the incentive payment percentage in effect for Mr. Becker and others was 17.5%; in 2018 and 2019, it was 19.5%; and in 2020 and 2021, it was 21.5%. On information and belief, the Company subjected other employees in Mr. Becker’s role to the same unlawful compensation scheme.

Throughout his employment with the Company, Mr. Becker typically worked upwards of 100 hours per workweek. Mr. Becker typically started his workday at 7 a.m. and physically worked on the jobsite until about 6 or 7 p.m. each night. He typically drove about 350 miles per day, as job locations were often beyond the bounds of San Diego County. After his work onsite, Mr. Becker typically spent a few hours at home each night completing work-related paperwork. On information and belief, other project managers typically endured working conditions like Mr. Becker.

Throughout his employment, Mr. Becker typically did not have reasonable opportunities to take uninterrupted meal and rest breaks to due to his extremely heavy workload. In a typical workday for Mr. Becker, Company projects were usually scheduled in two-hour blocks and consecutive to each other. As such, as soon as Mr. Becker and his team completed one project, they were immediately off to the next. On information and belief, other project managers typically endured working conditions like Mr. Becker.

During his employment with the Company, Mr. Becker was to earn a salary of \$130,000 per year, plus potential bonus, if the written metrics were met. Instead, the Company passed on the cost of doing business, and the cost of employing its workers, to Mr. Becker and, on information and belief, to other similarly aggrieved employees. Many pay periods, Mr. Becker had a **negative salary**, in violation of the Labor Code and Wage Order 16. For the pay periods in which Mr. Becker had a negative salary, he was nonexempt as a matter of law and thus eligible for the usual entitlements available to nonexempt employees, such as overtime and meal and rest periods. In addition, Mr. Becker was subjected to minimum wage violations for not being paid at least a minimum wage for all hours worked. On information and belief, other project managers typically endured working conditions like Mr. Becker.

One pay breakdown Mr. Becker received, dated 3/10/21, states that he was responsible for a gross total of \$7,692.88 of business. On that same page, his compensation has a deduction for “helpers,” which indicates that he was charged for using employees to do the Company’s business, in violation of Labor Code sections 221, 224, and 2802. The next item is “less salary,” which is not being directed to Mr. Becker, but just simply, deducted, in violation of the Labor Code and Wage Order.

Next, Mr. Becker was charged for “administrative” services. This one itemization falls short of Labor Code section 226’s requirement that an employee can readily understand what he earned and why. While there is a breakdown of sorts, it is unclear why the employee is charged for his salary, for administrative costs, and for other employees. **During that one pay period, Mr. Becker was “charged” by the Company \$885.60, as it is a negative entry, and no salary was paid for this pay period.** In other words, Mr. Becker, while performing work during the pay period, was charged \$885.60 during that time, rather than being paid for his hours worked, even though he was promised a salary of \$130,000 per year. Mr. Becker was not a partner or other equity associate of Defendant. He was a W2 employee throughout the relevant liability period. On information and belief, other project managers were subjected to the same unlawful compensation practice.

The Company paid a nominal amount (\$1 or \$2 per employee) for tax purposes and left the rest of the employee expenses to the project manager, including Mr. Becker, again charging the project manager for the costs of doing business, and paying taxes, in violation of California and other laws.

Other unlawful pay breakdowns included negative items for on call time (this should be a positive number).

Ultimately, the Company was unlawfully passing along the cost of doing business to its project managers, including Mr. Becker and other similarly aggrieved employees. This resulted in Mr. Becker not earning his promised salary, and not being paid the promised incentive pay when he met agreed metrics, which he met. On information and belief, ServiceMaster subjected all other similarly aggrieved employees to the same unlawful practices.

Due to the plainly undecipherable nature of Mr. Ralph’s payment ruse, Mr. Becker was required to engage the services of an attorney to redress the above grievances: working 14-hours days and drawing a negative salary. After Mr. Becker’s counsel, the undersigned, communicated with Defendant about Defendant’s ostensibly unlawful compensation scheme, Defendant fired Mr. Becker shortly thereafter, in violation of the Labor Code’s proscriptions against retaliation.

Quite tellingly, Mr. Becker’s final paycheck included a line item titled “Special Pay” with a handwritten note inscribed **“Buffer in case we’re missing something.”**

On information and belief, Mr. Ralph and ServiceMaster has maintained the unlawful compensation, timekeeping, meal and rest break, and reimbursement practices described above with all the other project managers throughout the relevant liability periods. As a result of such practices, ServiceMaster has routinely failed to pay Mr. Becker and his aggrieved peers their earned wages. The Company has also utterly failed to issue to Mr. Becker and his aggrieved driver peers timely and accurate wage and hour statements.

To date, ServiceMaster has not paid Mr. Becker all wages that he is still owed, in plain violation of California’s final pay laws. On information and belief, the Company has not paid all final wages due to other aggrieved employees that have separated from the Company during the relevant liability periods. Based on the Employers’ conduct as alleged herein, Employers are liable for substantial waiting time and statutory penalties in addition to the accrued wages lawfully owed to Mr. Becker and his aggrieved peers.

Mark Ralph and William H. Sauls
Douglas D. De Hart, Inc.
dba ServiceMaster Absolute -
Water & Fire Damage Services
June 29, 2022
Page 5

IV. Conclusion

The facts articulated above violate provisions of the Labor Code identified in this writing. By virtue of this letter, we hereby notify the LWDA of Employers' violations. In accordance with Labor Code § 2699.3(a)(2)(A), please notify us within 60 days, at our San Diego office address, whether you will investigate this matter.

Very truly yours,
Kased Law Group APC

A handwritten signature in black ink, appearing to read 'n kased', with a stylized flourish at the end.

Nathan N. Kased

cc: Mr. Becker
NK:mm

EXHIBIT A

1 NATHAN N. KASED (STATE BAR No. 251400)

2 Email: nathan@kasedlegal.com

3 **KASED LAW GROUP APC**

4 2535 KETTNER BOULEVARD, SUITE 2A2

5 SAN DIEGO, CALIFORNIA 92101

6 PHONE: 619.333.6373

7 FAX: 619.399.3040

8 Attorneys for Plaintiff

9 JOSHUA BECKER

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **FOR THE COUNTY OF SAN DIEGO**

12 JOSHUA BECKER, an Individual,

13 Plaintiff,

14 vs.

15 DOUGLAS D. DE HART, INC., dba
16 SERVICEMASTER ABSOLUTE WATER &
17 FIRE DAMAGE SERVICES, a California
18 Corporation; MARK RALPH, an Individual;
19 and DOES 1-10, Inclusive,

20 Defendants.

Case No. 37-2022-00024627-CU-OE-CTL

UNLIMITED CIVIL CASE

COMPLAINT FOR:

1. **Wrongful Termination in Violation of Public Policy;**
2. **Unlawful Retaliation and Discrimination;**
3. **Breach of Contract;**
4. **Failure to Pay Earned Wages (Cal. Lab. Code § 204);**
5. **Failure to Pay Minimum Wages (Cal. Lab. Code §§ 1182.12, 1194, *et seq.*, 1197, 1198; IWC Wage Order No. 16-2001);**
6. **Failure to Pay Minimum Wages (San Diego Municipal Code §§ 39.0107, 39.0112);**
7. **Failure to Pay Overtime Compensation (Cal. Lab. Code §§ 510, 1194, 1198; IWC Wage Order No. 16-2001);**
8. **Failure to Pay Meal Period Compensation (Cal. Lab. Code §§ 226.7, 512, 1198; IWC Wage Order No. 16-2001);**
9. **Failure to Pay Rest Period Compensation (Cal. Lab. Code §§ 226.7, 1198; IWC Wage Order No. 16-2001);**
10. **Failure to Furnish Wage and Hour Statements (Cal. Lab. Code § 226);**

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11. **Failure to Pay All Wages Earned at Separation (Cal. Lab. Code §§ 201, 203);**
12. **Illegal Offset Against Wages (Cal. Lab. Code §§ 221, 224; IWC Wage Order No. 16-2001);**
13. **Failure to Indemnify for All Necessary Expenditures (Cal. Lab. Code § 2802; IWC Wage Order No. 16-2001); and**
14. **Unfair Competition (Cal. Bus. & Prof. Code § 17200, *et seq.*)**

DEMAND FOR JURY TRIAL

1 Plaintiff JOSHUA BECKER (“BECKER” or “Plaintiff”) alleges as follows:

2 **THE PARTIES**

3 1. Plaintiff JOSHUA BECKER is, and at all relevant times was, an individual residing
4 in the County of San Diego, State of California.

5 2. Defendant DOUGLAS D. DE HART, INC. dba SERVICEMASTER ABSOLUTE
6 WATER & FIRE DAMAGE SERVICES (“SERVICEMASTER” or the “Company”) is, and at all
7 relevant times was, a California corporation with its principal place of business in San Diego
8 County, California.

9 3. On information and belief, Defendant MARK RALPH (“RALPH”) is, and at all
10 relevant times was, a competent adult residing in San Diego County, California.

11 4. On information and belief, RALPH, at all relevant times, was a director, officer,
12 and/or managing agent of Defendant SERVICEMASTER within the meaning of California Labor
13 Code section 558.1 and California Civil Code section 3294. On information and belief, RALPH, at
14 all relevant times, exercised substantial discretion in his decision-making such that his decisions
15 ultimately determined company policy of the Company. On information and belief, RALPH
16 conceived of and implemented the unlawful compensation scheme to which BECKER and, on
17 information and belief, other employees were subjected during the relevant liability period, as
18 described in this Complaint.

19 5. Plaintiff sues fictitious DOES 1 through 10 inclusive, pursuant to Code of Civil
20 Procedure § 474, because the names and/or capacities and/or facts showing them liable is not
21 presently known. Plaintiff will amend this complaint when the true names and capacities are
22 ascertained. Unless otherwise indicated each Defendant is sued as the agent and/or employee of
23 every other Defendant acting within the course and scope of said agency and or employment, with
24 the knowledge and/or consent of said co-Defendants. Plaintiff is informed and believes and
25 thereon alleges that each of the fictitiously named Defendants is or are responsible in some
26 manner of the acts, omissions or other actionable conduct as alleged in this complaint.

27 6. Plaintiff is informed and believes and thereon alleges that at all times mentioned
28 herein each of the Defendants herein were the agents, servants, and employees of each of the co-

1 Defendants, and in doing the things hereinafter alleged were acting within the course and scope of
2 such agency, employment and authority, and gave each of the co-Defendants consent to, ratified
3 and authorized the acts alleged hereinafter.

4 **JURISDICTION AND VENUE**

5 7. Pursuant to Article VI, § 10 of the California Constitution, subject matter jurisdiction
6 is proper in the Superior Court of California, County of San Diego, State of California.

7 8. Venue is proper in this Court because Defendants did substantial business in San
8 Diego County, California, Defendants employed Plaintiff in San Diego County, and Plaintiff resides
9 in San Diego County, California.

10 **FACTS COMMON TO ALL CAUSES OF ACTION**

11 9. The Company is generally in the business of restoring homes subjected to water
12 and fire damage to pre-loss condition. Its primary clients are insurance companies and performs
13 mostly “insurance work.”

14 10. On information and belief, the Company employed about 60 workers during the
15 relevant liability period. In terms of workforce complexion, about five of the 60 are project
16 managers, BECKER’s former role; 15 to 20 are “pack out” laborers, i.e., the personnel who move
17 home items out of storage; 10 to 15 are demolition laborers; four or so are estimators; and the
18 remainder work in operations and administration.

19 11. The Company employed BECKER from in or around November 2013 to on or
20 about September 10, 2021. He originally started as a demolition laborer at \$10.00 per hour. After
21 four months of employment, BECKER was elevated to project manager and he would remain in
22 that role until his termination.

23 12. For most of his employment, BECKER was a project manager for the Company,
24 overseeing and performing demolition after floods and/or other events. He oversaw other
25 employees and was employed on a salary basis. BECKER also typically inspected and took
26 photos of loss; interfaced with insurance adjusters regarding claims; contacted and coordinated
27 necessary personnel for restoration, such plumbers, electricians, and asbestos abatement
28 specialists; assessed and physically performed demolition; and like duties. After a typical full 14

1 or so hours onsite, BECKER typically completed related paperwork from home. This entailed all
2 project-related items, including contracts, work authorizations, diagramming of the subject home,
3 uploading and indexing of loss photos on a Company storage drive, among other tasks.

4 13. In addition to salary that BECKER was to receive, the Company maintained an
5 incentive/bonus structure, which vested when various metrics were met. This incentive was
6 expressly written to be “in addition to” the employee’s regular salary. In effect, the complicated
7 compensation structure acted to deprived BECKER of his justly earned compensation.

8 14. Under the incentive/bonus structure to which BECKER and others were subjected,
9 an employee received a percentage of each project based on billing. For example, if the Company
10 secured a \$10,000 project from one of its clients and BECKER was promised, say 15% under the
11 incentive scheme, BECKER would receive \$1,500 gross, subject to tax withholdings. **From the**
12 **net wages, the Company would further deduct for labor assigned to BECKER, as well as**
13 **deduct for equipment, supplies, and insurance fees assessed by the client.** In 2017, the
14 incentive payment percentage in effect for BECKER and others was 17.5%; in 2018 and 2019, it
15 was 19.5%; and in 2020 and 2021, it was 21.5%.

16 15. Throughout his employment with the Company, BECKER typically worked
17 upwards of 100 hours per workweek. BECKER typically started his workday at 7 a.m. and
18 physically worked on the jobsite until about 6 or 7 p.m. each night. He typically drove about 350
19 miles per day, as job locations were often beyond the bounds of San Diego County. After his work
20 onsite, BECKER typically spent a few hours at home each night completing work-related
21 paperwork.

22 16. Throughout his employment, BECKER typically did not have reasonable
23 opportunities to take uninterrupted meal and rest breaks to due to his extremely heavy workload.
24 In a typical workday for BECKER, Company projects were usually scheduled in two-hour blocks
25 and consecutive to each other. As such, as soon as BECKER and his team completed one project,
26 they were immediately off to the next.

27 17. During his employment with the Company, BECKER was to earn a salary of
28 \$130,000 per year, plus potential bonus, if the written metrics were met. Instead, the Company

1 passed on the cost of doing business, and the cost of employing its workers, to BECKER and, on
2 information and belief, to other similarly aggrieved employees. Many pay periods, BECKER had
3 a **negative** salary, in violation of the Labor Code and Wage Order 16. For the pay periods in
4 which BECKER had a negative salary, he was nonexempt as a matter of law and thus eligible for
5 the usual entitlements available to nonexempt employees, such as overtime and meal and rest
6 periods. In addition, BECKER was subjected to minimum wage violations for not being paid at
7 least a minimum wage for all hours worked.

8 18. One pay breakdown BECKER received, dated 3/10/21, states that he was
9 responsible for a gross total of \$7,692.88 of business. On that same page, his compensation has a
10 deduction for “helpers,” which indicates that he was charged for using employees to do the
11 Company’s business, in violation of Labor Code sections 221, 224, and 2802. The next item is
12 “less salary,” which is not being directed to BECKER, but just simply, deducted, in violation of
13 the Labor Code and Wage Order. Next, BECKER was charged for “administrative” services.
14 This one itemization falls short of Labor Code section 226’s requirement that an employee can
15 readily understand what he earned and why. While there is a breakdown of sorts, it is unclear why
16 the employee is charged for his salary, for administrative costs, and for other employees. During
17 that one pay period, **BECKER was “charged” by the Company \$885.60, as it is a negative**
18 **entry, and no salary was paid for this pay period.** In other words, BECKER, while performing
19 work during the pay period, was charged \$885.60 during that time, rather than being paid for his
20 hours worked, even though he was promised a salary of \$130,000 per year. BECKER was not a
21 partner or other equity associate of Defendant. He was a W2 employee throughout the relevant
22 liability period.

23 19. The Company paid a nominal amount (\$1 or \$2 per employee) for tax purposes and
24 left the rest of the employee expenses to the project manager, including BECKER, again charging
25 the project manager for the costs of doing business, and paying taxes, in violation of California
26 and other laws.

27 20. Other unlawful pay breakdowns included negative items for on call time (this
28 should be a positive number).

1 21. Ultimately, the Company was unlawfully passing along the cost of doing business
2 to its project managers, including BECKER. This resulted in BECKER not earning his promised
3 salary, and not being paid the promised incentive pay when he met agreed metrics, which he met.

4 22. BECKER was required to engage the services of an attorney to redress the above
5 grievances: working 14-hours days and drawing a negative salary. After BECKER's counsel
6 communicated with Defendant about Defendant's ostensibly unlawful compensation scheme,
7 Defendant fired BECKER shortly thereafter, in violation of the Labor Code's proscriptions against
8 retaliation.

9 Tolling of Claims

10 23. The Judicial Council Emergency Rule 9, as amended May 29, 2020, suspended
11 from April 6, 2020, to October 1, 2020, the statutes of limitations and repose for civil causes of
12 action that exceed 180 days. The statute of limitations for each of BECKER's causes of action
13 exceeds 180 days. As such, Plaintiff's individual claims are tolled approximately six months, by
14 Emergency Rule 9, and the statutory period relates back from on or about December 28, 2021.

15 **FIRST CAUSE OF ACTION**

16 **Wrongful Termination in Violation of Public Policy**

17 **(As Against SERVICEMASTER and All DOE Defendants)**

18 24. Plaintiff incorporates the preceding paragraphs.

19 25. California codifies a number of fundamental public policies intended to protect
20 both employees and the public at large from unscrupulous and overreaching employers. An
21 employer's material violation of any such fundamental public policies when terminating the
22 employment of an employee supports a cause of action for wrongful termination of employment in
23 violation of public policy.

24 26. Section 923 of the California Labor Code embodies one such fundamental public
25 policy. It renders it against the public policy of the State for an employer to terminate an employee
26 because that employee hired an attorney to negotiate the employee's terms and conditions of
27 employment. *See Gelini v. Tishgart*, 77 Cal.App.4th 219 (1999); *Montalvo v. Zamora*, 7
28 Cal.App.3d 69 (1970)

1 27. BECKER was wrongfully retaliated against for hiring an attorney to negotiate the
2 terms and conditions of his employment, and he was subjected to a wrongful termination of
3 employment. He was fired, with no good cause or reason, shortly after he learned that the
4 Company had received and reviewed a certified letter sent by his counsel, which the Company
5 signed for on September 7, 2021. This adverse action was retaliatory and carried out within 120
6 days of his protected activities, rendering his discharge presumptively retaliatory and
7 discriminatory under the Labor Code.

8 28. BECKER's protected activity, hiring a lawyer to negotiate the terms and conditions
9 of his employment, and the adverse action that followed, independently support a cause of action
10 for retaliation and wrongful termination of employment, in violation of Labor Code Section
11 1102.5. That statute prohibits retaliation against an employee who engages in protected activities,
12 including the hiring of a lawyer to negotiate the terms and conditions of employment and reporting
13 the nonpayment of earned wages and the reporting of the employer's suspected noncompliance or
14 violation of state or federal laws.

15 29. As a direct and proximate result of Defendants' acts and omissions, Plaintiff has
16 suffered compensatory, consequential, and incidental damages all in amounts to be proven at the
17 time of trial herein.

18 30. As a further direct and proximate result of Defendants' acts and omissions, Plaintiff
19 has suffered general damages, including emotional distress, anxiety, and worry, all in amounts to
20 be proven at the time of trial herein. Defendants' conduct harmed Plaintiff emotionally and
21 mentally.

22 31. Defendants' conduct, intentionally perpetrated against Plaintiff, was malicious,
23 wanton, and despicable within the meaning of Civil Code §3294, as to entitle Plaintiff to an award
24 of punitive damages against Defendants, and each of them, in amounts deemed appropriate at the
25 time of trial. Defendants' conduct was intentional and outside all norms of society, bearing no
26 relationship to the normal employer-employee relationship.

27 32. Defendants' unfair and illegal conduct further entitles Plaintiff to the recovery of
28 his attorneys' fees and costs under the Labor Code, including Section 1102.5, as well as the

1 private attorney general provisions of California Code of Civil Procedure §1021.5. Plaintiff seeks
2 to vindicate important and substantial public interests and rights, namely for employees to be free
3 from unlawful retaliation and discrimination in the workplace. Defendants' conduct herein thus
4 warrants a finding that Plaintiff's fees and costs be paid by Defendants rather than from a recovery
5 in this matter.

6 **SECOND CAUSE OF ACTION**

7 **Unlawful Retaliation and Discrimination**

8 **(As Against SERVICEMASTER and All DOE Defendants)**

9 33. Plaintiff incorporates the preceding paragraphs.

10 34. As alleged herein above, Defendants engaged in a concerted course of action
11 intended to compromise and inhibit Plaintiff's and the public's rights and interests, which conduct
12 was substantially motivated by BECKER's engagement of an attorney to negotiate the terms and
13 conditions of his employment, to oppose the Company's unfair and illegal business practices, and
14 BECKER's objection to the Company's improper denial of compensation earned.

15 35. Defendants engaged in acts of retaliation and discrimination against BECKER when
16 taking the adverse actions against him as alleged herein, in violation of the California Labor Code,
17 including Sections 923, 1102.5 and such other statutes and promulgations, including those
18 mandating the timely payment to employees of all compensation earned. Defendants' acts and
19 omissions on account of BECKER's exercise of his rights and engagement in protected activities
20 constituted unlawful employment practices in violation of his rights and interests.

21 36. As a direct and proximate result of Defendants' acts and omissions, Plaintiff has
22 suffered compensatory, consequential, and incidental damages all in amounts to be proven at the
23 time of trial herein.

24 37. As a further direct and proximate result of Defendants' acts and omissions, Plaintiff
25 has suffered general damages, including emotional distress, anxiety, and worry, all in amounts to be
26 proven at the time of trial herein. Defendants' conduct harmed Plaintiff emotionally and mentally.

27 38. Defendants' conduct, intentionally perpetrated against Plaintiff, was malicious,
28 wanton, and despicable within the meaning of Civil Code §3294, as to entitle Plaintiff to an award

1 of punitive damages against Defendants, and each of them, in amounts deemed appropriate at the
2 time of trial. Defendants' conduct was intentional and outside all norms of society, bearing no
3 relationship to the normal employer-employee relationship.

4 39. Defendants' unfair and illegal conduct further entitles Plaintiff to the recovery of his
5 attorneys' fees and costs under the Labor Code, including Section 1102.5, as well as the private
6 attorney general provisions of California Code of Civil Procedure §1021.5. Plaintiff seeks to
7 vindicate important and substantial public interests and rights, namely for employees to be free from
8 unlawful retaliation and discrimination in the workplace. Defendants' conduct herein thus warrants
9 a finding that Plaintiff's fees and costs be paid by Defendants rather than from a recovery in this
10 matter.

11 **THIRD CAUSE OF ACTION**

12 **Breach of Contract**

13 **(As Against SERVICEMASTER and All DOE Defendants)**

14 40. Plaintiff incorporates the preceding paragraphs.

15 41. Plaintiff and Defendants entered into a written agreement, wherein Defendants
16 would pay Plaintiff an annual salary of \$130,000, as a project manager.

17 42. In connection with his position as project manager, he was promised, in writing, a
18 performance incentive with various metrics.

19 43. Plaintiff performed all services agreed to as project manager.

20 44. Plaintiff met Defendant's goals regarding performance and was entitled to
21 performance bonuses under the written contract.

22 45. Plaintiff fully performed all terms of the employment contract or was excused from
23 full performance.

24 46. Plaintiff further fully performed all terms of the bonus/incentive pay written
25 contract.

26 47. Defendants breached the employment contract to pay a \$130,000 annual salary.

27 48. Defendants also breached the bonus/incentive pay written contract.

28 49. Defendants were not excused from performing under the salary contract.

1 50. Defendants were also not excused from performing under the bonus/incentive
2 contract.

3 51. Plaintiff was harmed by Defendants' breach of both compensation agreements.

4 52. Defendants' breach was the legal and proximate cause of Plaintiff's harm.

5 53. Plaintiff's damages will be shown at time of trial, according to proof.

6 **FOURTH CAUSE OF ACTION**

7 **Failure to Pay Earned Wages**

8 **(Cal. Lab. Code §204)**

9 **(As Against All Defendants)**

10 54. Plaintiff incorporates the preceding paragraphs.

11 55. Labor Code section 204(a) provides as follows:

12 All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or
13 204.2, earned by any person in any employment are due and payable twice
14 during each calendar month, on days designated in advance by the employer
15 as the regular paydays. Labor performed between the 1st and 15th days,
16 inclusive, of any calendar month shall be paid for between the 16th and the
17 26th day of the month during which the labor was performed, and labor
18 performed between the 16th and the last day, inclusive, of any calendar
19 month, shall be paid for between the 1st and 10th day of the following
20 month. However, salaries of executive, administrative, and professional
21 employees of employers covered by the Fair Labor Standards Act, as set
22 forth pursuant to Section 13(a)(1) of the Fair Labor Standards Act, as
23 amended through March 1, 1969, in Part 541 of Title 29 of the Code of
24 Federal Regulations, as that part now reads or may be amended to read at
25 any time hereafter, may be paid once a month on or before the 26th day of
26 the month during which the labor was performed if the entire month's
27 salaries, including the unearned portion between the date of payment and
28 the last day of the month, are paid at that time.

23 56. Defendants failed to pay Plaintiff the wages that he earned, as required by Labor
24 Code section 204.

25 57. Plaintiff has been deprived of his rightfully earned wages as a direct and proximate
26 result of Defendants' failure to pay said compensation. Plaintiff is entitled to recover such
27 amounts, plus interest thereon, attorney's fees and costs.

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1 **FIFTH CAUSE OF ACTION**

2 **For Failure to Pay Minimum Wages**

3 **(Cal. Lab. Code §§ 1182.12, 1194 *et seq.*, 1197, 1198; IWC Wage Order No. 16-2001)**

4 **(As Against All Defendants)**

5 58. Plaintiff incorporates the preceding paragraphs.

6 59. Plaintiff is entitled to minimum wage as provided under the Code and the Wage
7 Orders.

8 60. The Labor Code and the Wage Orders provide that an employer must pay a minimum
9 wage to an employee, which is ten dollars and fifty cents (\$10.50) per hour for all hours worked
10 effective January 1, 2017 through December 31, 2017 (for employers with 26 or more employees);
11 eleven dollars (\$11.00) per hour for all hours worked effective January 1, 2018 through December
12 31, 2018; twelve dollars (\$12.00) per hour for all hours worked effective January 1, 2019 through
13 December 31, 2019; thirteen dollars (\$13.00) per hour for all hours worked effective January 1,
14 2020 through December 31, 2020; fourteen dollars (\$14.00) per hour for all hours worked effective
15 January 1, 2021 through December 31, 2021; and fifteen dollars (\$15.00) per hour for all hours
16 worked effective January 1, 2022 through the present.

17 61. Defendants' illegal compensation scheme caused Plaintiff to receive no
18 compensation and even "negative" compensation, wherein the Company purported to charge
19 Plaintiff and deduct from his pay for labor, supplies, equipment, and other costs that should have
20 been borne by the Company, as described in this Complaint, all in violation of numerous provisions
21 of the California Labor Code.

22 62. As a result, Defendants failed to pay Plaintiff minimum wage for Plaintiff's work, as
23 required by the Code and the Wage Orders.

24 63. Defendants thus required Plaintiff to work under conditions prohibited by order of
25 the IWC, in violation of those orders.

26 64. Defendants deprived Plaintiff of his rightfully earned minimum wage compensation,
27 as a direct and proximate result of Defendants' failure to pay said compensation. Under Labor Code
28

1 § 1194, Plaintiff is entitled to recover such amounts, plus interest thereon, reasonable attorney's
2 fees, and costs.

3 65. In addition, under Labor Code § 1194.2, Plaintiff is entitled to recover liquidated
4 damages in an amount equal to the minimum wages unlawfully unpaid, and interest thereon.

5 **SIXTH CAUSE OF ACTION**

6 **For Failure to Pay Minimum Wages**

7 **(San Diego Municipal Code §§ 39.0107, 39.0112)**

8 **(As Against All Defendants)**

9 66. Plaintiff incorporates the preceding paragraphs.

10 67. Plaintiff is entitled to minimum wage as provided under the San Diego Municipal
11 Code.

12 68. Plaintiff routinely worked for Defendants within the city limits of San Diego,
13 California during the relevant liability periods.

14 69. The San Diego Municipal Code sets minimum wage levels for employers at \$10.50
15 per hour for all hours worked effective July 11, 2016; \$11.50 per hour for all hours worked effective
16 January 1, 2017; \$12.00 per hour for all hours worked effective January 1, 2019; \$13.00 per hour
17 for all hours worked effective January 1, 2020; and \$14.00 per hour for all hours worked effective
18 January 1, 2021.

19 70. Defendants' illegal compensation scheme caused Plaintiff to receive no
20 compensation and even "negative" compensation, wherein the Company purported to charge
21 Plaintiff and deduct from his pay for labor, supplies, equipment, and other costs that should have
22 been borne by the Company, as described in this Complaint, in violation of the San Diego Municipal
23 Code.

24 71. As a result, Defendants failed to pay Plaintiff the minimum wage for Plaintiff's work,
25 as required by the San Diego Municipal Code.

26 72. Per San Diego Municipal Code § 39.0112, an employer who violates Municipal Code
27 § 39.0107 shall be liable to the employee whose rights were violated for all relief, including, but not
28 limited to, the payment to each affected employee of wages unlawfully withheld, prevailing

1 employee attorneys' fees and costs, and liquidated damages equal to double the back wages
2 withheld.

3 73. Furthermore, per subdivision (c) of Municipal Code § 39.0112, employers in
4 violation of the local minimum wage law are subject to a civil penalty of no less than \$500 and no
5 more than \$1,000 per violation. "Each and every day that an Employer fails to pay an Employee
6 Minimum Wage...constitutes a separate and distinct violation." To date, BECKER is still owed
7 minimum wages.

8 **SEVENTH CAUSE OF ACTION**

9 **For Failure to Pay Overtime Compensation**

10 **(Cal. Lab. Code §§ 510, 1194, 1198; IWC Wage Order No. 16-2001)**

11 **(As Against All Defendants)**

12 74. Plaintiff hereby incorporate each preceding paragraph.

13 75. The Code and the Wage Order provide that a workday consists of eight hours, a
14 workweek consists of 40 hours, and an employer must compensate an employee who works
15 overtime hours with either one-and-one-half times or double the employee's regular rate of
16 compensation. Defendants employed Plaintiff for more than eight hours per day and more than 40
17 hours per workweek, but Defendants failed to pay Plaintiff the overtime compensation required by
18 the California Labor Code and the Wage Order.

19 76. Defendants thus required Plaintiff to work for longer hours than those fixed, or under
20 conditions prohibited, by order of the IWC, in violation of those orders.

21 77. Defendants deprived Plaintiff of his rightfully earned overtime compensation as a
22 direct and proximate result of Defendants' failure to pay said compensation. Under Labor Code §
23 1194, Plaintiff is entitled to recover such amounts, plus interest thereon, attorney's fees, and costs.

24 **EIGHTH CAUSE OF ACTION**

25 **For Failure to Pay Meal Period Compensation**

26 **(California Labor Code §§ 226.7, 512, 1198; IWC Wage Order No. 16-2001)**

27 **(As Against All Defendants)**

28 36. Plaintiff incorporates the preceding paragraphs.

37. The Code and the Wage Order provide that an employee is entitled to an uninterrupted, off-the-clock meal period of not less than 30 minutes for every five hours worked. The Code and the Wage Order also require the employer to pay the employee one hour at the employee's regular rate of compensation for each day that the employer does not provide at least one required meal period.

38. Defendants employed Plaintiff for work periods of more than five (5) hours without a timely meal period of not less than 30 minutes and failed to compensate Plaintiff for such meal periods, as required by Labor Code § 226.7 and the Wage Order.

39. Defendants deprived Plaintiff of his rightfully earned compensation for meal periods as a direct and proximate result of Defendant's failure to pay said compensation.

40. The remedy provided for in Code § 226.7 constitutes a wage, and Plaintiff is entitled to interest thereon. *Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1099-1100; *Naranjo v. Spectrum Security Services, Inc.* (2022), 13 Cal. 5th 93, 101.

41. Defendants thus required Plaintiff to work for longer hours than those fixed, or under conditions prohibited, by order of the IWC, in violation of those orders.

NINTH CAUSE OF ACTION

For Failure to Pay Rest Period Compensation

(California Labor Code §§ 226.7, 1198; IWC Wage Order No. 16-2001)

(As Against All Defendants)

42. Plaintiff incorporates the preceding paragraphs.

43. The Code and the Wage Order provide that an employee is entitled to an uninterrupted rest period of not less than 10 net minutes for every four hours worked or major fraction thereof. The Code and the Wage Order require the employer to pay the employee one hour at the employee's regular rate of compensation for each day that the employer does not provide at least one required rest period.

44. Defendant employed Plaintiff for work periods of four hours or major fraction thereof without rest periods of ten minutes' net rest time and failed to compensate Plaintiff for such rest periods, as required by Code § 226.7 and the Wage Order.

45. Defendant deprived Plaintiff of his rightfully earned compensation for rest periods as a direct and proximate result of Defendants' failure to pay said compensation.

46. The remedy provided for in Code § 226.7 constitutes a wage, and Plaintiff is entitled to interest thereon. *Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1099-1100; *Naranjo v. Spectrum Security Services, Inc.* (2022), 13 Cal. 5th 93, 101.

47. Defendant thus required Plaintiff to work for longer hours than those fixed, or under conditions prohibited, by order of the IWC, in violation of those orders.

TENTH CAUSE OF ACTION

For Failure to Furnish Accurate Wage and Hour Statements

(Cal. Lab. Code § 226)

(As Against All Defendants)

48. Plaintiff hereby incorporate each preceding paragraph.

49. Labor Code § 226(a) required Defendants, “semimonthly or at the time of each payment of wages,” to furnish Plaintiff “an accurate itemized statement in writing” showing gross and net wages earned, total hours worked by the employee/employees, rates of pay, and other information.

50. Defendants knowingly and intentionally failed to provide Plaintiff with such wage and hour statements accurately reflecting the true amount of wages earned in violation of section 226(a).

51. Plaintiff suffered injury as a result of Defendants' knowing and intentional failure to provide him with the wage and hour statements required by law.

52. Under Labor Code § 226, subsections (e) and (f), and based on Defendants' conduct as alleged herein, Plaintiff is entitled to: (a) fifty dollars (\$50) for the initial pay period in which a wage and hour statement violation occurred, and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000); (b) injunctive relief to ensure Defendants' compliance with Labor Code § 226; and (c) an award of costs and reasonable attorney's fees.

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ELEVENTH CAUSE OF ACTION

Failure to Pay All Wages Earned at Separation

(Cal. Lab. Code §203)

(As Against All Defendants)

53. Plaintiff hereby incorporate each preceding paragraph.

54. Labor Code section 203(a) provides as follows:

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. An employee who secretes or absents themselves to avoid payment to them, or who refuses to receive the payment when fully tendered to them, including any penalty then accrued under this section, is not entitled to any benefit under this section for the time during which the employee so avoids payment.

55. Defendants willfully failed to pay Plaintiff accrued wages due to him promptly upon separation, as required by California Labor Code § 202.

56. Based on Defendants' conduct as alleged herein, Defendants are liable for statutory penalties pursuant to Labor Code § 203.

TWELFTH CAUSE OF ACTION

Illegal Offset Against Wages

(Cal. Lab. Code §§ 221, 224; IWC Wage Order No. 16-2001)

(As Against All Defendants)

57. Plaintiff hereby incorporate each preceding paragraph.

58. Labor Code § 221 provides: "It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee."

59. Defendant unlawfully withheld wages owed to BECKER by deducting its own cost of doing business, including for compensation for other employees, for business materials, and other unlawful deductions from his earned compensation, in violation of section 221.

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1 60. Plaintiff has been deprived of his rightfully earned wages as a direct and proximate
2 result of Defendants' failure to pay said compensation. Plaintiff is entitled to recover such amounts,
3 plus interest thereon, attorney's fees and costs.

4 **THIRTEENTH CAUSE OF ACTION**

5 **For Failure to Indemnify for All Necessary Expenditures or Losses**

6 **(Cal. Lab. Code § 2802; IWC Wage Order No. 16-2001)**

7 **(As Against All Defendants)**

8 61. Plaintiff hereby incorporates each preceding paragraph.

9 62. Labor Code § 2802(a) provides:

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

13 63. Throughout the relevant liability periods, Defendants required Plaintiff to conduct
14 necessary, work-related tasks for Defendants using his personal devices, including his mobile phone
15 and computer, all without reimbursement. Plaintiff is entitled to a "reasonable percentage" of his
16 mobile phone bill. *Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137, 1144.
17 Plaintiff is also entitled to a reasonable reimbursement for his compelled, work-related use of his
18 personal devices on behalf of Defendants.

19 64. Defendants have not indemnified Plaintiff to date for the necessary, work-related
20 expenditures on behalf of Defendants, as described in this Complaint.

21 65. Under Labor Code § 2802(c), Plaintiff is entitled to recover all reasonable costs,
22 including attorney's fees, incurred in enforcing his rights granted by Labor Code § 2802.

23 **FOURTEENTH CAUSE OF ACTION**

24 **Unfair Competition**

25 **(Cal. Bus. & Prof. Code § 17200, et seq.)**

26 **(As Against SERVICEMASTER and All DOE Defendants)**

27 66. Plaintiff hereby incorporates each preceding paragraph.

28 ///

67. Defendants' violations of the Code and the Wage Order, including Defendants' failure to pay Plaintiff his earned wages, minimum wages, overtime wages, meal period compensation, and rest period compensation, constitute unfair business practices in violation of the UCL.

68. The UCL prohibits any practices forbidden by law, be they civil or criminal, federal, state, or municipal, statutory, regulatory, or court made. *South Bay Chevrolet v. General Motors Acceptance Corp.* (1999) 72 Cal. App. 4th 861, 880.

69. Plaintiff has suffered injury in fact and has lost money or property as a result of Defendants' unfair business practices, and Defendants have reaped unfair benefits and illegal profits at Plaintiff's expense.

70. Plaintiff is entitled to immediate possession of all amounts owed to him by Defendants, with interest.

71. Defendants' unfair business practices entitle Plaintiff to seek preliminary and permanent injunctive relief, including but not limited to orders that Defendants account for, disgorge, and restore to Plaintiff the compensation unlawfully withheld from him.

PRAYER FOR DAMAGES

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as to each and every cause of action, as follows:

1. For unpaid wages in an amount according to proof;
2. For minimum wages in an amount according to proof;
3. For overtime compensation in an amount according to proof;
4. For meal period compensation in an amount according to proof;
5. For rest period compensation in an amount according to proof;
6. For Labor Code § 226(e) statutory penalties in an amount according to proof;
7. For Labor Code § 203 penalties in an amount according to proof;
8. For indemnification of all necessary expenditures incurred according to proof;
9. For restitution of all unpaid wages in an amount according to proof;
10. For contract damages according to proof;

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- 11. For pre-judgment interest, according to proof;
- 12. For interest, thereon from and after the date of judgment;
- 13. For general damages, according to proof;
- 14. For special damages, according to proof;
- 15. For punitive damages, according to proof;
- 16. For costs of suit therein including but not limited to attorney's fees; and
- 17. For such other and further relief as the Court may deem just and proper.

Dated: June 23, 2022

KASED LAW GROUP APC



By: _____
Nathan N. Kased
Attorneys for Plaintiff
JOSHUA BECKER

EXHIBIT 3



Phone
P: (619) 333-6373
F: (619) 399-3040

Email
nathan@kasedlegal.com

November 14, 2023

VIA ONLINE SUBMISSION

PAGAFilings@dir.ca.gov

VIA CERTIFIED MAIL

Mark Ralph
Individually and as CEO
Douglas D. De Hart, Inc. dba ServiceMaster Absolute Water & Fire Damage Services
796 Energy Way
Chula Vista, CA 91911

**Re: Notice Pursuant to Labor Code § 2699.3(a) re: Joshua Becker and All
Aggrieved Employees**
LWDA Case No. LWDA-CM-892016-22

To Whom It May Concern:

This letter is to supplement the letter sent by my office on behalf of Joshua Becker ("Mr. Becker") on June 29, 2022 (the "PAGA Letter") regarding the Labor Code violations committed by Douglas D. De Hart, Inc. dba ServiceMaster Absolute Water & Fire Damage Services ("Service Master") and Mark Ralph ("Mr. Ralph") (collectively, "Employers") against Mr. Becker and aggrieved employees. A copy of the PAGA Letter is attached hereto as **Exhibit 1** and it, along with the allegations in it, are incorporated herein by reference.

In addition to the alleged Labor Code violations identified in Mr. Becker's PAGA Letter, Mr. Becker alleges that Employers are also liable for the following violations of the Labor Code and the Industrial Welfare Commission Wage Order.

I. Minimum Wage Violations

Employers were required to pay non-exempt aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. See Labor Code §§ 200, 558, 1182.12, 1194, 1194.2, 1197; Wage Order 16, § 4. Employers have failed to pay non-exempt aggrieved employees for all hours worked, including (but not limited to) by requiring and/or permitting employees to work while off-the-clock. This has resulted in aggrieved employees not being paid all required wages for all hours worked, including all minimum wages. As a result of Defendants' policies/practices, which failed to compensate for all hours worked, non-exempt aggrieved employees were deprived of all required minimum wages.

San Diego

2535 Kettner Boulevard
Suite 2A2
San Diego, CA 92101

Los Angeles

611 S. Pacific Coast Highway
Suite 105
Redondo Beach, CA 90277

Orange County

5500 Bolsa Avenue
Suite 203-B
Huntington Beach, CA 92648



II. Overtime Violations

Employers were required to pay non-exempt aggrieved employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. See Labor Code §§ 1194(a) and 1198; Wage Order 16, § 3. According to Labor Code § 510(a), “Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one half times the regular rate of pay for an employee.” This section further provides, “Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.” As stated above, Employers have failed to pay aggrieved employees for all hours worked, including (but not limited to) by requiring and/or permitting employees to work while off-the-clock, resulting in unpaid overtime wages. Additionally, Employers failed to include the value of nondiscretionary bonuses and all other required remuneration when calculating the regular rate of pay for overtime purposes. As a result of these policies/practices, non-exempt aggrieved employees were not compensated for all overtime wages on occasions when they worked over eight hours in a workday and/or 40 hours in a workweek.

III. Meal Period Violations

Employers failed to provide non-exempt aggrieved employees with timely, full 30-minute first meal periods commencing before the conclusion of the fifth hour of work, in violation of Labor Code § 512, and Wage Order 16, §10(A). Non-exempt aggrieved employees were also not provided with all required meal periods due to Employers’ meal period policies/practices which failed to provide a second meal period for shifts over 10.0 hours. See Labor Code §§ 226.7, 512, 558, 1198; Wage Order 16, § 10(B). Additionally, Employers failed to include the value of nondiscretionary bonuses and all other required remuneration when calculating the regular rate of pay when paying meal period premiums. As a result, non-exempt aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that meal periods were not provided. See Labor Code § 226.7 (“If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest period is not provided.”).

IV. Rest Period Violations

Employers have failed to authorize and permit all required rest periods for non-exempt aggrieved employees. Specifically, Employers have often failed to authorize and permit a net 10-minute rest period for every four hours worked or major fraction thereof, and non-exempt aggrieved employees often have had to take short (less than 10 minutes) rest periods due to their workload. Additionally, Employers failed to include the value of nondiscretionary bonuses and all other required remuneration when calculating the regular rate of pay when paying rest period premiums. As a result, non-exempt aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that meal periods were not provided. See Labor Code § 226.7 (“If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest period is not provided.”).

V. Failure to Pay All Sick Pay

Pursuant to Labor Code §§ 233 and 246, a qualifying employee begins to accrue paid sick leave beginning on July 1, 2015, or if hired after that date, on the first day of employment. Labor Code § 246 states that employees “shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked,” and may begin using accrued paid sick days on the 90th day of employment. Labor Code § 246 further states that an employer “may satisfy the accrual requirements of [Section 246] by providing not less than 24 hours or three days of paid sick leave that is available to the employee to use by the completion of the employee’s 120th calendar day of employment.” Employers failed to comply with Labor Code §§ 233 and 246 by not accurately calculating and paying the sick pay hours that aggrieved employees’ had accrued during their employment. Additionally, Employers failed to include the value of nondiscretionary bonuses and all other required remuneration when calculating the regular rate of pay when paying the sick pay hours.

VI. Failure to Reimburse Employees for Necessary Business Expenses

Employers failed to reimburse Mr. Becker and aggrieved employees for necessary work expenses incurred due to Employers’ policy/practice of not providing any reimbursement for cellular phone expenses incurred in the direct discharge of the job duties of such employees. See Labor Code §§ 2802 and 2804 (“An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.”); Wage Order 16, § 9. Accordingly, Ms. Becker and aggrieved employees are entitled to reimbursement for all expenditures incurred as a direct consequence of the discharge of their duties for Employers and/or at the direction of Employers.

VII. Wage Statement Violations

Employers were required to furnish Mr. Becker and aggrieved employees with complete and accurate itemized wage statements that show, among other things, their rates of pay, corresponding number of hours worked at each rate of pay, total gross wages earned, and total net wages earned. See Labor Code §§ 226(a) and 1174(d); Wage Order 16, § 6. As a result of Employers’ failure to pay all minimum and overtime wages and meal and rest period premium wages, Employers maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Becker and aggrieved employees in violation of Labor Code § 226. Furthermore, Employers issued facially deficient wage statements which fail to list all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Employers’ failure to comply with the wage statement obligations was knowing and intentional, and Mr. Becker and aggrieved employees have suffered injury as a result.

VIII. Failure to Maintain Accurate Records

Employers were required to maintain accurate records pursuant to Labor Code §§ 1174, 1174.1, and 1174.5; Wage Order 16, § 6. As a result of the above alleged violations of the Labor Code, including, but not limited to, failure to accurately record all hours worked by Ms. Becker and aggrieved employees, Employers failed to maintain accurate records.

IX. Failure to Timely Pay Wages During Employment

Employers were required to pay “all wages” for non-exempt employees at least twice each calendar month and “not more than seven calendar days following the close of the payroll period.” See Labor Code § 204(a), (d). Additionally, “every person who fails to pay the wages of an employee as provided in Section . . . 204 . . . shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation. See Labor Code § 210. Employers failed to pay all wages and premiums in each pay period in which such wages were earned at the lawful rate. Therefore, Employers violated Labor Code section 204 by failing to pay all wages and premiums owed on the regular pay days scheduled each pay period within seven calendar days of the close of the payroll period.

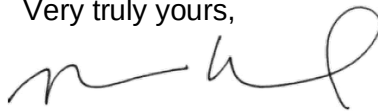
X. Failure to Timely Pay Final Wages

Employers have also failed to timely pay former aggrieved employees all of their final wages at the time of separation of employment, including, but not limited to, all earned minimum wages, overtime wages, meal and rest period premium wages, and sick pay, as required under Labor Code §§ 201-203.

XI. Conclusion

In addition to the PAGA Letter submitted on June 29, 2022, the facts articulated above violate provisions of the Labor Code identified in this writing. By virtue of this letter, we hereby notify the LWDA of Employers' violations. In accordance with Labor Code § 2699.3(a)(2)(A), please notify us within 60 days, at our San Diego office address, whether you will investigate this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'N. Kased', with a stylized flourish at the end.

Nathan N. Kased, Esq.

cc:

Danielle H. Moore, Esq.

dmoore@fisherphillips.com

Steven Eheart, Esq.

seheart@fisherphillips.com

Fisher & Phillips LLP

4747 Executive Drive, Suite 1000

San Diego, CA 92121

(Attorneys for Defendants)

EXHIBIT 1



Reply to:
2535 Kettner Blvd, Ste 2A2
San Diego, CA 92101
nathan@kasedlegal.com

June 29, 2022

VIA ONLINE SUBMISSION
PAGAFilings@dir.ca.gov

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

William H. Sauls
Agent for Service of Process
Douglas D. De Hart, Inc.
dba ServiceMaster Absolute Water & Fire
Damage Services
427 C St # 416
San Diego, CA 92101
cc: 3033 Fifth Ave, San Diego, CA 92103

Mark Ralph
Individually and as CEO
Douglas D. De Hart, Inc.
dba ServiceMaster Absolute Water & Fire
Damage Services
796 Energy Way
Chula Vista, CA 91911
(Served In Individual Capacity)

Re: Notice Pursuant to Labor Code § 2699.3(a) re: Joshua Becker and all Aggrieved Employees

To Whom It May Concern:

This letter serves as notice to the Labor & Workforce Development Agency ("LWDA") of the Labor Code violations of Mark Ralph and Douglas D. De Hart, Inc. dba ServiceMaster Absolute Water & Fire Damage Services (individually, "Mr. Ralph," and "ServiceMaster," or collectively, "Employers"). We submit this notice in accordance with Labor Code § 2699.3(a).

Employers formerly employed our client, Joshua Becker ("Mr. Becker"). We submit this notice on behalf of our client and all other aggrieved employees that were employed by Mark Ralph and/or Douglas D. De Hart, Inc. dba ServiceMaster Absolute Water & Fire Damage Services. In compliance with Labor Code § 2699.3(a)(1), Mr. Becker furnished Employers with a copy of this notice by certified mail. Unless the LWDA proceeds against Employers, Mr. Becker intends to pursue a representative civil action against Employers, in accordance with Labor Code § 2698, *et seq.*

Mr. Becker has already filed a civil complaint for his individual claims and will amend his complaint to include claims under the Private Attorneys General Act ("PAGA") if the LWDA does not investigate Mr. Becker's claims. A true and correct copy of the complaint on file in San Diego Superior Court is attached hereto as **Exhibit A**, incorporated by reference herein.

San Diego
2535 Kettner Boulevard, Suite 2A2
San Diego, CA 92101
P: +1 619.333.6373 | F: +1 619.399.3040

Los Angeles
400 Continental Boulevard, 6th Floor
El Segundo, CA 90245
P: +1 310.697.3200

www.kasedlegal.com

I. Statutes of Limitations Tolling

Pertinent to the instant matter, the Judicial Council Emergency Rule 9, as amended May 29, 2020, suspended from April 6, 2020 to October 1, 2020 the statutes of limitations for civil causes of action that exceed 180 days. Thus, the statute of limitations on Mr. Becker's representative claims under PAGA, typically a one-year period, were tolled between April 6, 2020 and October 1, 2020. As such, for purposes of Mr. Becker's representative claims on behalf of himself, the aggrieved, and the State of California, the statutory period relates back one year from on or about December 28, 2021.

II. Labor Code Violations

Employers have violated at least the following specifically enumerated Labor Code sections, in addition to any other Labor Code sections implicated by the actions described in the Facts & Theories and Liability & Damages portions of this notice letter: §§ 201, 203, 204, 221, 224, 226, 226.7, 510, 512, 1182.12, 1174, 1194, 1194.2, 1197, 1198, and 2802.

III. Facts & Theories

Douglas D. De Hart, Inc. dba ServiceMaster Absolute Water & Fire Damage Services ("the Company" or "ServiceMaster") is a fire, water, and storm damage cleanup service company operating throughout San Diego with its principal place of business located at 796 Energy Way, Chula Vista, CA 91911. On information and belief, ServiceMaster has operated continuously from this location throughout the relevant liability periods. The Company is generally in the business of restoring homes subjected to water and fire damage to pre-loss condition. Its primary clients are homeowners, business principles, and insurance companies. On information and belief, the Company performs mostly "insurance work."

ServiceMaster has employed approximately 60-plus workers, throughout the relevant liability period. In terms of workforce complexion, about five of the 60 are project managers; 15 to 20 are "pack out" laborers, i.e., the personnel who move home items out of storage; 10 to 15 are demolition laborers; four or so are estimators; and the remainder work in operations and administration. Throughout the relevant liability periods, Mr. Ralph, the Company's principal executive and owner, was the primary decision maker regarding terms and conditions of employment for all employees, including project managers.

ServiceMaster employed Mr. Becker from in or around November 2013 to on or about September 10, 2021. He originally started as a demolition laborer at \$10.00 per hour. After four months of employment, Mr. Becker was elevated to project manager, and he would remain in that role until his termination.

For most of his employment, Mr. Becker was a project manager for the Company, overseeing and performing demolition after floods and/or other events. He oversaw other employees and was employed on a salary basis. Mr. Becker also typically inspected and took photos of loss; interfaced with insurance adjusters regarding claims; contacted and coordinated necessary personnel for restoration, such plumbers, electricians, and asbestos abatement specialists; assessed and physically performed demolition; and like duties. After a typical full 14 or so hours onsite, Mr. Becker typically

completed related paperwork from home. This entailed all project-related items, including contracts, work authorizations, diagramming of the subject home, uploading and indexing of loss photos on a Company storage drive, among other tasks.

In addition to salary that Mr. Becker was to receive, the Company maintained an incentive/bonus structure, which vested when various metrics were met. This incentive was expressly written to be “in addition to” the employee’s regular salary. In effect, the complicated compensation structure acted to deprive Mr. Becker of his justly earned compensation.

Under the incentive/bonus structure to which Mr. Becker and others were subjected, an employee received a percentage of each project based on billing. For example, if the Company secured a \$10,000 project from one of its clients and Mr. Becker was promised, say 15% under the incentive scheme, Mr. Becker would receive \$1,500 gross, subject to tax withholdings. **From the net wages, the Company would further deduct for labor assigned to Mr. Becker, as well as deduct for equipment, supplies, and insurance fees assessed by the client.** In 2017, the incentive payment percentage in effect for Mr. Becker and others was 17.5%; in 2018 and 2019, it was 19.5%; and in 2020 and 2021, it was 21.5%. On information and belief, the Company subjected other employees in Mr. Becker’s role to the same unlawful compensation scheme.

Throughout his employment with the Company, Mr. Becker typically worked upwards of 100 hours per workweek. Mr. Becker typically started his workday at 7 a.m. and physically worked on the jobsite until about 6 or 7 p.m. each night. He typically drove about 350 miles per day, as job locations were often beyond the bounds of San Diego County. After his work onsite, Mr. Becker typically spent a few hours at home each night completing work-related paperwork. On information and belief, other project managers typically endured working conditions like Mr. Becker.

Throughout his employment, Mr. Becker typically did not have reasonable opportunities to take uninterrupted meal and rest breaks to due to his extremely heavy workload. In a typical workday for Mr. Becker, Company projects were usually scheduled in two-hour blocks and consecutive to each other. As such, as soon as Mr. Becker and his team completed one project, they were immediately off to the next. On information and belief, other project managers typically endured working conditions like Mr. Becker.

During his employment with the Company, Mr. Becker was to earn a salary of \$130,000 per year, plus potential bonus, if the written metrics were met. Instead, the Company passed on the cost of doing business, and the cost of employing its workers, to Mr. Becker and, on information and belief, to other similarly aggrieved employees. Many pay periods, Mr. Becker had a **negative salary**, in violation of the Labor Code and Wage Order 16. For the pay periods in which Mr. Becker had a negative salary, he was nonexempt as a matter of law and thus eligible for the usual entitlements available to nonexempt employees, such as overtime and meal and rest periods. In addition, Mr. Becker was subjected to minimum wage violations for not being paid at least a minimum wage for all hours worked. On information and belief, other project managers typically endured working conditions like Mr. Becker.

One pay breakdown Mr. Becker received, dated 3/10/21, states that he was responsible for a gross total of \$7,692.88 of business. On that same page, his compensation has a deduction for “helpers,” which indicates that he was charged for using employees to do the Company’s business, in violation of Labor Code sections 221, 224, and 2802. The next item is “less salary,” which is not being directed to Mr. Becker, but just simply, deducted, in violation of the Labor Code and Wage Order.

Next, Mr. Becker was charged for “administrative” services. This one itemization falls short of Labor Code section 226’s requirement that an employee can readily understand what he earned and why. While there is a breakdown of sorts, it is unclear why the employee is charged for his salary, for administrative costs, and for other employees. **During that one pay period, Mr. Becker was “charged” by the Company \$885.60, as it is a negative entry, and no salary was paid for this pay period.** In other words, Mr. Becker, while performing work during the pay period, was charged \$885.60 during that time, rather than being paid for his hours worked, even though he was promised a salary of \$130,000 per year. Mr. Becker was not a partner or other equity associate of Defendant. He was a W2 employee throughout the relevant liability period. On information and belief, other project managers were subjected to the same unlawful compensation practice.

The Company paid a nominal amount (\$1 or \$2 per employee) for tax purposes and left the rest of the employee expenses to the project manager, including Mr. Becker, again charging the project manager for the costs of doing business, and paying taxes, in violation of California and other laws.

Other unlawful pay breakdowns included negative items for on call time (this should be a positive number).

Ultimately, the Company was unlawfully passing along the cost of doing business to its project managers, including Mr. Becker and other similarly aggrieved employees. This resulted in Mr. Becker not earning his promised salary, and not being paid the promised incentive pay when he met agreed metrics, which he met. On information and belief, ServiceMaster subjected all other similarly aggrieved employees to the same unlawful practices.

Due to the plainly undecipherable nature of Mr. Ralph’s payment ruse, Mr. Becker was required to engage the services of an attorney to redress the above grievances: working 14-hours days and drawing a negative salary. After Mr. Becker’s counsel, the undersigned, communicated with Defendant about Defendant’s ostensibly unlawful compensation scheme, Defendant fired Mr. Becker shortly thereafter, in violation of the Labor Code’s proscriptions against retaliation.

Quite tellingly, Mr. Becker’s final paycheck included a line item titled “Special Pay” with a handwritten note inscribed **“Buffer in case we’re missing something.”**

On information and belief, Mr. Ralph and ServiceMaster has maintained the unlawful compensation, timekeeping, meal and rest break, and reimbursement practices described above with all the other project managers throughout the relevant liability periods. As a result of such practices, ServiceMaster has routinely failed to pay Mr. Becker and his aggrieved peers their earned wages. The Company has also utterly failed to issue to Mr. Becker and his aggrieved driver peers timely and accurate wage and hour statements.

To date, ServiceMaster has not paid Mr. Becker all wages that he is still owed, in plain violation of California’s final pay laws. On information and belief, the Company has not paid all final wages due to other aggrieved employees that have separated from the Company during the relevant liability periods. Based on the Employers’ conduct as alleged herein, Employers are liable for substantial waiting time and statutory penalties in addition to the accrued wages lawfully owed to Mr. Becker and his aggrieved peers.

Mark Ralph and William H. Sauls
Douglas D. De Hart, Inc.
dba ServiceMaster Absolute -
Water & Fire Damage Services
June 29, 2022
Page 5

IV. Conclusion

The facts articulated above violate provisions of the Labor Code identified in this writing. By virtue of this letter, we hereby notify the LWDA of Employers' violations. In accordance with Labor Code § 2699.3(a)(2)(A), please notify us within 60 days, at our San Diego office address, whether you will investigate this matter.

Very truly yours,
Kased Law Group APC

A handwritten signature in black ink, appearing to read 'n kased', with a stylized flourish at the end.

Nathan N. Kased

cc: Mr. Becker
NK:mm

EXHIBIT A

1 NATHAN N. KASED (STATE BAR No. 251400)

2 Email: nathan@kasedlegal.com

3 **KASED LAW GROUP APC**

4 2535 KETTNER BOULEVARD, SUITE 2A2

5 SAN DIEGO, CALIFORNIA 92101

6 PHONE: 619.333.6373

7 FAX: 619.399.3040

8 Attorneys for Plaintiff

9 JOSHUA BECKER

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **FOR THE COUNTY OF SAN DIEGO**

12 JOSHUA BECKER, an Individual,

13 Plaintiff,

14 vs.

15 DOUGLAS D. DE HART, INC., dba
16 SERVICEMASTER ABSOLUTE WATER &
17 FIRE DAMAGE SERVICES, a California
18 Corporation; MARK RALPH, an Individual;
19 and DOES 1-10, Inclusive,

20 Defendants.

Case No. 37-2022-00024627-CU-OE-CTL

UNLIMITED CIVIL CASE

COMPLAINT FOR:

1. **Wrongful Termination in Violation of Public Policy;**
2. **Unlawful Retaliation and Discrimination;**
3. **Breach of Contract;**
4. **Failure to Pay Earned Wages (Cal. Lab. Code § 204);**
5. **Failure to Pay Minimum Wages (Cal. Lab. Code §§ 1182.12, 1194, *et seq.*, 1197, 1198; IWC Wage Order No. 16-2001);**
6. **Failure to Pay Minimum Wages (San Diego Municipal Code §§ 39.0107, 39.0112);**
7. **Failure to Pay Overtime Compensation (Cal. Lab. Code §§ 510, 1194, 1198; IWC Wage Order No. 16-2001);**
8. **Failure to Pay Meal Period Compensation (Cal. Lab. Code §§ 226.7, 512, 1198; IWC Wage Order No. 16-2001);**
9. **Failure to Pay Rest Period Compensation (Cal. Lab. Code §§ 226.7, 1198; IWC Wage Order No. 16-2001);**
10. **Failure to Furnish Wage and Hour Statements (Cal. Lab. Code § 226);**

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

06/23/2022 at 05:27:17 PM

Clerk of the Superior Court
By Marfil Estrada, Deputy Clerk

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11. **Failure to Pay All Wages Earned at Separation (Cal. Lab. Code §§ 201, 203);**
12. **Illegal Offset Against Wages (Cal. Lab. Code §§ 221, 224; IWC Wage Order No. 16-2001);**
13. **Failure to Indemnify for All Necessary Expenditures (Cal. Lab. Code § 2802; IWC Wage Order No. 16-2001); and**
14. **Unfair Competition (Cal. Bus. & Prof. Code § 17200, *et seq.*)**

DEMAND FOR JURY TRIAL

1 Plaintiff JOSHUA BECKER (“BECKER” or “Plaintiff”) alleges as follows:

2 **THE PARTIES**

3 1. Plaintiff JOSHUA BECKER is, and at all relevant times was, an individual residing
4 in the County of San Diego, State of California.

5 2. Defendant DOUGLAS D. DE HART, INC. dba SERVICEMASTER ABSOLUTE
6 WATER & FIRE DAMAGE SERVICES (“SERVICEMASTER” or the “Company”) is, and at all
7 relevant times was, a California corporation with its principal place of business in San Diego
8 County, California.

9 3. On information and belief, Defendant MARK RALPH (“RALPH”) is, and at all
10 relevant times was, a competent adult residing in San Diego County, California.

11 4. On information and belief, RALPH, at all relevant times, was a director, officer,
12 and/or managing agent of Defendant SERVICEMASTER within the meaning of California Labor
13 Code section 558.1 and California Civil Code section 3294. On information and belief, RALPH, at
14 all relevant times, exercised substantial discretion in his decision-making such that his decisions
15 ultimately determined company policy of the Company. On information and belief, RALPH
16 conceived of and implemented the unlawful compensation scheme to which BECKER and, on
17 information and belief, other employees were subjected during the relevant liability period, as
18 described in this Complaint.

19 5. Plaintiff sues fictitious DOES 1 through 10 inclusive, pursuant to Code of Civil
20 Procedure § 474, because the names and/or capacities and/or facts showing them liable is not
21 presently known. Plaintiff will amend this complaint when the true names and capacities are
22 ascertained. Unless otherwise indicated each Defendant is sued as the agent and/or employee of
23 every other Defendant acting within the course and scope of said agency and or employment, with
24 the knowledge and/or consent of said co-Defendants. Plaintiff is informed and believes and
25 thereon alleges that each of the fictitiously named Defendants is or are responsible in some
26 manner of the acts, omissions or other actionable conduct as alleged in this complaint.

27 6. Plaintiff is informed and believes and thereon alleges that at all times mentioned
28 herein each of the Defendants herein were the agents, servants, and employees of each of the co-

1 Defendants, and in doing the things hereinafter alleged were acting within the course and scope of
2 such agency, employment and authority, and gave each of the co-Defendants consent to, ratified
3 and authorized the acts alleged hereinafter.

4 **JURISDICTION AND VENUE**

5 7. Pursuant to Article VI, § 10 of the California Constitution, subject matter jurisdiction
6 is proper in the Superior Court of California, County of San Diego, State of California.

7 8. Venue is proper in this Court because Defendants did substantial business in San
8 Diego County, California, Defendants employed Plaintiff in San Diego County, and Plaintiff resides
9 in San Diego County, California.

10 **FACTS COMMON TO ALL CAUSES OF ACTION**

11 9. The Company is generally in the business of restoring homes subjected to water
12 and fire damage to pre-loss condition. Its primary clients are insurance companies and performs
13 mostly “insurance work.”

14 10. On information and belief, the Company employed about 60 workers during the
15 relevant liability period. In terms of workforce complexion, about five of the 60 are project
16 managers, BECKER’s former role; 15 to 20 are “pack out” laborers, i.e., the personnel who move
17 home items out of storage; 10 to 15 are demolition laborers; four or so are estimators; and the
18 remainder work in operations and administration.

19 11. The Company employed BECKER from in or around November 2013 to on or
20 about September 10, 2021. He originally started as a demolition laborer at \$10.00 per hour. After
21 four months of employment, BECKER was elevated to project manager and he would remain in
22 that role until his termination.

23 12. For most of his employment, BECKER was a project manager for the Company,
24 overseeing and performing demolition after floods and/or other events. He oversaw other
25 employees and was employed on a salary basis. BECKER also typically inspected and took
26 photos of loss; interfaced with insurance adjusters regarding claims; contacted and coordinated
27 necessary personnel for restoration, such plumbers, electricians, and asbestos abatement
28 specialists; assessed and physically performed demolition; and like duties. After a typical full 14

1 or so hours onsite, BECKER typically completed related paperwork from home. This entailed all
2 project-related items, including contracts, work authorizations, diagramming of the subject home,
3 uploading and indexing of loss photos on a Company storage drive, among other tasks.

4 13. In addition to salary that BECKER was to receive, the Company maintained an
5 incentive/bonus structure, which vested when various metrics were met. This incentive was
6 expressly written to be “in addition to” the employee’s regular salary. In effect, the complicated
7 compensation structure acted to deprived BECKER of his justly earned compensation.

8 14. Under the incentive/bonus structure to which BECKER and others were subjected,
9 an employee received a percentage of each project based on billing. For example, if the Company
10 secured a \$10,000 project from one of its clients and BECKER was promised, say 15% under the
11 incentive scheme, BECKER would receive \$1,500 gross, subject to tax withholdings. **From the**
12 **net wages, the Company would further deduct for labor assigned to BECKER, as well as**
13 **deduct for equipment, supplies, and insurance fees assessed by the client.** In 2017, the
14 incentive payment percentage in effect for BECKER and others was 17.5%; in 2018 and 2019, it
15 was 19.5%; and in 2020 and 2021, it was 21.5%.

16 15. Throughout his employment with the Company, BECKER typically worked
17 upwards of 100 hours per workweek. BECKER typically started his workday at 7 a.m. and
18 physically worked on the jobsite until about 6 or 7 p.m. each night. He typically drove about 350
19 miles per day, as job locations were often beyond the bounds of San Diego County. After his work
20 onsite, BECKER typically spent a few hours at home each night completing work-related
21 paperwork.

22 16. Throughout his employment, BECKER typically did not have reasonable
23 opportunities to take uninterrupted meal and rest breaks to due to his extremely heavy workload.
24 In a typical workday for BECKER, Company projects were usually scheduled in two-hour blocks
25 and consecutive to each other. As such, as soon as BECKER and his team completed one project,
26 they were immediately off to the next.

27 17. During his employment with the Company, BECKER was to earn a salary of
28 \$130,000 per year, plus potential bonus, if the written metrics were met. Instead, the Company

1 passed on the cost of doing business, and the cost of employing its workers, to BECKER and, on
2 information and belief, to other similarly aggrieved employees. Many pay periods, BECKER had
3 a **negative** salary, in violation of the Labor Code and Wage Order 16. For the pay periods in
4 which BECKER had a negative salary, he was nonexempt as a matter of law and thus eligible for
5 the usual entitlements available to nonexempt employees, such as overtime and meal and rest
6 periods. In addition, BECKER was subjected to minimum wage violations for not being paid at
7 least a minimum wage for all hours worked.

8 18. One pay breakdown BECKER received, dated 3/10/21, states that he was
9 responsible for a gross total of \$7,692.88 of business. On that same page, his compensation has a
10 deduction for “helpers,” which indicates that he was charged for using employees to do the
11 Company’s business, in violation of Labor Code sections 221, 224, and 2802. The next item is
12 “less salary,” which is not being directed to BECKER, but just simply, deducted, in violation of
13 the Labor Code and Wage Order. Next, BECKER was charged for “administrative” services.
14 This one itemization falls short of Labor Code section 226’s requirement that an employee can
15 readily understand what he earned and why. While there is a breakdown of sorts, it is unclear why
16 the employee is charged for his salary, for administrative costs, and for other employees. During
17 that one pay period, **BECKER was “charged” by the Company \$885.60, as it is a negative**
18 **entry, and no salary was paid for this pay period.** In other words, BECKER, while performing
19 work during the pay period, was charged \$885.60 during that time, rather than being paid for his
20 hours worked, even though he was promised a salary of \$130,000 per year. BECKER was not a
21 partner or other equity associate of Defendant. He was a W2 employee throughout the relevant
22 liability period.

23 19. The Company paid a nominal amount (\$1 or \$2 per employee) for tax purposes and
24 left the rest of the employee expenses to the project manager, including BECKER, again charging
25 the project manager for the costs of doing business, and paying taxes, in violation of California
26 and other laws.

27 20. Other unlawful pay breakdowns included negative items for on call time (this
28 should be a positive number).

1 21. Ultimately, the Company was unlawfully passing along the cost of doing business
2 to its project managers, including BECKER. This resulted in BECKER not earning his promised
3 salary, and not being paid the promised incentive pay when he met agreed metrics, which he met.

4 22. BECKER was required to engage the services of an attorney to redress the above
5 grievances: working 14-hours days and drawing a negative salary. After BECKER's counsel
6 communicated with Defendant about Defendant's ostensibly unlawful compensation scheme,
7 Defendant fired BECKER shortly thereafter, in violation of the Labor Code's proscriptions against
8 retaliation.

9 Tolling of Claims

10 23. The Judicial Council Emergency Rule 9, as amended May 29, 2020, suspended
11 from April 6, 2020, to October 1, 2020, the statutes of limitations and repose for civil causes of
12 action that exceed 180 days. The statute of limitations for each of BECKER's causes of action
13 exceeds 180 days. As such, Plaintiff's individual claims are tolled approximately six months, by
14 Emergency Rule 9, and the statutory period relates back from on or about December 28, 2021.

15 **FIRST CAUSE OF ACTION**

16 **Wrongful Termination in Violation of Public Policy**

17 **(As Against SERVICEMASTER and All DOE Defendants)**

18 24. Plaintiff incorporates the preceding paragraphs.

19 25. California codifies a number of fundamental public policies intended to protect
20 both employees and the public at large from unscrupulous and overreaching employers. An
21 employer's material violation of any such fundamental public policies when terminating the
22 employment of an employee supports a cause of action for wrongful termination of employment in
23 violation of public policy.

24 26. Section 923 of the California Labor Code embodies one such fundamental public
25 policy. It renders it against the public policy of the State for an employer to terminate an employee
26 because that employee hired an attorney to negotiate the employee's terms and conditions of
27 employment. *See Gelini v. Tishgart*, 77 Cal.App.4th 219 (1999); *Montalvo v. Zamora*, 7
28 Cal.App.3d 69 (1970)

1 27. BECKER was wrongfully retaliated against for hiring an attorney to negotiate the
2 terms and conditions of his employment, and he was subjected to a wrongful termination of
3 employment. He was fired, with no good cause or reason, shortly after he learned that the
4 Company had received and reviewed a certified letter sent by his counsel, which the Company
5 signed for on September 7, 2021. This adverse action was retaliatory and carried out within 120
6 days of his protected activities, rendering his discharge presumptively retaliatory and
7 discriminatory under the Labor Code.

8 28. BECKER's protected activity, hiring a lawyer to negotiate the terms and conditions
9 of his employment, and the adverse action that followed, independently support a cause of action
10 for retaliation and wrongful termination of employment, in violation of Labor Code Section
11 1102.5. That statute prohibits retaliation against an employee who engages in protected activities,
12 including the hiring of a lawyer to negotiate the terms and conditions of employment and reporting
13 the nonpayment of earned wages and the reporting of the employer's suspected noncompliance or
14 violation of state or federal laws.

15 29. As a direct and proximate result of Defendants' acts and omissions, Plaintiff has
16 suffered compensatory, consequential, and incidental damages all in amounts to be proven at the
17 time of trial herein.

18 30. As a further direct and proximate result of Defendants' acts and omissions, Plaintiff
19 has suffered general damages, including emotional distress, anxiety, and worry, all in amounts to
20 be proven at the time of trial herein. Defendants' conduct harmed Plaintiff emotionally and
21 mentally.

22 31. Defendants' conduct, intentionally perpetrated against Plaintiff, was malicious,
23 wanton, and despicable within the meaning of Civil Code §3294, as to entitle Plaintiff to an award
24 of punitive damages against Defendants, and each of them, in amounts deemed appropriate at the
25 time of trial. Defendants' conduct was intentional and outside all norms of society, bearing no
26 relationship to the normal employer-employee relationship.

27 32. Defendants' unfair and illegal conduct further entitles Plaintiff to the recovery of
28 his attorneys' fees and costs under the Labor Code, including Section 1102.5, as well as the

1 private attorney general provisions of California Code of Civil Procedure §1021.5. Plaintiff seeks
2 to vindicate important and substantial public interests and rights, namely for employees to be free
3 from unlawful retaliation and discrimination in the workplace. Defendants' conduct herein thus
4 warrants a finding that Plaintiff's fees and costs be paid by Defendants rather than from a recovery
5 in this matter.

6 **SECOND CAUSE OF ACTION**

7 **Unlawful Retaliation and Discrimination**

8 **(As Against SERVICEMASTER and All DOE Defendants)**

9 33. Plaintiff incorporates the preceding paragraphs.

10 34. As alleged herein above, Defendants engaged in a concerted course of action
11 intended to compromise and inhibit Plaintiff's and the public's rights and interests, which conduct
12 was substantially motivated by BECKER's engagement of an attorney to negotiate the terms and
13 conditions of his employment, to oppose the Company's unfair and illegal business practices, and
14 BECKER's objection to the Company's improper denial of compensation earned.

15 35. Defendants engaged in acts of retaliation and discrimination against BECKER when
16 taking the adverse actions against him as alleged herein, in violation of the California Labor Code,
17 including Sections 923, 1102.5 and such other statutes and promulgations, including those
18 mandating the timely payment to employees of all compensation earned. Defendants' acts and
19 omissions on account of BECKER's exercise of his rights and engagement in protected activities
20 constituted unlawful employment practices in violation of his rights and interests.

21 36. As a direct and proximate result of Defendants' acts and omissions, Plaintiff has
22 suffered compensatory, consequential, and incidental damages all in amounts to be proven at the
23 time of trial herein.

24 37. As a further direct and proximate result of Defendants' acts and omissions, Plaintiff
25 has suffered general damages, including emotional distress, anxiety, and worry, all in amounts to be
26 proven at the time of trial herein. Defendants' conduct harmed Plaintiff emotionally and mentally.

27 38. Defendants' conduct, intentionally perpetrated against Plaintiff, was malicious,
28 wanton, and despicable within the meaning of Civil Code §3294, as to entitle Plaintiff to an award

1 of punitive damages against Defendants, and each of them, in amounts deemed appropriate at the
2 time of trial. Defendants' conduct was intentional and outside all norms of society, bearing no
3 relationship to the normal employer-employee relationship.

4 39. Defendants' unfair and illegal conduct further entitles Plaintiff to the recovery of his
5 attorneys' fees and costs under the Labor Code, including Section 1102.5, as well as the private
6 attorney general provisions of California Code of Civil Procedure §1021.5. Plaintiff seeks to
7 vindicate important and substantial public interests and rights, namely for employees to be free from
8 unlawful retaliation and discrimination in the workplace. Defendants' conduct herein thus warrants
9 a finding that Plaintiff's fees and costs be paid by Defendants rather than from a recovery in this
10 matter.

11 **THIRD CAUSE OF ACTION**

12 **Breach of Contract**

13 **(As Against SERVICEMASTER and All DOE Defendants)**

14 40. Plaintiff incorporates the preceding paragraphs.

15 41. Plaintiff and Defendants entered into a written agreement, wherein Defendants
16 would pay Plaintiff an annual salary of \$130,000, as a project manager.

17 42. In connection with his position as project manager, he was promised, in writing, a
18 performance incentive with various metrics.

19 43. Plaintiff performed all services agreed to as project manager.

20 44. Plaintiff met Defendant's goals regarding performance and was entitled to
21 performance bonuses under the written contract.

22 45. Plaintiff fully performed all terms of the employment contract or was excused from
23 full performance.

24 46. Plaintiff further fully performed all terms of the bonus/incentive pay written
25 contract.

26 47. Defendants breached the employment contract to pay a \$130,000 annual salary.

27 48. Defendants also breached the bonus/incentive pay written contract.

28 49. Defendants were not excused from performing under the salary contract.

1 50. Defendants were also not excused from performing under the bonus/incentive
2 contract.

3 51. Plaintiff was harmed by Defendants' breach of both compensation agreements.

4 52. Defendants' breach was the legal and proximate cause of Plaintiff's harm.

5 53. Plaintiff's damages will be shown at time of trial, according to proof.

6 **FOURTH CAUSE OF ACTION**

7 **Failure to Pay Earned Wages**

8 **(Cal. Lab. Code §204)**

9 **(As Against All Defendants)**

10 54. Plaintiff incorporates the preceding paragraphs.

11 55. Labor Code section 204(a) provides as follows:

12 All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or
13 204.2, earned by any person in any employment are due and payable twice
14 during each calendar month, on days designated in advance by the employer
15 as the regular paydays. Labor performed between the 1st and 15th days,
16 inclusive, of any calendar month shall be paid for between the 16th and the
17 26th day of the month during which the labor was performed, and labor
18 performed between the 16th and the last day, inclusive, of any calendar
19 month, shall be paid for between the 1st and 10th day of the following
20 month. However, salaries of executive, administrative, and professional
21 employees of employers covered by the Fair Labor Standards Act, as set
22 forth pursuant to Section 13(a)(1) of the Fair Labor Standards Act, as
23 amended through March 1, 1969, in Part 541 of Title 29 of the Code of
24 Federal Regulations, as that part now reads or may be amended to read at
25 any time hereafter, may be paid once a month on or before the 26th day of
26 the month during which the labor was performed if the entire month's
27 salaries, including the unearned portion between the date of payment and
28 the last day of the month, are paid at that time.

23 56. Defendants failed to pay Plaintiff the wages that he earned, as required by Labor
24 Code section 204.

25 57. Plaintiff has been deprived of his rightfully earned wages as a direct and proximate
26 result of Defendants' failure to pay said compensation. Plaintiff is entitled to recover such
27 amounts, plus interest thereon, attorney's fees and costs.

28 ///

1 **FIFTH CAUSE OF ACTION**

2 **For Failure to Pay Minimum Wages**

3 **(Cal. Lab. Code §§ 1182.12, 1194 *et seq.*, 1197, 1198; IWC Wage Order No. 16-2001)**

4 **(As Against All Defendants)**

5 58. Plaintiff incorporates the preceding paragraphs.

6 59. Plaintiff is entitled to minimum wage as provided under the Code and the Wage
7 Orders.

8 60. The Labor Code and the Wage Orders provide that an employer must pay a minimum
9 wage to an employee, which is ten dollars and fifty cents (\$10.50) per hour for all hours worked
10 effective January 1, 2017 through December 31, 2017 (for employers with 26 or more employees);
11 eleven dollars (\$11.00) per hour for all hours worked effective January 1, 2018 through December
12 31, 2018; twelve dollars (\$12.00) per hour for all hours worked effective January 1, 2019 through
13 December 31, 2019; thirteen dollars (\$13.00) per hour for all hours worked effective January 1,
14 2020 through December 31, 2020; fourteen dollars (\$14.00) per hour for all hours worked effective
15 January 1, 2021 through December 31, 2021; and fifteen dollars (\$15.00) per hour for all hours
16 worked effective January 1, 2022 through the present.

17 61. Defendants' illegal compensation scheme caused Plaintiff to receive no
18 compensation and even "negative" compensation, wherein the Company purported to charge
19 Plaintiff and deduct from his pay for labor, supplies, equipment, and other costs that should have
20 been borne by the Company, as described in this Complaint, all in violation of numerous provisions
21 of the California Labor Code.

22 62. As a result, Defendants failed to pay Plaintiff minimum wage for Plaintiff's work, as
23 required by the Code and the Wage Orders.

24 63. Defendants thus required Plaintiff to work under conditions prohibited by order of
25 the IWC, in violation of those orders.

26 64. Defendants deprived Plaintiff of his rightfully earned minimum wage compensation,
27 as a direct and proximate result of Defendants' failure to pay said compensation. Under Labor Code
28

1 § 1194, Plaintiff is entitled to recover such amounts, plus interest thereon, reasonable attorney's
2 fees, and costs.

3 65. In addition, under Labor Code § 1194.2, Plaintiff is entitled to recover liquidated
4 damages in an amount equal to the minimum wages unlawfully unpaid, and interest thereon.

5 **SIXTH CAUSE OF ACTION**

6 **For Failure to Pay Minimum Wages**

7 **(San Diego Municipal Code §§ 39.0107, 39.0112)**

8 **(As Against All Defendants)**

9 66. Plaintiff incorporates the preceding paragraphs.

10 67. Plaintiff is entitled to minimum wage as provided under the San Diego Municipal
11 Code.

12 68. Plaintiff routinely worked for Defendants within the city limits of San Diego,
13 California during the relevant liability periods.

14 69. The San Diego Municipal Code sets minimum wage levels for employers at \$10.50
15 per hour for all hours worked effective July 11, 2016; \$11.50 per hour for all hours worked effective
16 January 1, 2017; \$12.00 per hour for all hours worked effective January 1, 2019; \$13.00 per hour
17 for all hours worked effective January 1, 2020; and \$14.00 per hour for all hours worked effective
18 January 1, 2021.

19 70. Defendants' illegal compensation scheme caused Plaintiff to receive no
20 compensation and even "negative" compensation, wherein the Company purported to charge
21 Plaintiff and deduct from his pay for labor, supplies, equipment, and other costs that should have
22 been borne by the Company, as described in this Complaint, in violation of the San Diego Municipal
23 Code.

24 71. As a result, Defendants failed to pay Plaintiff the minimum wage for Plaintiff's work,
25 as required by the San Diego Municipal Code.

26 72. Per San Diego Municipal Code § 39.0112, an employer who violates Municipal Code
27 § 39.0107 shall be liable to the employee whose rights were violated for all relief, including, but not
28 limited to, the payment to each affected employee of wages unlawfully withheld, prevailing

1 employee attorneys' fees and costs, and liquidated damages equal to double the back wages
2 withheld.

3 73. Furthermore, per subdivision (c) of Municipal Code § 39.0112, employers in
4 violation of the local minimum wage law are subject to a civil penalty of no less than \$500 and no
5 more than \$1,000 per violation. "Each and every day that an Employer fails to pay an Employee
6 Minimum Wage...constitutes a separate and distinct violation." To date, BECKER is still owed
7 minimum wages.

8 **SEVENTH CAUSE OF ACTION**

9 **For Failure to Pay Overtime Compensation**

10 **(Cal. Lab. Code §§ 510, 1194, 1198; IWC Wage Order No. 16-2001)**

11 **(As Against All Defendants)**

12 74. Plaintiff hereby incorporate each preceding paragraph.

13 75. The Code and the Wage Order provide that a workday consists of eight hours, a
14 workweek consists of 40 hours, and an employer must compensate an employee who works
15 overtime hours with either one-and-one-half times or double the employee's regular rate of
16 compensation. Defendants employed Plaintiff for more than eight hours per day and more than 40
17 hours per workweek, but Defendants failed to pay Plaintiff the overtime compensation required by
18 the California Labor Code and the Wage Order.

19 76. Defendants thus required Plaintiff to work for longer hours than those fixed, or under
20 conditions prohibited, by order of the IWC, in violation of those orders.

21 77. Defendants deprived Plaintiff of his rightfully earned overtime compensation as a
22 direct and proximate result of Defendants' failure to pay said compensation. Under Labor Code §
23 1194, Plaintiff is entitled to recover such amounts, plus interest thereon, attorney's fees, and costs.

24 **EIGHTH CAUSE OF ACTION**

25 **For Failure to Pay Meal Period Compensation**

26 **(California Labor Code §§ 226.7, 512, 1198; IWC Wage Order No. 16-2001)**

27 **(As Against All Defendants)**

28 36. Plaintiff incorporates the preceding paragraphs.

1 37. The Code and the Wage Order provide that an employee is entitled to an
2 uninterrupted, off-the-clock meal period of not less than 30 minutes for every five hours worked.
3 The Code and the Wage Order also require the employer to pay the employee one hour at the
4 employee's regular rate of compensation for each day that the employer does not provide at least
5 one required meal period.

6 38. Defendants employed Plaintiff for work periods of more than five (5) hours without
7 a timely meal period of not less than 30 minutes and failed to compensate Plaintiff for such meal
8 periods, as required by Labor Code § 226.7 and the Wage Order.

9 39. Defendants deprived Plaintiff of his rightfully earned compensation for meal periods
10 as a direct and proximate result of Defendant's failure to pay said compensation.

11 40. The remedy provided for in Code § 226.7 constitutes a wage, and Plaintiff is entitled
12 to interest thereon. *Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1099-1100;
13 *Naranjo v. Spectrum Security Services, Inc.* (2022), 13 Cal. 5th 93, 101.

14 41. Defendants thus required Plaintiff to work for longer hours than those fixed, or under
15 conditions prohibited, by order of the IWC, in violation of those orders.

16 **NINTH CAUSE OF ACTION**

17 **For Failure to Pay Rest Period Compensation**

18 **(California Labor Code §§ 226.7, 1198; IWC Wage Order No. 16-2001)**

19 **(As Against All Defendants)**

20 42. Plaintiff incorporates the preceding paragraphs.

21 43. The Code and the Wage Order provide that an employee is entitled to an
22 uninterrupted rest period of not less than 10 net minutes for every four hours worked or major
23 fraction thereof. The Code and the Wage Order require the employer to pay the employee one hour
24 at the employee's regular rate of compensation for each day that the employer does not provide at
25 least one required rest period.

26 44. Defendant employed Plaintiff for work periods of four hours or major fraction
27 thereof without rest periods of ten minutes' net rest time and failed to compensate Plaintiff for such
28 rest periods, as required by Code § 226.7 and the Wage Order.

45. Defendant deprived Plaintiff of his rightfully earned compensation for rest periods as a direct and proximate result of Defendants' failure to pay said compensation.

46. The remedy provided for in Code § 226.7 constitutes a wage, and Plaintiff is entitled to interest thereon. *Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1099-1100; *Naranjo v. Spectrum Security Services, Inc.* (2022), 13 Cal. 5th 93, 101.

47. Defendant thus required Plaintiff to work for longer hours than those fixed, or under conditions prohibited, by order of the IWC, in violation of those orders.

TENTH CAUSE OF ACTION

For Failure to Furnish Accurate Wage and Hour Statements

(Cal. Lab. Code § 226)

(As Against All Defendants)

48. Plaintiff hereby incorporate each preceding paragraph.

49. Labor Code § 226(a) required Defendants, “semimonthly or at the time of each payment of wages,” to furnish Plaintiff “an accurate itemized statement in writing” showing gross and net wages earned, total hours worked by the employee/employees, rates of pay, and other information.

50. Defendants knowingly and intentionally failed to provide Plaintiff with such wage and hour statements accurately reflecting the true amount of wages earned in violation of section 226(a).

51. Plaintiff suffered injury as a result of Defendants' knowing and intentional failure to provide him with the wage and hour statements required by law.

52. Under Labor Code § 226, subsections (e) and (f), and based on Defendants' conduct as alleged herein, Plaintiff is entitled to: (a) fifty dollars (\$50) for the initial pay period in which a wage and hour statement violation occurred, and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000); (b) injunctive relief to ensure Defendants' compliance with Labor Code § 226; and (c) an award of costs and reasonable attorney's fees.

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ELEVENTH CAUSE OF ACTION

Failure to Pay All Wages Earned at Separation

(Cal. Lab. Code §203)

(As Against All Defendants)

53. Plaintiff hereby incorporate each preceding paragraph.

54. Labor Code section 203(a) provides as follows:

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. An employee who secretes or absents themselves to avoid payment to them, or who refuses to receive the payment when fully tendered to them, including any penalty then accrued under this section, is not entitled to any benefit under this section for the time during which the employee so avoids payment.

55. Defendants willfully failed to pay Plaintiff accrued wages due to him promptly upon separation, as required by California Labor Code § 202.

56. Based on Defendants' conduct as alleged herein, Defendants are liable for statutory penalties pursuant to Labor Code § 203.

TWELFTH CAUSE OF ACTION

Illegal Offset Against Wages

(Cal. Lab. Code §§ 221, 224; IWC Wage Order No. 16-2001)

(As Against All Defendants)

57. Plaintiff hereby incorporate each preceding paragraph.

58. Labor Code § 221 provides: "It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee."

59. Defendant unlawfully withheld wages owed to BECKER by deducting its own cost of doing business, including for compensation for other employees, for business materials, and other unlawful deductions from his earned compensation, in violation of section 221.

///

60. Plaintiff has been deprived of his rightfully earned wages as a direct and proximate result of Defendants' failure to pay said compensation. Plaintiff is entitled to recover such amounts, plus interest thereon, attorney's fees and costs.

THIRTEENTH CAUSE OF ACTION

For Failure to Indemnify for All Necessary Expenditures or Losses

(Cal. Lab. Code § 2802; IWC Wage Order No. 16-2001)

(As Against All Defendants)

61. Plaintiff hereby incorporates each preceding paragraph.

62. Labor Code § 2802(a) provides:

An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the 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.

63. Throughout the relevant liability periods, Defendants required Plaintiff to conduct necessary, work-related tasks for Defendants using his personal devices, including his mobile phone and computer, all without reimbursement. Plaintiff is entitled to a “reasonable percentage” of his mobile phone bill. *Cochran v. Schwan’s Home Service, Inc.* (2014) 228 Cal.App.4th 1137, 1144. Plaintiff is also entitled to a reasonable reimbursement for his compelled, work-related use of his personal devices on behalf of Defendants.

64. Defendants have not indemnified Plaintiff to date for the necessary, work-related expenditures on behalf of Defendants, as described in this Complaint.

65. Under Labor Code § 2802(c), Plaintiff is entitled to recover all reasonable costs, including attorney's fees, incurred in enforcing his rights granted by Labor Code § 2802.

FOURTEENTH CAUSE OF ACTION

Unfair Competition

(Cal. Bus. & Prof. Code § 17200, *et seq.*)

(As Against SERVICEMASTER and All DOE Defendants)

66. Plaintiff hereby incorporates each preceding paragraph.

///

67. Defendants' violations of the Code and the Wage Order, including Defendants' failure to pay Plaintiff his earned wages, minimum wages, overtime wages, meal period compensation, and rest period compensation, constitute unfair business practices in violation of the UCL.

68. The UCL prohibits any practices forbidden by law, be they civil or criminal, federal, state, or municipal, statutory, regulatory, or court made. *South Bay Chevrolet v. General Motors Acceptance Corp.* (1999) 72 Cal. App. 4th 861, 880.

69. Plaintiff has suffered injury in fact and has lost money or property as a result of Defendants' unfair business practices, and Defendants have reaped unfair benefits and illegal profits at Plaintiff's expense.

70. Plaintiff is entitled to immediate possession of all amounts owed to him by Defendants, with interest.

71. Defendants' unfair business practices entitle Plaintiff to seek preliminary and permanent injunctive relief, including but not limited to orders that Defendants account for, disgorge, and restore to Plaintiff the compensation unlawfully withheld from him.

PRAYER FOR DAMAGES

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as to each and every cause of action, as follows:

1. For unpaid wages in an amount according to proof;
2. For minimum wages in an amount according to proof;
3. For overtime compensation in an amount according to proof;
4. For meal period compensation in an amount according to proof;
5. For rest period compensation in an amount according to proof;
6. For Labor Code § 226(e) statutory penalties in an amount according to proof;
7. For Labor Code § 203 penalties in an amount according to proof;
8. For indemnification of all necessary expenditures incurred according to proof;
9. For restitution of all unpaid wages in an amount according to proof;
10. For contract damages according to proof;

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- 11. For pre-judgment interest, according to proof;
- 12. For interest, thereon from and after the date of judgment;
- 13. For general damages, according to proof;
- 14. For special damages, according to proof;
- 15. For punitive damages, according to proof;
- 16. For costs of suit therein including but not limited to attorney's fees; and
- 17. For such other and further relief as the Court may deem just and proper.

Dated: June 23, 2022

KASED LAW GROUP APC



By: _____
Nathan N. Kased
Attorneys for Plaintiff
JOSHUA BECKER

EXHIBIT 4

1 NATHAN N. KASED (STATE BAR NO. 251400)
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7 Attorneys for Plaintiff
JOSHUA BECKER
8 and Aggrieved Employees

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SAN DIEGO**
11

12 JOSHUA BECKER, an Individual, on behalf
of himself and all other aggrieved employees
13 of Defendants in the State of California,

14 Plaintiff,

15 vs.

16 DOUGLAS D. DE HART, INC., dba
17 SERVICEMASTER ABSOLUTE WATER &
FIRE DAMAGE SERVICES, a California
18 Corporation; MARK RALPH, an Individual;
and DOES 1-10, Inclusive,

19 Defendants.
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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

02/15/2024 at 10:29:00 AM

Clerk of the Superior Court
By E- Filing, Deputy Clerk

Case No. 37-2022-00024627-CU-OE-CTL

UNLIMITED CIVIL CASE

**PROOF OF SERVICE TO LWDA OF
PROPOSED PAGA SETTLEMENT
PURSUANT TO LABOR CODE 2699(L)(2)**

Trial Date: Vacated
Judge: Hon. Loren G. Freestone
Dept: C-64

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

I, the undersigned, declare that I am employed in the aforesaid County, State of California. I am over the age of 18 and not a party to the within action. My business address is 2535 Kettner Boulevard, Suite 2A2, San Diego, CA 92101. On **January 29, 2024**, I served the following document described as:

(1) PROPOSED PAGA SETTLEMENT AGREEMENT

By the following methods:

- ☒ [BY PAGA ELECTRONIC FILING SYSTEM] I caused a copy of the document(s) to be served electronically as a PDF attachment to the party(ies) listed in the Service List by uploading it to the PAGA Filing website at <https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>. Please see Exhibit 1 for proof of submission via Case Search on the Department of Industrial Relation's Public Portal.
- ☐ [BY MAIL] By placing such envelope(s) with postage thereon fully prepaid into Kased Law Group APC's interoffice mail for collection and mailing pursuant to ordinary business practice. I am familiar with the office practice of Kased Law Group APC for collecting and processing mail with the United States Postal Service, which practice is that when mail is deposited with the Kased Law Group APC personnel responsible for depositing mail with the United States Postal Service, such mail is deposited that same day in a post box, mailbox, sub-post office, substation, mail chute, or other like facility regularly maintained by the United States Postal Service in San Diego, California.
- ☐ [BY E-MAIL] I hereby certify that this document was served from San Diego, California by e-mail delivery on the party(ies) listed herein at their most recent known e-mail address(es) or e-mail address(es) of record in this action.
- ☐ [BY FACSIMILE] By transmitting a true and correct copy of the document described above by facsimile machine, number (619) 399-3040, to the person(s) stated above at the facsimile number(s) indicated. The transmission was reported as complete without any error by a transmission report issued by the facsimile machine upon which the said transmission was made immediately following the transmission.
- ☐ [BY HAND DELIVERY – AMERICAN MESSENGER SERVICES, INC.] I, the undersigned, declare that I am employed in the aforesaid County, State of California. I am over the age of 18 and not a party to the within action. My business address is 420 Spruce Street, Suite B, San Diego, CA 92103. I personally delivered a true and correct copy of the document(s) described above in a sealed envelope(s) to the address stated above.
- ☒ [STATE] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- ☐ [FEDERAL] I declare that I am employed in the office of a member of the Bar of or permitted to practice before this Court at whose direction this service was made.

On the following parties:

Labor & Workforce Development Agency Department of Industrial Relations 455 Golden Gate Avenue, 10th Floor San Francisco, CA 94102	https://www.labor.ca.gov/resources/paga/
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Executed on February 15, 2024, at San Diego, California.

Mia E. Merritt
(Type or print name)


(Signature)

EXHIBIT 1

PAGA NOTICE PUBLIC SEARCH - CASE DETAIL

Case Information

Case Number: LWDA-CM-892016-22
Plaintiff for PAGA Case: Joshua Becker
Filer/Attorney for PAGA Case: Nathan Kased Esq.
Law Firm for PAGA Plaintiff: Kased Law Group APC
Employer: DOUGLAS D. DEHART, INC.
Date Case Received:
Filer for Employer:
Employer Filer Firm:
Court Type: California Superior Courts
Court Name: San Diego Superior Court
PAGA Court Case Number: 37-2022-00024627-CU-OE-CTL
Violation Type:
Related BOFE Case:

Attachments

Attachment Name	Description	Date Submitted	Type
Court Complaint Submitted on 11/22/2022 04:27:28 PM by Nathan Kased	First Amended Complaint.pdf	11/23/2022 12:27 AM	Court Complaint
Proposed Settlement Submitted on 01/29/2024 09:45:16 AM by Nathan Kased	Becker - PAGA Settlement Agreement FINAL (FE).pdf	1/29/2024 5:45 PM	Proposed Settlement