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Attorneys for Plaintiffs

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

ERICA MONIZ, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

SERVICE KING, INC. a California
corporation; SERVICE KING PAINT &
BODY, LLC, a Texas limited liability
company; and DOES 2 through 100,

Defendants.

Case No. 18CV335706

*[Assigned to the Hon. Theodore C. Zayner,
Department 19]*

**DECLARATION OF PAUL K. HAINES IN
SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: May 22, 2024
Time: 1:30 p.m.
Dept.: 19

Complaint Filed: September 25, 2018
Trial Date: None Set

1 I, PAUL K. HAINES, declare as follows:

2 1. I am the principal of Haines Law Group, APC, and counsel for the named Plaintiff
3 Erica Moniz (“Plaintiff”) and the proposed Settlement Class in the above-captioned matter. I am
4 a member in good standing of the bar of the State of California and am admitted to practice in
5 this Court. I have personal knowledge of the facts stated in this declaration and could testify
6 competently to them if called upon to do so.

7 2. I am a 2006 graduate of Pepperdine University School of Law, where I graduated
8 *cum laude*. During law school, I worked as a law clerk for the appellate firm of Horvitz & Levy,
9 located in Encino, California. I also spent a semester in law school working as an extern for the
10 Honorable Edward Rafeedie, District Judge for the United States District Court for the Central
11 District of California.

12 3. Since graduating from law school, my practice has focused almost exclusively on
13 employment litigation. In September 2007, I began working as an associate attorney at the
14 international law firm of Littler Mendelson, P.C. at its Los Angeles office, which according to its
15 website is the “largest U.S.-based law firm exclusively devoted to representing management in
16 every aspect of labor and employment law.” While at Littler Mendelson, I was primarily staffed
17 on wage and hour class actions in both state and federal courts, and I also worked on a number of
18 single and multi-plaintiff wage and hour matters as well.

19 4. During my employment at Littler Mendelson, I played a significant role in the
20 class actions that I was staffed on, as I was often the only associate staffed on such cases. In
21 particular, I received a wide array of wage and hour class action experience performing the
22 following types of tasks: drafting demurrers, motions to strike, and motions to dismiss; removing
23 actions from state court to federal court; drafting and responding to written discovery; drafting
24 and opposing discovery related motions; arguing discovery related motions; drafting motions to
25 consolidate related matters; interviewing putative class members and obtaining declarations in
26 connection with class certification; drafting oppositions to motions for class certification; drafting
27 motions for decertification following class certification; conducting exposure analyses to assess
28 the strengths and weaknesses of asserted claims, the likelihood of prevailing at class certification,

1 and potential damages resulting from such claims; drafting mediation briefs; serving as the
2 primary contact to in-house counsel; deposing named plaintiffs and putative class members;
3 deposing retained expert witnesses; and defending the depositions of corporate witnesses. In
4 short, I played an integral role in all aspects of litigation from the inception of a matter through
5 and beyond class certification. I also supervised the work of several junior attorneys who were
6 staffed on the same wage and hour class actions.

7 5. In June 2011, I voluntarily resigned from Littler Mendelson in order to accept an
8 associate attorney position with the international law firm of Morgan, Lewis & Bockius LLP at
9 its Los Angeles office, where I began working in July 2011. During my employment at Morgan,
10 Lewis & Bockius LLP, I worked exclusively on the defense of wage and hour class and collective
11 actions. For the vast majority of these cases, I was the only associate staffed on the matters, and
12 I performed the same job duties as described in the immediately preceding paragraph. In addition
13 to working on wage and hour class actions, at Morgan, Lewis & Bockius I also worked on a
14 number of “hybrid” actions asserting nationwide wage and hour claims under the Fair Labor
15 Standards Act, as well as California-specific claims under Rule 23 of the Rules of Civil Procedure.

16 6. In July 2012, I transitioned into litigating wage and hour class actions from the
17 Plaintiff’s side, first as a Partner with the law firm of Boren, Osher & Luftman, LLP, and since
18 February 2016 as a Shareholder of Haines Law Group, APC. Currently, over ninety percent (90%)
19 of my practice is dedicated exclusively to the prosecution of wage and hour class actions, and my
20 law firm is currently responsible for prosecuting over fifty (50) wage and hour class actions filed
21 in both State and Federal courts throughout California. I have been appointed as Class Counsel
22 in hundreds of wage and hour class action settlements in state and federal courts within California.
23 Some examples of the matters in which I have been appointed as Class Counsel, all of which have
24 been granted final approval, include the following: *Shaw v. Conant Auto Retail, San Diego*, Case
25 No. 37-2014-00044052-CU-OE-CTL, California Superior Court, County of San Diego, Hon.
26 Judge Joan M. Lewis, presiding; *Tirado v. Ricon Corp.*, Case No. BC537042, California Superior
27 Court, County of Los Angeles, Hon. John S. Wiley, presiding; *Horta v. Searles Valley Minerals,*
28 *Inc.*, Case No. CIVDS 1507615, California Superior Court, County of San Bernardino, Hon.

Donald Alvarez presiding; *Rodriguez v. Spartan, Inc.*, Case No. BCV-15-100007-DRL, California Superior Court, County of Kern, Hon. David R. Lampe presiding; *Kostyuk, et al. v. Golden State Overnight Delivery Service, Inc.*, Case No. RG14727191, California Superior Court, Alameda County, Hon. Winifred Y. Smith presiding; *Leverage, et al v. Traeger Pellet Grills, LLC, et al*, Case No. 16-cv-00784-KAW, United States District Court for the Northern district of California, Hon. Kandis A. Westmore presiding; *Nunez v. CompuCom Systems, Inc.*, Case No. BC618385, California Superior Court, County of Los Angeles, Hon. John Shepard Wiley, Jr., presiding; *Morales v. Caremeridian, LLC, et al.*, Case No. BC593191, California Superior Court, County of Los Angeles, Hon. William F. Highberger presiding; *Rodrigues v. CP Kelco U.S., Inc.*, Case No. 37-2017-00004339-CU-OE-CTL, California Superior Court, County of San Diego, Hon. Joel R. Wohlfeil, presiding; *Beach-Barrow, et al v. The Hertz Corp.*, Case No. RG17848833, California Superior Court, County of Alameda, Hon. Ioana Petrou presiding; *Gooding v. Vita-Mix Corp., et al*, Case No. 2:16-cv-03898-ODW (JEMx), United States District Court for the Central District of California, Hon. Otis D. Wright II presiding; *Afa, et al v. Alliance Ground Int'l, LLC*, Case No. BC661449, California Superior Court, County of Los Angeles, Hon. William F. Highberger presiding.

7. I have also moved to certify and have received an order certifying a class action and/or conditionally certifying a collective action in the following cases:

- *Medeiros v. Vortex Financial Mgmt. Inc.*, Case No. 30-2013-00644741-CU-OE-CXC, California Superior Court, County of Orange, Honorable Judge Gail A. Andler, presiding (certifying a class of employees who were misclassified as independent contractors);
- *Javine v. San Luis Ambulance Service, Inc.*, Case No. CV13-07480 BRO (SSx), United States District Court, Central District of California, Honorable Judge Beverly Reid O'Connell, presiding (conditionally certifying an unpaid FLSA overtime wage class);
- *Prado v. Warehouse Demo Services, Inc.*, Case No. CV14-3170 JFW (Ex), United States District Court, Central District of California, Honorable Judge John F. Walter, presiding (certifying rest period class and conditionally certifying FLSA unpaid overtime class);
- *Bower v. Cycle Gear, Inc.*, Case No. CV14-2712 HSG, United States District Court,

Northern District of California, Honorable Judge Haywood S. Gilliam, Jr., presiding (conditionally certifying an unpaid FLSA overtime wage class);

- *Vega v. Weatherford U.S., Limited Partnership*, Case No. CV14-1790-JLT, United States District Court, Eastern District of California, Honorable Jennifer L. Thurston, presiding (conditionally certifying an unpaid FLSA overtime wage class);

- *Galvan v. AMVAC Chemical Corporation*, Case No. 30-2014-00716103-CU-OE-CXC, California Superior Court, County of Orange, Honorable Judge William Claster, presiding (certifying unpaid overtime wage class and waiting time penalty class);

- *Camacho v. Residential Fire Systems, Inc.*, Case No. 30-2015-775372-CU-OE-CXC, California Superior Court, County of Orange, Honorable Glenda Sanders, presiding (certifying piece rate pay plan classes, expense reimbursement class, wage statement class, and waiting time penalties class);

- *Ontiveros v. Safelite Fulfillment, Inc., et al*, Case No. CV 15-7118-DMG (RAOx), United States District Court, Central District of California, Honorable Dolly M. Gee presiding (certifying six classes of employees for rest period violations, wage statement violations, meal period violations, and overtime and double-time violations);

- *Vazquez, et al v. Kraft Heinz Foods Company*, Case No. 16-cv-2749-WQH-BLM, United States District Court, Southern District of California, Honorable William Q. Hayes presiding (certifying six classes of employees for unpaid wages, meal period violations, wage statement violations, and waiting time penalties);

- *Caudle, et al. v. Sprint/United Management Company, et al.* Case No. C 17-06874-WHA, United States District Court, Northern District of California, Honorable William H. Alsup presiding (certifying three classes of employees for unlawful wage deduction violations, wage statement violations, and waiting time violations);

- *Staublein v. Wells Fargo Bank, N.A.*, Case No. CIVDS1712267, California Superior Court, County of San Bernardino, Honorable David Cohn presiding (certifying a wage statement class);

- *Perez v Sunbelt Rentals, Inc.*, Case No. Case No. 37-2018-00026405-CU-OE-CTL,

California Superior Court, County of San Diego, Honorable Eddie C. Sturgeon, presiding (certifying wage statement class); and

- *Bowlin-Burdick et al v. Life Care Centers of America*, Case No. BC657139, Los Angeles County Superior Court, Hon. Maren E. Nelson (certifying four classes for meal period violations, rest period violations, wage statement violations, and waiting time penalties).
- *McDonald et al. v. Sierra Pacific Industries*, Case No. 191133, Shasta County Superior Court, Hon. Tamara L. Wood (certifying eight classes for meal period violations, rest period violations, unpaid wages, unreimbursed business expenses, wage statement violations, and waiting time penalties).

8. In 2015, 2016, and 2017, Thomson Reuters recognized me as a top young attorney in Southern California in the annual Rising Stars Edition of Super Lawyer. This is an honor awarded to no more than two-and-a-half percent of attorneys under the age of forty in Southern California each year. In 2018, 2019, 2020, and 2021, Thomson Reuters recognized me as a “Super Lawyer” in the annual Super Lawyer magazine, an honor awarded to no more than five percent of all attorneys in Southern California each year.

9. As counsel for Plaintiff and the proposed Settlement Class, I have been intimately involved in all aspects of this litigation, and I believe that the proposed Class Action And PAGA Settlement Agreement And Class Notice (“Settlement”), a true and correct copy of which is attached hereto as **Exhibit A**, is a favorable result for the Settlement Class. The proposed Court Approved Class Notice Of Class Acton Settlement And Hearing Date for Final Court Approval (the “Notice Packet”), is attached hereto as **Exhibit B**.

10. Defendant Service King is one of the leading auto body collision and repair shops in the country, operating approximately 39 locations in California during the Class Period. Plaintiffs and Settlement Class members are non-exempt employees who worked for Service King in California during the Class Period.

11. On September 25, 2018, Plaintiff Moniz filed the instant wage and hour class action in Santa Clara Superior Court alleging various causes of action under the California Labor Code against Service King, Inc. On October 23, 2018, Plaintiff Moniz filed a First Amended

1 Complaint adding Service King Paint & Body LLC as a named defendant. The action was
2 subsequently removed under the Class Action Fairness Act (“CAFA”) to the Northern District of
3 California, United States District Court. On May 13, 2019, Plaintiff Moniz filed a Second
4 Amended Class and Representative Action Complaint, which consolidated the claims and the
5 parties from two additional class actions that were pending against Service King in United States
6 District Court for the Central District of California, which were entitled: *Hagop Ajemyan, et al.*
7 *v. Service King Paint & Body, LLC*, Case No. 19-cv-00644-DSF-KS and *Philip Gabriel v. Service*
8 *King, Inc.*, Case No. 19-cv-00556-DSF-KS. Plaintiffs Ajemyan and Guitierrez’s correspondence
9 to the Labor & Workforce Development Agency (“LWDA”) is attached hereto as **Exhibit C**.
10 Plaintiff Gabriel’s correspondence to the Labor & Workforce Development Agency (“LWDA”)
11 is attached as Exhibit 1 to the Declaration of Marcus J. Bradley.

12 12. On September 13, 2019, the Parties participated in a full day mediation with
13 experienced wage and hour class action mediator, Mark S. Rudy but were not able to reach a
14 resolution at the mediation. In preparation for mediation, the parties engaged in extensive formal
15 and informal discovery, including Service King’s production of its relevant wage and hour
16 policies; timekeeping records, payroll records, contact information, and other records for a
17 significant sampling of the putative class, and other documents and information. Plaintiffs’
18 counsel, with the help of their retained expert, conducted an analysis of this data and created a
19 damages model based on that analysis.

20 13. In addition, after mediation after mediation the parties engaged in significant
21 formal discovery and motion practice, with both sides propounding and responding to formal
22 written discovery, meeting and conferring over the other’s responses, and providing supplemental
23 discovery responses and documents. Service King also took Plaintiffs Moniz, Ajemyan,
24 Gutierrez, and Gabriel’s depositions, as well as the depositions of Plaintiffs’ declarants who
25 submitted declarations in support of Plaintiffs’ Motion for Class Certification. Plaintiffs deposed
26 Service King’s corporate witnesses on dozens of topics. Service King also produced contact
27 information for putative class members who did not object to their contact information being
28 provided to Plaintiffs’ counsel, as well as timekeeping and payroll information for 15% of

1 putative class members. In total, the parties produced over 5,000 pages of documents.

2 14. On November 20, 2020, Plaintiffs filed their Motion for Class Certification. On
3 February 10, 2022, the court issued an order denying Plaintiffs' Motion for Class Certification
4 without prejudice and set a deadline for Plaintiffs to file a renewed motion should they choose to
5 do so. On May 2, 2022, Plaintiffs filed their Renewed Motion for Class Certification. After
6 Plaintiffs' Renewed Motion for Class Certification was fully briefed, but before the court issued
7 a ruling, the Parties, with the help of Mr. Rudy, reached a tentative class-wide settlement, subject
8 to Court approval. Thereafter, the Parties stipulated to the action being remanded for purposes of
9 seeking settlement approval, given that the sole basis for removal was that there was over five
10 million dollars in controversy under the Class Action Fairness Act ("CAFA"), and the agreed-
11 upon settlement amount being less than the jurisdictional minimum required for subject matter
12 jurisdiction under the CAFA. The District Court granted the Parties' stipulation on March 9, 2023
13 and remanded the instant action to this Court.

14 15. As a condition of the Parties' Settlement, Plaintiffs agreed to file the operative
15 Third Amended Complaint ("TAC"), which added Plaintiffs Adolfo Chavez and Manuel Ramirez
16 as Class Representatives as well as a cause of action for failure to reimburse for all business
17 expenses and for failure to pay paid sick leave. The operative TAC alleges the following causes
18 of action: (1) minimum wage violations, (2) failure to pay all overtime wages, (3) rest period
19 violations, (4) meal period violations, (5) waiting time penalties, (6) wage statement violations,
20 (7) civil penalties under the Private Attorneys General Act ("PAGA"), (8) unfair competition, (9)
21 failure to reimburse for all business expenses, and (10) failure to provide for paid sick leave.
22 Plaintiff Adolfo Chavez's correspondence to the Labor & Workforce Development Agency
23 ("LWDA") is attached as Exhibit 1 to the Declaration of Donald Potter.

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1 16. Under the Settlement, Service King will pay a non-reversionary Gross Settlement
2 Amount (“GSA”) of \$4,750,000.00, with no claims process required for Settlement Class
3 members to receive payment. The monetary terms of the Settlement are summarized below:

4	• Gross Settlement Amount (“GSA”):	\$4,750,000.00
5	• Minus Court-approved attorneys’ fees (one-third):	\$1,583,333.33
6	• Minus Court-approved verified costs (up to):	\$150,000.00
7	• Minus Court-approved Service Payments:	\$75,000.00
8	• Minus Amount Set Aside as PAGA penalties:	\$100,000.00
	• Minus estimated settlement administration costs:	\$18,500.00
	Net Settlement Amount (“NSA”):	\$2,823,166.67
	• PLUS 25% “PAGA Amount” to Settlement Class:	\$25,000.00
	Total Amount Paid to Settlement Class members:	\$2,848,166.67

9 17. According to Service King, there are approximately 1,250 total Settlement Class
10 members. Thus, the average Individual Settlement Payment is estimated to be \$2,258.53.
11 Additionally, it is estimated that there are approximately 1,001 employees who fall within the
12 time period of December 12, 2017 through January 31, 2023 (the “PAGA Period”). Accordingly,
13 the average share of the PAGA Amount is \$24.98.

14 18. Plaintiffs contend that Service King paid its non-exempt employees pursuant to
15 unlawful piece-rate and/or commission compensation structures that did not separately
16 compensate them or other Service Advisors, Painters, and/or Body Technicians for rest periods
17 and non-productive time as required by California law. Specifically, Plaintiffs contend that
18 Service King’s compensation structures violate *Bluford v. Safeway, Inc.*, 216 Cal.App.4th 864,
19 872 (2013) (“*Bluford*”) and *Vaquero v. Stoneledge*, 9 Cal.App.5th 98, 108-115 (2017)
20 (“*Stoneledge*”), which require piece-rate and commission employees to be separately
21 compensated for rest periods. Plaintiffs also contend that Service King’s pay structures are
22 unlawful as they failed to compensate Plaintiffs and other Service Advisors, Painters, and/or Body
23 Technicians for “non-productive time” worked, including time spent attending team meetings.
24 Based on witness testimony, Plaintiffs estimated that Settlement Class members worked on
25 average 30-minutes per week of non-productive time. Plaintiffs’ expert further calculated that
26 Settlement Class members were paid on a piece-rate and/or commission basis approximately
27 70.3% of the time and that the average regular rate of pay for Service Advisors, Painters, and
28 Body Technicians is \$36.05. Accordingly, Plaintiffs calculated Service King’s liability for failure

1 to pay non-productive time as \$2,037,906 (160,825 workweeks * .703 * .5 * \$36.05 average rate
2 of pay).

3 19. But Service King argues that it does not compensate its employees pursuant to
4 piece-rate and/or commission pay plans but rather Plaintiffs and other non-exempt employees
5 were paid an hourly rate with the opportunity to receive a productivity bonus. On this basis,
6 Service King argues that it was not required to separately compensate for rest periods or non-
7 productive time. Service King further argues that to the extent it was required to pay separately
8 for non-productive time, employees worked little to no “non-productive time” since all of their
9 work time was directly related to their piece-rate/commission-earning activities. Service King
10 further denies it failed to properly compensate overtime or to calculate the regular rate of pay for
11 purposes of calculating overtime compensation. Based on these defenses, Plaintiffs discounted
12 Service King’s potential liability by 75% for a risk of non-certification, and by an additional 60%
13 for risk of being unsuccessful on the merits, for a projected total of \$203,791.

14 20. Plaintiffs allege that Service King paid them and other Service Advisors, Painters,
15 and/or Body Technicians pursuant to unlawful piece-rate/commission pay plans that failed to
16 separately pay them for rest periods. Due to this failure, Plaintiffs allege that Service King is not
17 only liable for unpaid wages for the time spent taking rest periods but also rest period premiums
18 for each workday that it failed to permit and authorize its employees to take a *paid* rest period.
19 Plaintiffs further allege that Service King failed to authorize and permit employees to take lawful,
20 duty-free rest periods. Based on Plaintiffs expert’s review of Service King’s payroll records,
21 Service King paid Plaintiffs and other Service Advisors, Painters, and/or Body Technicians on a
22 piece-rate and/or commission basis on approximately 70.3% of workweeks. Plaintiffs’ expert
23 further determined that employees on average worked over 3.5 hours on at least 4 shifts per week.
24 Accordingly, Plaintiffs calculate Service King’s liability for its alleged failure to pay separately
25 and hourly for rest periods as approximately \$16,303,247 (160,825 workweeks * .703 * \$36.05
26 average rate of pay * 4 shifts).

27 21. In response, Service King maintains that it does not compensate its employees
28 pursuant to piece-rate and/or commission pay plans but rather Plaintiffs and other non-exempt

1 employees were paid an hourly rate with the opportunity to receive a productivity bonus, and thus
2 were not underpaid for rest breaks. Service King further maintains any liability for its alleged
3 failure to separately compensate employees working on a piece-rate/commission basis for rest
4 periods would be limited to back-pay for the rest periods themselves (*i.e.* pay for the 10 minutes
5 of rest) as opposed to the rest period penalties under Labor Code section 226.7. Service King
6 further contends that Plaintiffs will be unable to certify this claim because individualized inquires
7 would be required to determine whether an employee actually took each rest period he was legally
8 entitled to and if he did not, his reasons for doing so. Finally, Service King denies it failed to
9 authorize and permit employees to take lawful, duty-free rest periods. Plaintiffs therefore
10 discounted Service King’s potential liability by 50% for a risk of non-certification, and by an
11 additional 50% for the risk that Service King could prevail on the merits outright, or at least
12 succeed in establishing lower damages, for a projected total of approximately \$4,075,812.

13 22. Plaintiffs allege that Service King failed to pay its employees all meal period
14 premiums owed as a result of its failure to pay meal period premiums at the correct regular rate
15 of compensation. Specifically, Plaintiffs allege that in instances where Service King paid its
16 employees a meal period premium, Service King incorrectly paid the meal period premium at the
17 employees’ base hourly rate of pay rather than the employees’ “regular rates of compensation”,
18 which were higher due to their receipt of commissions and non-discretionary bonuses (hereinafter
19 “incentive pay”). Based on Plaintiffs’ expert’s review and extrapolation of employee timekeeping
20 data, Plaintiffs estimated Service King’s exposure for failure to pay meal periods at the regular
21 rate of pay to be approximately \$822,443.

22 23. In response, Service King argues it has always maintained legally-compliant meal
23 period policies and communicated those policies to its employees. Service King further argues
24 that under *Brinker*, it was only required to “provide” the opportunity to take meal periods, not
25 “ensure” meal periods are taken. Moreover, Service King argues that any short, missed, or late
26 first meal periods were the result of lawful employee waiver or choice, thereby precluding
27 liability. Service King further contends that in instances where employees were not able to take a
28 compliant meal period, its payroll system paid the employee a meal period premium and that it is

not required to incorporate bonuses in its calculation of the regular rate of pay. Finally, Service King contends that Plaintiffs' meal period claim is not manageable on a class-wide basis because individual inquiries would be required to assess whether employees were even entitled to a meal period premium in the first place, which would entail determining whether employees received non-compliant meal periods or missed second meal periods, how many meal periods were non-compliant or missed, and the reasons why a particular individual recorded a non-compliant meal period or missed a meal period on a particular shift. Service King argues that this would need to be done first before even reaching the question on whether the meal period premium were paid at the correct rate. Based on these defenses, Plaintiffs discounted the maximum amount by 45% for risk of non-certification, and by an additional 40% for risk of losing on the merits or failure to recover the full amount sought, to arrive at a realistic exposure of approximately \$271,406.

24. Plaintiffs contend that Service King required Service Advisors, Painters, and/or Body Technicians Painters and/or Body Technicians to use their personal tools, including cellphones and other tools, to complete repairs and that despite this requirement, Service King failed to reimburse its employees for these expenses incurred in violation of Labor Code §§ 2802 and 2804. Plaintiffs estimate that each Painter and/or Body Technician was required to purchase at least one tool during their employment with Service King and that on average these tools cost approximately \$1,500. Based on the data provided by Service King, Plaintiffs further calculate that there are approximately 875 Body Technicians and/or Painters employed during the Class Period, who they contend require such tools. Therefore, Plaintiffs calculate Service King's maximum exposure for this claim at \$1,312,500 ($\$1,500 \times 875$ employees).

25. In response, Service King contends that it properly reimbursed employees for all necessary business expenditures throughout the Class Period, including use of their personal tools. Service King further contends that it was not necessary for employees to use their own tools for business purposes as Service King provided employees with all necessary tools to complete their job duties. Accordingly, Service King argues that any tool expenses would not have been reasonable or necessary. Service King further contends that Service Advisors, Painters and/or Body Technicians often received more than double the minimum wage, which provides a further

1 defense, as those earning such wages may provide and maintain hand tools and equipment
2 customarily required by the trade or craft. Service King further maintains that any alleged failure
3 to reimburse business expenses were not experienced on a class-wide basis, and that every
4 reimbursement request would have to be reviewed on a case-by-case basis (as to whether, among
5 other things, the expense was “reasonable”), making this claim unsuitable for certification.
6 Therefore, in light of these arguments, Plaintiffs discounted this maximum amount by 80% for
7 risk of non-certification and an additional 80% for a risk of being unsuccessful on the merits or
8 of failing to recover the full amount sought, to arrive at an estimated realistic exposure of
9 approximately \$52,500.

10 26. Plaintiffs contend that Service King failed to properly provide and/or compensate
11 Service Advisors, Painters, and/or Body Technicians with paid sick leave, including failing to
12 provide paid sick leave at the correct rate of pay. In response, Service King contends that it
13 properly compensated employees for paid sick leave. Service King further maintains that any
14 alleged failure to provide paid sick leave is unsuitable for certification as there is no private right
15 of action for a failure to pay paid sick leave. Instead, Service King argues that damages for any
16 alleged failure to pay sick leave is limited to waiting time penalties and/or PAGA. In light of this
17 argument, Plaintiffs did not assign separate value for Plaintiffs’ sick leave claim.

18 27. As a result of the above violations, Plaintiffs allege a derivative claim for wage
19 statement penalties pursuant to Labor Code § 226, *et seq.* Plaintiffs’ analysis of data from Service
20 King reflected that there were approximately 76,240 unique pay periods worked within the one-
21 year liability window under Labor Code § 226 and 226.2 where Service King’s employees were
22 paid by piece-rate and/or commission. In calculating Service King’s exposure, Plaintiffs assumed
23 they could recover the “initial” wage statement penalty of \$50 for each violation, for a total of
24 \$3,812,000 in potential penalties. However, given Service King’s arguments that any alleged
25 violations were not “knowing and intentional”; no violations occurred; that class members
26 suffered no “injury”; that Plaintiffs would not be able to show a penalty in every pay period; as
27 well as the risks associated with Plaintiffs’ underlying claims as to both certification and the
28 merits, Plaintiffs discounted the maximum exposure by 80% for risk of non-certification, and by

1 an additional 80% for risk of being unsuccessful on the merits or failure to recover the full amount
2 sought, for an estimated realistic exposure of approximately \$152,480.

3 28. As a result of the above violations, Plaintiffs also allege a derivative claim for
4 waiting time penalties pursuant to Labor Code §§ 201-203. Based on data provided by Service
5 King, there are approximately 929 Settlement Class members who have separated their
6 employment with Service King since September 25, 2015. Using an estimated average waiting
7 time penalty of \$8,652 (\$36.05/hr. * 8 hours * 30 days), Plaintiffs estimated Service King's
8 maximum potential waiting time penalty exposure as \$8,037,708 (929 former employees *
9 \$8,652). However, Service King asserts it has strong, good-faith defenses to Plaintiffs'
10 underlying claims and therefore, pursuant to the "good-faith" test adopted by the Court of Appeals
11 in *Naranjo II*, Plaintiffs are unlikely to be able to prove that the any failure to pay all wages at the
12 time of termination was willful. Service King further argues, not every former employee suffered
13 every single alleged wrong, and therefore if Plaintiffs only certified or prevailed on some but not
14 all of their claims, the size of any potential waiting time claim would be reduced. Based on these
15 defenses, Plaintiffs discounted Service King's maximum exposure by 80% for risk of non-
16 certification and by an additional 80% for risk of being unsuccessful on the merits or failure to
17 recover the full amount sought, to arrive at an estimated realistic exposure of approximately
18 \$321,508.

19 29. Finally, Plaintiffs allege a derivative claim for PAGA civil penalties. Plaintiffs
20 estimated a maximum PAGA exposure of \$7,624,000, based on approximately 76,240 pay
21 periods during the PAGA Period at the \$100 "initial" violation rate under Lab. Code § 2699(f).
22 However, these penalties derive from Plaintiffs' underlying claims, each of which Service King
23 vigorously disputes. Service King further argues Plaintiffs would not be able to show a violation
24 in *every* pay period, and thus their damages estimate is inflated. PAGA also grants courts
25 discretion to reduce PAGA civil penalties (Lab. Code § 2699(e)(2)), and Service King argues the
26 Court would reduce penalties significantly given its good-faith defenses. Thus, Plaintiffs
27 discounted the maximum figure by 75% for risk of losing on the merits and/or failure to recover
28 a penalty in each pay period, and by an additional 80% for risk of the Court reducing penalties,

1 to arrive at an estimated exposure of \$381,200.

2 30. Using these estimated figures, Plaintiffs predicted the realistic total recovery for
3 the Settlement Class would be approximately \$5,458,697. Thus, the proposed settlement of
4 \$4,750,000 represents approximately 87% of Plaintiffs' reasonably forecasted classwide
5 recovery.

6 31. At final approval, my office will apply for an attorneys' fees award of one-third of
7 the GSA, estimated at \$1,583,333.33, and up to \$150,000 in litigation costs. The requested fee is
8 fair compensation for undertaking complex, risky, time-consuming, and expensive litigation on a
9 contingent basis. Counsel have incurred substantial attorneys' fees conducting pre-filing
10 investigation; analyzing Plaintiffs' claims; conducting legal research; propounding and
11 responding to written discovery, and meeting and conferring and reviewing supplemental
12 responses and document production; preparing for and attending depositions; engaging in Motion
13 practice, including a Motion for Class Certification and a Renewed Motion for Class Certification,
14 analyzing timekeeping and other data to create a comprehensive damages model at multiple points
15 throughout the litigation; interviewing putative class members; preparing for and attending
16 mediation; negotiating and preparing the Settlement; preparing this Motion; and otherwise
17 prosecuting this case. I also anticipate my office will incur future attorney time in attending the
18 hearing on this Motion, overseeing the Notice process, fielding questions from Settlement Class
19 members, preparing the final approval papers, and attending the Final Approval Hearing.

20 32. At final approval, Plaintiffs will also apply for Class Representative Service
21 Payments in the amount of \$15,000 each to Plaintiffs Moniz, Ajemyan, Gutierrez, and Gabriel,
22 and \$7,500 each to Plaintiffs Chavez and Ramirez. Plaintiffs' requested payments are in
23 recognition of the time and effort they expended on behalf of the Settlement Class, including
24 providing factual information and documents to counsel, identifying potential witnesses,
25 attending meetings with counsel to discuss the claims and theories at issue in the litigation,
26 responding to written discovery, preparing for and attending their depositions, and otherwise
27 actively participating in the prosecution of this case.

28 33. Plaintiffs are typical of the class they seek to represent, as they experienced the

1 same harms alleged in the action and resolved as part of the Settlement. I am not aware of any
2 conflicts that I, my law firm, or Plaintiffs have with any Settlement Class member that would
3 prevent Plaintiffs or my office from serving as Class Representative and Class Counsel.

4 34. Although the parties engaged in significant discovery before reaching settlement,
5 the parties had not yet completed formal written and deposition discovery, which would have
6 required the expenditure of substantial time and resources by all parties. The Settlement also
7 avoids the attorneys' fees and costs associated with moving for summary judgment, and
8 ultimately, trial, as well as the risks and the accompanying burden of continued litigation on the
9 Court.

10 I declare under penalty of perjury under the laws of the State of California that the
11 foregoing is true and correct. Executed on April 19, 2024, at El Segundo, California.

12
13 
14 _____
Paul K. Haines

EXHIBIT A

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND **CLASS NOTICE**

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiffs Erica Moniz (“Moniz”), Hagop Ajemyan (“Ajemyan”), Hugo Gutierrez (“Gutierrez”), Philip Gabriel (“Gabriel”), Adolfo Chavez (Chavez”), and Manuel Ramirez (“Ramirez”) (collectively, “Plaintiffs”), on the one hand, and defendant Service King Paint & Body, LLC (“Defendant”), on the other hand. The Agreement refers to Plaintiffs and Defendant collectively as the “Parties,” or individually as a “Party.”

1. DEFINITIONS

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

1.1 “State Court Action” means the lawsuit filed by Erica Moniz alleging wage and hour violations against Defendant entitled *Erica Moniz et al. v. Service King Paint & Body, LLC*, case number 18CV335706, filed in the Superior Court of California, County of Santa Clara.

1.2 “Federal Action” means the State Court Action removed by Defendant entitled *Erica Moniz et al. v. Service King Paint & Body, LLC*, case number 5:18-cv-07372-EJD, filed in the United States District Court, Northern District of California.

1.3 “Actions” means State Court Action and Federal Court Action, collectively.

1.4 “Administrator” means Phoenix Settlement Administrators, the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.5 “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.

1.6 “Aggrieved Employees” means current and former non-exempt employees of Defendant in the State of California who held the job title(s) of Service Advisor, Painter, and/or Body Technician and thereby received various forms of productivity/commission pay at any time during the PAGA Period. No employee may opt out of being an Aggrieved Employee.

1.7 “Class” means all current and former non-exempt employees of Defendant in the State of California who held the job title(s) of Service Advisor, Painter, and/or Body Technician during the Class period and thereby received various forms of productivity/commission pay.

1.8 “Class Counsel” means Haines Law Group, APC; Bradley/Grombacker, LLP; Law Offices of Eric A. Boyajian, APC; and Law Office of Donald Potter.

1.9 “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” means the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Actions.

1.10 “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Period Workweeks.

1.11 “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

1.12 “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

1.13 “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.14 “Class Period” means September 25, 2014 through January 31, 2023. However, for all persons who participated in the class action settlement in the case of *Roman v. Service King Paint & Body, LLC*, No. CIVDS16002618 (“*Roman*”), the Class Period shall begin on December 9, 2016 and run through January 31, 2023.

1.15 “Class Period Workweek(s)” means any week during which a Class Member worked for Defendant for at least one day in a qualifying position, during the Class Period.

1.16 “Class Representatives” means the named Plaintiffs in the operative complaint in the Action seeking Court approval to serve as a Class Representative, as well as Chavez and Ramirez.

1.17 “Class Representatives Service Payment” means the payment to the Class Representatives for initiating the Actions and providing services in support of the Actions.

1.18 “Court” means the Superior Court of California, County of Santa Clara.

1.19 “Defendant” means named Defendant Service King Paint & Body, LLC.

1.20 “Defense Counsel” means Tim Johnson, Jesse Ferrantella and Cameron Flynn of Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

1.21 “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or (c) if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.22 “Final Approval” means the Court’s order granting final approval of the Settlement.

1.23 “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

1.24 “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.

1.25 “Gross Settlement Amount” means \$4,750,000 which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator’s Expenses.

1.26 “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to formula set forth in Paragraph 3.2.4.

1.27 “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Period Workweeks.

1.28 “Judgment” means the judgment entered by the Court based upon the Final Approval.

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

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

1.31 “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.32 “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.33 “Operative Complaint” means the operative complaint in the Action.

1.34 “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

1.35 “PAGA Notice” means Plaintiffs’ letter(s) to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd. (a).

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

1.37 “PAGA Period” means the period from December 21, 2017 through January 31, 2023.

1.38 “PAGA Period Workweek(s)” means any workweek during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

1.39 “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.40 “Plaintiffs” means Erica Moniz, Hagop Ajemyan, Hugo Gutierrez, Philip Gabriel, Adolfo Chavez, and Manuel Ramirez, the named plaintiffs in the Action.

1.41 “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.

1.42 “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.

1.43 “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.

1.44 “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.

1.45 “Released Parties” means: Defendant, and each of their former and present insurers, brands, concepts, affiliates, subsidiaries, parent companies, predecessors, successors, assigns, employees, officers, directors, agents, attorneys, administrators, representatives, heirs, estates, powers-of-attorney, and any individual or entity that could be jointly liable with Defendant.

1.46 “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.47 “Response Deadline” means sixty (60) days after the Administrator mails Notice to Class Members and Aggrieved Employees, and will be the last date on which Class Members may: (a) mail Requests for Exclusion from the Settlement, or (b) mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator will have an additional 14 calendar days beyond the date the Response Deadline has expired. The timeliness of submitted Request for Exclusion Forms will be determined by valid postmark.

1.48 “Settlement” means the disposition of the Action effectuated by this Agreement and the Judgment.

2. RECITALS

2.1 Moniz commenced the State Court Action on September 25, 2018 against Defendant in the Santa Clara Superior Court. On October 23, 2018, Moniz filed her First Amended Complaint. The case was removed to federal court under the Class Action Fairness Act (“CAFA”).

2.2 On May 13, 2019, Ajemyan, Gutierrez, and Gabriel joined Moniz in the Federal Action and filed a Second Amended Complaint, adding claims for civil penalties under PAGA.

2.3 In their Operative Complaint, Plaintiffs allege 1) unpaid minimum wages, 2) unpaid overtime, 3) failure to provide meal periods, 4) failure to provide rest periods, 5) failure to pay wages during employment and upon termination, 6) failure to provide accurate wage statements, 7) civil penalties under PAGA, and 8) violations of California's unfair competition law (Business and Profession Code 17200, *et seq.*). Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint, and denies any and all liability for the causes of action asserted in the Operative Complaint.

2.4 Pursuant to Labor Code section 2699.3, subd.(a), Plaintiffs gave written notice to Defendant and the LWDA by sending the PAGA Notice.

2.5 On September 13, 2019, the Parties participated in a one day mediation presided over by Mark S. Rudy, Esq. The case did not settle at mediation. However, Mark Rudy continued to correspond with the parties regarding potential resolution of the matter.

2.6 Plaintiffs obtained statistical data regarding the Aggrieved Employees and Class Members, payroll records, time records, and employment policies and records.

2.7 The Court has not granted class certification.

2.8 The Parties, Class Counsel, and Defense Counsel represent that they are aware of the following related case: *Chavez et al. v. Service King Paint & Body, LLC*, case no.: 2:22-cv-06805 MSC JPR (U.S. District Court, Central District of California) ("*Chavez*"). *Chavez* involved overlapping parties and overlapping unpaid wage and overtime claims, but is being resolved as part of this matter.

2.9 As part of this Settlement, Plaintiffs shall amend the operative complaint to allege the factual allegations, claims, and legal theories at issue in *Chavez* so as to cover the Released Class and Released PAGA Claims, including adding Chavez and Ramirez as plaintiffs. Counsel in the *Chavez* matter will dismiss the *Chavez* action without prejudice once the amended, consolidated complaint is filed. The amended, consolidated class and representative action complaint shall be the operative complaint in the Action (the "Operative Complaint").

3. MONETARY TERMS.

3.1 Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant agrees to pay \$4,750,000.00 and no more as the Gross Settlement Amount, and to separately pay any and all employer-side payroll taxes on the portion of the Net Settlement Amount that is attributable to employee wage payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2 Payments from the Gross Settlement Amount. 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 Plaintiffs: Class Representative Service Payment to the Class Representative of not more than \$15,000 to each Moniz, Ajemyan, Gutierrez, and Gabriel, and \$7,500 to each Chavez and Ramirez (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payment no later than 16 court days prior to the Final Approval Hearing. Defendant will not oppose Plaintiffs' request for a Class Representative Service Payment that does not exceed these amounts. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payment.
- 3.2.2 To Class Counsel: A Class Counsel Fees Payment of not more than 33.333%, which is currently estimated to be \$1,583,333 and a Class Counsel Litigation Expenses Payment of not more than \$150,000. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. Defendant will not oppose requests for these payments provided they do not exceed these amounts set forth in this section. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties will have no liability to Class Counsel or any other Plaintiffs' Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these payments.
- 3.2.3 To the Administrator: An Administrator Expenses Payment not to exceed \$18,500, 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 \$18,500, the Administrator will allocate the remainder to the Net Settlement Amount.
- 3.2.4 To Each Participating Class Member: An Individual Class Payment is calculated as follows:

General Settlement Fund: Seventy-Five percent (75%) of the Net Settlement Amount will be distributed to all Settlement Class Members as the General Settlement Fund. The General Settlement Fund will be distributed to each participating Settlement Class Member based on their pro rata share proportionate workweeks worked during the Class Period. Each Class Members' share, will be calculated by: (a) dividing 75% of the Net Settlement Amount by the total number of Class Period Workweeks worked by all Participating Class Members during the Class Period; and (b) multiplying the result by each Participating Class Member's Class Period Workweeks.

Waiting Time Penalty Fund: Fifteen percent (15%) of the Net Settlement Amount shall be designated as the "Waiting Time Penalty Fund." Each Settlement Class Member whose employment with Defendant ended at any time from September 25, 2015, through January 21, 2023, shall receive an equal, pro-rata share of the Waiting Time Penalty Fund. Each Class Members' share, will be calculated by: (a) dividing 15% of the Net Settlement Amount by the total number of participating Class Members whose employment with Defendant ended at any time from September 25, 2015 through January 21, 2023; and (b) awarding each Class Member an equal amount.

Wage Statement Penalty Fund: Ten percent (10%) of the Net Settlement Amount shall be designated as the "Wage Statement Penalty Fund." Each Settlement Class Member who was employed by Defendant at any time from December 21, 2017 through January 31, 2023 ("Wage Statement Period"), shall receive a portion of the Wage Statement Penalty Fund proportionate to the number of workweeks that he or she worked during the above time period. Each Class Members' share, will be calculated by: (a) dividing 10% of the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the above time period; and (b) multiplying the result by each Participating Class Member's Class Period Workweeks.

3.2.4.1 Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2 Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$100,000 to be paid from the Gross Settlement Amount, with 75% allocated to the LWDA PAGA Payment and 25% allocated to the Individual PAGA Payments.

3.2.5.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties by the total number of PAGA Period Workweeks worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Workweeks. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2 If the Court approves PAGA Penalties of an amount different from the amount requested, the Administrator will allocate the difference to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1 Class Workweeks and Aggrieved Employee Workweeks. Based on a review of its records, as of October 11, 2022, Defendant estimates there are approximately 1,203 Class Members who collectively worked a total of approximately 160,825 Workweeks.

4.2 Class Data. Not later than 30 days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. The Class Data shall not be shared with either Plaintiffs or Class Counsel unless expressly approved by Defendant and Defense Counsel, or if a Class Member requests that their personal data be shared with Class Counsel. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if they discover that the Class Data omitted a Class Member's identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3 Funding of Gross Settlement Amount. Defendant will fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator the later of either: (1) May 14, 2024, or (2) 30 days after the Effective Date. In other words, regardless of Effective Date, Defendant shall have no obligation to fund the Gross Settlement Amount before May 14, 2024.

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 Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment will not precede disbursement of Individual Class Payments and Individual PAGA Payments.

- 4.4.1 The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class United States Postal Service (“USPS”) mail, postage prepaid. The face of each check will prominently state the date (not less than 180 days after the date of mailing) when the check will be voided, which will be 180 days (hereinafter “Void Date”). The Administrator will cancel all checks not cashed by the Void Date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients’ mailing addresses using the National Change of Address Database.
- 4.4.2 The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator will promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 4.4.3 For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator will transmit the funds represented by such checks to the California Controller’s Unclaimed Property Fund in the name of the Class Member thereby leaving no “unpaid residue” subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).
- 4.4.4 The payment of Individual Class Payments and Individual PAGA Payments will not obligate Defendant to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS.

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

5.1 Plaintiffs’ Release. In addition to the claims released under Sections 5.2 and 5.3 below, Plaintiffs and Plaintiffs’ former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns, agree to a general release of any and all claims,

transactions, or occurrences against Released Parties—which will include without limitation any and all claims which in any way relate to Plaintiffs’ employment with Defendant, under State or Federal law, in tort, common law, statute, contract, or equity, whether pled in the Complaint or not, including but not limited to any claims under the Fair Labor Standards Act (“FLSA”), Title VII, Americans with Disabilities Act (“ADA”), Fair Employment and Housing Act (“FEHA”), Age Discrimination in Employment Act (“ADEA”), Private Attorneys General Act (“PAGA”), California Labor Code, or any Industrial Welfare Commission Wage Order—now existing or arising in the future, based on any act, omission, event, occurrence, or nonoccurrence from the beginning of time to the date of execution hereof (“Plaintiffs’ Release”). Plaintiffs’ Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, and workers’ compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agrees, nonetheless, that Plaintiffs’ Release will be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs’ discovery of them.

- 5.1.1 Plaintiffs’ Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiffs’ Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT IF KNOWN BY HIM OR HER WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

5.2 Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period factual allegations and primary rights stated in the Operative Complaint and any amendments thereto, and ascertained in the course of the Actions, including, e.g., any and all claims for 1) unpaid wages, 2) unpaid overtime and double time, 3) failure to provide meal periods and properly calculate the rate of compensation on premiums paid, 4) failure to provide rest periods and properly calculate the rate of compensation on premiums paid, 5) failure to provide recovery periods and properly calculate the rate of compensation on premiums paid, 6) failure to pay wages during employment and upon termination, 7) failure to provide accurate itemized wage statements, 8) failure to reimburse expenses, 9) failure to provide or properly compensate paid sick leave, and 10) violations of California’s unfair competition law (Business and Profession Code 17200, et seq.). Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

5.3 Release by Aggrieved Employees: All Aggrieved Employees, the State of California, and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period factual allegations and primary rights stated in the Operative Complaint and any amendments thereto, the PAGA Notices, and ascertained in the course of the Actions, including, e.g., any and all claims for 1) unpaid wages, 2) unpaid overtime and double time, 3) failure to provide meal periods and properly calculate the rate of compensation on premiums paid, 4) failure to provide rest periods and properly calculate the rate of compensation on premiums paid, 5) failure to provide recovery periods and properly calculate the rate of compensation on premiums paid, 6) failure to pay wages during employment and upon termination, 7) failure to provide accurate itemized wage statements, 8) failure to reimburse expenses, 9) failure to provide or properly compensate paid sick leave, and 10) failure to maintain accurate records.

6. MOTION FOR PRELIMINARY APPROVAL.

The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s current checklist for Preliminary Approvals.

6.1 Plaintiffs’ Responsibilities. Plaintiffs will prepare and email to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiffs, Class Counsel or Defense Counsel; (iv) a signed declaration from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; (vi) its timely transmission to the LWDA of all necessary PAGA documents (initial and amended notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and (vii) all facts relevant to any actual or potential conflict of interest with Class Members and the Administrator. In their declarations, Plaintiffs and Class Counsel declaration will 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 (apart from *Chavez*, which will be dealt with as discussed above).

6.2 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for

Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

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

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

7.4 Notice to Class Members.

7.4.1 No later than five (5) business days after receipt of the Class Data, the Administrator will notify Class Counsel that the list has been received and state the number of Class Members, Aggrieved Employees, Class Period Workweeks, and PAGA Period Workweeks.

7.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class USPS mail, the Class Notice substantially in the form attached to this Agreement as Exhibit 1. The first page of the Class Notice will prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Class Period Workweeks and PAGA Period Workweeks (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator will update Class Member addresses using the National Change of Address database.

7.4.3 Not later than 3 business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator will re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a

forwarding address, the Administrator will conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

- 7.4.4 The deadlines for Class Members' written objections, challenges to workweeks, and Requests for Exclusion will be extended an additional 14 days beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- 7.4.5 If the Administrator, Defendant or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

7.5 Requests for Exclusion (Opt-Outs).

- 7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
- 7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator will accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. If there is a dispute regarding the validity of a Request for Exclusion, Class Counsel and Defense Counsel shall promptly confer regarding the validity of the Request for Exclusion, and if there remains a disagreement, this issue shall be presented to the Court for determination. During this meet and confer process, and in the contemplated court submission, personal identifying information for the Class Member shall be redacted and safeguarded to the greatest extent possible.
- 7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the

Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

- 7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and will not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

7.6 Challenges to Calculation of Workweeks. Each Class Member will have 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Period Workweeks and PAGA Period Workweeks (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Class Period Workweeks and/or PAGA Period Workweeks will be final and not appealable or otherwise susceptible to challenge. The Administrator will promptly provide copies of all challenges to calculation of Workweeks to Defense Counsel and Class Counsel (with identifying information other than names redacted) and the Administrator's determination of the challenges.

7.7 Objections to Settlement.

- 7.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

- 7.7.2 Participating Class Members may send written objections to the Administrator, by mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 60 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

- 7.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

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

- 7.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members

including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

- 7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator will email a list to Class Counsel and Defense Counsel containing (a) the names of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid), with personal identifying information other than names redacted.
- 7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to workweeks received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- 7.8.4 Workweek Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of workweeks. The Administrator’s decision will be final and not appealable or otherwise susceptible to challenge.
- 7.8.5 Administrator’s Declaration. Not later than 14 days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- 7.8.6 Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At

least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE.

As of October 11, 2022, Defendant calculated that the Class included approximately 1,203 Class Members who worked approximately 160,825 workweeks during the Class Period. If the size of the Class workweeks during the Class Period exceeds 160,825 by more than 10%, the Gross Settlement Amount will increase by a proportionate percentage (i.e., if the Class workweeks increased by 12%, the Gross Settlement Amount would increase by 12%).

9. DEFENDANT'S RIGHT TO WITHDRAW.

If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5% of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement will be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than ten (10) days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

10. MOTION FOR FINAL APPROVAL.

Not later than 16 court days before the calendared Final Approval Hearing, Plaintiffs will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiffs will provide drafts of these documents to Defense Counsel not later than seven days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

10.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

10.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment will not constitute a material modification to the Agreement within the meaning of this paragraph.

10.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement 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.

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

10.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement will be null and void. The Parties will nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel will not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

11. AMENDED JUDGMENT.

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

12. ADDITIONAL PROVISIONS.

12.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiffs reserve the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection

with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

12.2 Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect.

12.3 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph will be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

12.4 No Publicity. Plaintiffs and Plaintiffs' Counsel will not contact the media about the settlement or respond to any inquiries by the media regarding the Settlement, other than to state that the matter was amicably settled, and the Court did not find Defendant liable. Plaintiffs and their respective counsel also will not post any information about the settlement on social media or their firms' websites.

12.5 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits will 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.

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

12.7 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.

12.8 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.

12.9 No Tax Advice. Neither Plaintiffs, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor will 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.

12.10 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.

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

12.12 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.

12.13 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.

12.14 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information will survive the execution of this Agreement.

12.15 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 60 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement Funds, Plaintiffs shall destroy, all paper and electronic versions of Class Data received from Defendant.

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

12.17 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement will 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 will be on the first business day thereafter.

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

TO PLAINTIFFS:	TO DEFENDANT:
Paul K. Haines Sean M. Blakely Alexandra R. McIntosh HAINES LAW GROUP, APC 2155 Campus Drive, Suite 180 El Segundo, CA 90245 T: (424) 292-2350 / F: (424) 292-2355 Marcus J. Bradley, Esq. Kiley L. Grombacher, Esq. Lirit A. King, Esq. BRADLEY/GROMBACHER, LLP 31365 Oak Crest Drive, Suite 240 Westlake Village, California 91361 Telephone: (805) 270-7100 Facsimile: (805) 270-7589 Eric A. Boyajian LAW OFFICES OF ERIC A. BOYAJIAN, APC 450 N. Brand Blvd., Ste 600 Glendale, CA 91203 T: (818) 839-5969/ F: (818) 296-9230 Donald Potter Law Office of Donald Potter 155 North Lake Avenue, Suite 800 Pasadena, CA 91101 T: (626) 744-1555/ F: (626) 389-0592	Tim L. Johnson Jesse C. Ferrantella Cameron O. Flynn OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C. 4660 La Jolla Village Dr., Suite 900 San Diego, CA 92122 Tel: 858-652-3100 Fax: 858-652-3101

12.19 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement will 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.

12.20 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation for all Actions will be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process, beginning on the date of execution of this Agreement.

PLAINTIFFS	
Date:	
	Erica Moniz
Date:	
	Hagop Ajemyan
Date: Jun 30, 2023	 hugo.gutierrez (Jun 30, 2023 14:10 PDT)
	Hugo Gutierrez
Date:	
	Philip Gabriel
Date:	
	Adolfo Chavez
Date:	
	Manuel Ramirez

SERVICE KING PAINT & BODY, LLC	
Date:	
	By:
	Its:

APPROVED AS TO FORM AND CONTENT ONLY:

COUNSEL FOR PLAINTIFFS AND DEFENDANT	
Date:	
	Paul K. Haines Sean M. Blakely HAINES LAW GROUP, APC

PLAINTIFFS	
Date:	
	Erica Moniz
Date: Jun 30, 2023	 Hagop Ajemyan (Jun 30, 2023 14:11 PDT)
	Hagop Ajemyan
Date:	
	Hugo Gutierrez
Date:	
	Philip Gabriel
Date:	
	Adolfo Chavez
Date:	
	Manuel Ramirez

SERVICE KING PAINT & BODY, LLC	
Date:	
	By:
	Its:

APPROVED AS TO FORM AND CONTENT ONLY:

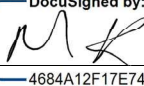
COUNSEL FOR PLAINTIFFS AND DEFENDANT	
Date:	
	Paul K. Haines Sean M. Blakely HAINES LAW GROUP, APC

PLAINTIFFS	
Date:	
	Erica Moniz
Date:	
	Hagop Ajemyan
Date:	
	Hugo Gutierrez
Date: 7/6/2023	DocuSigned by:  3B8ADD10067A457... Philip Gabriel
Date:	
	Adolfo Chavez
Date:	
	Manuel Ramirez

SERVICE KING PAINT & BODY, LLC	
Date:	
	By:
	Its:

APPROVED AS TO FORM AND CONTENT ONLY:

COUNSEL FOR PLAINTIFFS AND DEFENDANT	
Date:	
	Paul K. Haines Sean M. Blakely HAINES LAW GROUP, APC

PLAINTIFFS	
Date: Jul 17, 2023	 Erica Moniz (Jul 17, 2023 14:37 PDT) Erica Moniz
Date:	Hagop Ajemyan
Date:	Hugo Gutierrez
Date:	Philip Gabriel
Date: 7/5/2023	DocuSigned by:  8D2684900DDC495... Adolfo Chavez
Date: 7/10/2023	DocuSigned by:  4684A12F17E74A9... Manuel Ramirez

SERVICE KING PAINT & BODY, LLC	
Date:	
	By: Its:

APPROVED AS TO FORM AND CONTENT ONLY:

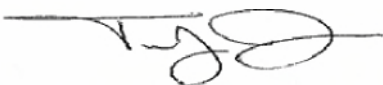
COUNSEL FOR PLAINTIFFS AND DEFENDANT	
Date:	 Paul K. Haines Sean M. Blakely HAINES LAW GROUP, APC

PLAINTIFFS	
Date:	
	Erica Moniz
Date:	
	Hagop Ajemyan
Date:	
	Hugo Gutierrez
Date:	
	Philip Gabriel
Date:	
	Adolfo Chavez
Date:	
	Manuel Ramirez

SERVICE KING PAINT & BODY, LLC	
Date:	
7-10-23	By: MATTHEW EBER Its: CEO

APPROVED AS TO FORM AND CONTENT ONLY:

COUNSEL FOR PLAINTIFFS AND DEFENDANT	
Date:	
	Paul K. Haines Sean M. Blakely HAINES LAW GROUP, APC

Date:	Marcus J. Bradley, Esq. Kiley L. Grombacher, Esq. Lirit A. King, Esq. BRADLEY/GROMBACHER, LLP
Date: 6-30-23	 Eric A. Boyajian LAW OFFICES OF ERIC A. BOYAJIAN, APC
	Donald Potter LAW OFFICES OF DONALD POTTER
Date: July 10, 2023	 Tim L. Johnson Jesse C. Ferrantella Cameron O. Flynn OGLETREE, DEAKINS, NASH, SMOAK, & STEWART, P.C.

Date: 7/10/23	 _____ Marcus J. Bradley, Esq. Kiley L. Grombacher, Esq. Lirit A. King, Esq. BRADLEY/GROMBACHER, LLP
Date:	_____ Eric A. Boyajian LAW OFFICES OF ERIC A. BOYAJIAN, APC
	_____ Donald Potter LAW OFFICES OF DONALD POTTER
Date:	_____ Tim L. Johnson Jesse C. Ferrantella Cameron O. Flynn OGLETREE, DEAKINS, NASH, SMOAK, & STEWART, P.C.

Date:	Marcus J. Bradley, Esq. Kiley L. Grombacher, Esq. Lirit A. King, Esq. BRADLEY/GROMBACHER, LLP
Date:	Eric A. Boyajian LAW OFFICES OF ERIC A. BOYAJIAN, APC
Date: July 11, 2023	 Donald Potter LAW OFFICES OF DONALD POTTER
Date:	Tim L. Johnson Jesse C. Ferrantella Cameron O. Flynn OGLETREE, DEAKINS, NASH, SMOAK, & STEWART, P.C.

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

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

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Service King Paint & Body, LLC (“Defendant”) for alleged wage and hour violations. The Action was filed by former employees Erica Moniz, Hagop Ajemyan, Hugo Gutierrez, Philip Gabriela, Adolfo Chavez and Manuel Chavez (“Plaintiffs”) and seeks recovery of (1) back wages and other relief for a class of all current and former non-exempt employees of Defendant in the State of California who held the job title(s) of Service Advisor, Painter, and/or Body Technician during the Class period and thereby received various forms of productivity/commission pay during the Class Period (“Class Members”); and (2) penalties under the California Private Attorney General Act (“PAGA”) for all non-exempt employees of Defendant that held the job title(s) of Service Advisor, Painter, and/or Body Technician and thereby received various forms of productivity/commission pay during the PAGA Period (“Aggrieved Employees”). The “Class Period” is September 25, 2014 through January 31, 2023. However, for all persons who participated in the class action settlement in the case of *Roman v. Service King Paint & Body, LLC*, No. CIVDS16002618 (“*Roman*”), the Class Period shall begin on December 9, 2016 and run through January 31, 2023. The PAGA Period is from December 21, 2017 to January 31, 2023.

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

Based on Defendant’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$ADD (less withholding) and your Individual PAGA Payment is estimated to be \$ ADD**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendant’s records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work in a qualifying position during the PAGA Period.)

The above estimates are based on Defendant’s records showing that **you worked ADD workweeks** in a qualifying position during the Class Period and **you worked ADD pay periods** in a qualifying position during the PAGA Period. If you believe that you worked more workweeks in a qualifying position during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

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

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

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

1. Do Nothing. You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period claims and PAGA Period penalty claims against Defendant.

2. Opt-Out of the Class Settlement. You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period claims against Defendant, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Do Not Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the claims against Defendant that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is DATE	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by DATE	All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiffs reduce the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiffs if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on DATE. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks Written Challenges Must be Submitted by DATE	The amount of your Individual Class Payment and PAGA Payment (if any) depends on how many workweeks you worked at least one day in a qualifying position during the Class Period and how many Pay Periods you worked at least one day in a qualifying position during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Workweeks you worked according to Defendant’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you may challenge it by DATE. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiffs are former employees of Defendant. The Action accuses Defendant of violating California labor laws by failing to pay all wages, pay overtime wages, provide complaint meal periods, provide complaint rest and recovery periods, provide accurate itemized wage statements, reimburse business expenses, to timely pay all wages during employment and upon separation of employment, to provide proper paid sick leave pay, and violating California’s Unfair Competition Law. Based on the same claims, Plaintiffs have also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code § 2698 et seq) (“PAGA”). Plaintiffs are represented by following attorneys in the Action: Haines Law Group, APC, Law Offices of Eric A. Boyajian, APC, United Employees Law Group, PC, and BRADLEY/GROMBACHER, LLP (“Class Counsel.”)

Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Plaintiffs or Defendant are correct on the merits. In the meantime, Plaintiffs and Defendant resolved the Action by negotiating with an experienced, neutral mediator an end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs and Defendant have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant do not admit any violations or concede the merit of any claims.

Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable and adequate amount considering the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Defendant Will Pay \$4,750,000.00 as the Gross Settlement Amount (Gross Settlement). Defendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement not more than 30 days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

- A. Up to \$1,583,333 (33.33% of the Gross Settlement) to Class Counsel for attorneys’ fees and up to \$150,000 for their litigation expenses. To date, Class Counsel has worked and incurred expenses on the Action without payment.
- B. Up to \$15,000 per Plaintiff for Erica Moniz, Hagop Ajemyan, Hugo Gutierrez, Philip Gabriela and \$7,500 per Plaintiff to Adolfo Chavez and Manuel Chavez as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiffs will receive other than Plaintiffs’ Individual Class Payment and any Individual PAGA Payment.
- C. Up to \$18,500 to the Administrator for services administering the Settlement.

D. Up to \$100,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment (\$75,000) and 25% (\$25,000) in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Workweeks.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiffs and Defendant are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages (“Wage Portion”) and 80% to interest and penalties (“Non-Wage Portion.”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. (Defendant will separately pay employer payroll taxes it owes on the Wage Portion.) The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiffs and Defendant have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller’s Unclaimed Property Fund in your name. If the monies represented by your check is sent to the Controller’s Unclaimed Property, you should consult the rules of the Unclaimed Property Fund for instructions on how to retrieve your money.

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

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendant based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and Defendant

have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.

8. Administrator. The Court has appointed a neutral company, Phoenix Settlement Administrators (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.

9. Participating Class Members’ Release. After the Judgment is final and Defendant has fully funded the Gross Settlement (and separately paid all employer payroll taxes), Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or its related entities based on the claims resolved by this Settlement.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period factual allegations and primary rights stated in the Operative Complaint and any amendments thereto, and ascertained in the course of the Actions, including, e.g., any and all claims for 1) unpaid wages, 2) unpaid overtime and double time, 3) failure to provide meal periods and properly calculate the rate of compensation on premiums paid, 4) failure to provide rest periods and properly calculate the rate of compensation on premiums paid, 5) failure to provide recovery periods and properly calculate the rate of compensation on premiums paid, 6) failure to pay wages during employment and upon termination, 7) failure to provide accurate itemized wage statements, 8) failure to reimburse expenses, 9) failure to provide or properly compensate paid sick leave, and 10) violations of California’s unfair competition law (Business and Profession Code 17200, et seq.)..

10. Aggrieved Employees’ PAGA Release. After the Court’s judgment is final, and Defendant has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Defendant, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendant or their related entities based on the PAGA claims resolved by this Settlement. The Aggrieved Employees’ Releases are as follows:

All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period factual allegations and primary rights stated in the Operative Complaint and any amendments thereto, the PAGA Notices, and ascertained in the course of the Actions, including, e.g., any and all claims for 1) unpaid wages, 2) unpaid overtime and

double time, 3) failure to provide meal periods and properly calculate the rate of compensation on premiums paid, 4) failure to provide rest periods and properly calculate the rate of compensation on premiums paid, 5) failure to provide recovery periods and properly calculate the rate of compensation on premiums paid, 6) failure to pay wages during employment and upon termination, 7) failure to provide accurate itemized wage statements, 8) failure to reimburse expenses, 9) failure to provide or properly compensate paid sick leave and 10) failure to maintain accurate records.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. **Individual Class Payments.** The Administrator will calculate Individual Class Payments as follows:

General Settlement Fund: Seventy-Five percent (75%) of the Net Settlement Amount will be distributed to all Settlement Class Members as the General Settlement Fund. The General Settlement Fund will be distributed to each participating Settlement Class Member based on their pro rata share proportionate workweeks worked during the Class Period. Each Class Members' share, will be calculated by: (a) dividing 75% of the Net Settlement Amount by the total number of Class Period Workweeks worked by all Participating Class Members during the Class Period; and (b) multiplying the result by each Participating Class Member's Class Period Workweeks.

Waiting Time Penalty Fund: Fifteen percent (15%) of the Net Settlement Amount shall be designated as the "Waiting Time Penalty Fund." Each Settlement Class Member whose employment with Defendant ended at any time from September 25, 2015, through January 21, 2023, shall receive an equal, pro-rata share of the Waiting Time Penalty Fund. Each Class Members' share, will be calculated by: (a) dividing 15% of the Net Settlement Amount by the total number of participating Class Members whose employment with Defendant ended at any time from September 25, 2015 through January 21, 2023; and (b) awarding each Class Member an equal amount.

Wage Statement Penalty Fund: Ten percent (10%) of the Net Settlement Amount shall be designated as the "Wage Statement Penalty Fund." Each Settlement Class Member who was employed by Defendant at any time from September 25, 2017 through January 31, 2023 ("Wage Statement Period"), shall receive a portion of the Wage Statement Penalty Fund proportionate to the number of workweeks that he or she worked during the above time period. Each Class Members' share, will be calculated by: (a) dividing 10% of the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the above time period; and (b) multiplying the result by each Participating Class Member's Class Period Workweeks.

2. **Individual PAGA Payments.** The Administrator will calculate Individual PAGA Payments by (a) dividing \$25,000 (the amount allocated to Individual PAGA Payments) by the total number of PAGA Period Workweeks worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Workweeks worked by each individual Aggrieved Employee.

3. **Workweek Challenges.** The number of Class Period Workweeks and/or PAGA Period you worked, as recorded in Defendant's records, are stated in the first page of this Notice. You have until **DATE** to challenge the number of workweeks credited to you. You can submit your challenge

by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.

2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Moniz v. Service King Paint & Body, LLC*, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by DATE, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiffs and Defendant are asking the Court to approve. At least 16 court days before the Final Approval Hearing, Class Counsel and/or Plaintiffs will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Payment stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiffs are requesting as Class Representative Service Payment. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice)

will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website or the Court's website.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Payment may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiffs are too high or too low. **The deadline for sending written objections to the Administrator is DATE.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action as *Moniz v. Service King Paint & Body, LLC* and include your name, current address, telephone number, and approximate dates of employment for Defendant and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on DATE at TIME in ADD DEPARTMENT of the Santa Clara Superior Court, located at ADD ADDRESS. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiffs, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually through the instructions on the Court website, if applicable. Check the Court's website for the most current information.

It is possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website at: SITE beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Plaintiffs and Defendant have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to Phoenix Settlement Administrator's website at SITE. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Santa Clara Superior Court website by going to (<https://www.scscourt.org/>) and entering the Case Number for the Action, [ADD CASE NUMBER]. You can also make an appointment to personally review court documents in the Clerk's Office by calling (408) 882-2100.

DO NOT TELEPHONE THE SANTA CLARA SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

Class Counsel:

Name of Attorneys: Paul K. Haines, Sean M. Blakely

Email Addresses: phaines@haineslawgroup.com, sblakely@haineslawgroup.com

Name of Firm: HAINES LAW GROUP, APC

Mailing Address: 2155 Campus Drive, Suite 180
El Segundo, CA 90245
Telephone: (424) 292-2350

Name of Attorneys: Marcus J. Bradley, Esq., Kiley L. Grombacher, Esq. , Lirit A. King, Esq.
Email Addresses: mbradley@bradleygrombacher.com, kgrombacher@bradleygrombacher.com,
lking@bradleygrombacher.com
Name of Firm: BRADLEY/GROMBACHER, LLP
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Name of Attorneys: Eric A. Boyajian
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Mailing Address: 450 N. Brand Blvd., Ste 600
Glendale, CA 91203
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Name of Attorneys: Donald Potter
Email Address: dp@donpotterlaw.com
Name of Firm: Law Office of Donald Potter
Mailing Address: 155 North Lake Avenue, Suite 800
Pasadena, CA 91101
Telephone: (626) 744-1555

Settlement Administrator:
Name of Company: Phoenix Settlement Administrators
Email Address:
Mailing Address:
Telephone:
Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

EXHIBIT B

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

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

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Service King Paint & Body, LLC (“Defendant”) for alleged wage and hour violations. The Action was filed by former employees Erica Moniz, Hagop Ajemyan, Hugo Gutierrez, Philip Gabriela, Adolfo Chavez and Manuel Chavez (“Plaintiffs”) and seeks recovery of (1) back wages and other relief for a class of all current and former non-exempt employees of Defendant in the State of California who held the job title(s) of Service Advisor, Painter, and/or Body Technician during the Class period and thereby received various forms of productivity/commission pay during the Class Period (“Class Members”); and (2) penalties under the California Private Attorney General Act (“PAGA”) for all non-exempt employees of Defendant that held the job title(s) of Service Advisor, Painter, and/or Body Technician and thereby received various forms of productivity/commission pay during the PAGA Period (“Aggrieved Employees”). The “Class Period” is September 25, 2014 through January 31, 2023. However, for all persons who participated in the class action settlement in the case of *Roman v. Service King Paint & Body, LLC*, No. CIVDS16002618 (“*Roman*”), the Class Period shall begin on December 9, 2016 and run through January 31, 2023. The PAGA Period is from December 21, 2017 to January 31, 2023.

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

Based on Defendant’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$ADD (less withholding) and your Individual PAGA Payment is estimated to be \$ ADD**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendant’s records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work in a qualifying position during the PAGA Period.)

The above estimates are based on Defendant’s records showing that **you worked ADD workweeks** in a qualifying position during the Class Period and **you worked ADD pay periods** in a qualifying position during the PAGA Period. If you believe that you worked more workweeks in a qualifying position during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

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

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

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

1. Do Nothing. You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period claims and PAGA Period penalty claims against Defendant.

2. Opt-Out of the Class Settlement. You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period claims against Defendant, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Do Not Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the claims against Defendant that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is DATE	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by DATE	All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiffs reduce the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiffs if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on DATE. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks Written Challenges Must be Submitted by DATE	The amount of your Individual Class Payment and PAGA Payment (if any) depends on how many workweeks you worked at least one day in a qualifying position during the Class Period and how many Pay Periods you worked at least one day in a qualifying position during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Workweeks you worked according to Defendant’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you may challenge it by DATE. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiffs are former employees of Defendant. The Action accuses Defendant of violating California labor laws by failing to pay all wages, pay overtime wages, provide complaint meal periods, provide complaint rest and recovery periods, provide accurate itemized wage statements, reimburse business expenses, to timely pay all wages during employment and upon separation of employment, to provide proper paid sick leave pay, and violating California’s Unfair Competition Law. Based on the same claims, Plaintiffs have also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code § 2698 et seq) (“PAGA”). Plaintiffs are represented by following attorneys in the Action: Haines Law Group, APC, Law Offices of Eric A. Boyajian, APC, United Employees Law Group, PC, and BRADLEY/GROMBACHER, LLP (“Class Counsel.”)

Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Plaintiffs or Defendant are correct on the merits. In the meantime, Plaintiffs and Defendant resolved the Action by negotiating with an experienced, neutral mediator an end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs and Defendant have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant do not admit any violations or concede the merit of any claims.

Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable and adequate amount considering the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Defendant Will Pay \$4,750,000.00 as the Gross Settlement Amount (Gross Settlement). Defendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement not more than 30 days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

- A. Up to \$1,583,333 (33.33% of the Gross Settlement] to Class Counsel for attorneys’ fees and up to \$150,000 for their litigation expenses. To date, Class Counsel has worked and incurred expenses on the Action without payment.
- B. Up to \$15,000 per Plaintiff for Erica Moniz, Hagop Ajemyan, Hugo Gutierrez, Philip Gabriela and \$7,500 per Plaintiff to Adolfo Chavez and Manuel Chavez as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiffs will receive other than Plaintiffs’ Individual Class Payment and any Individual PAGA Payment.
- C. Up to \$18,500 to the Administrator for services administering the Settlement.

D. Up to \$100,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment (\$75,000) and 25% (\$25,000) in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Workweeks.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiffs and Defendant are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages (“Wage Portion”) and 80% to interest and penalties (“Non-Wage Portion.”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. (Defendant will separately pay employer payroll taxes it owes on the Wage Portion.) The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiffs and Defendant have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller’s Unclaimed Property Fund in your name. If the monies represented by your check is sent to the Controller’s Unclaimed Property, you should consult the rules of the Unclaimed Property Fund for instructions on how to retrieve your money.

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

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendant based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and Defendant

have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.

8. Administrator. The Court has appointed a neutral company, Phoenix Settlement Administrators (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.

9. Participating Class Members’ Release. After the Judgment is final and Defendant has fully funded the Gross Settlement (and separately paid all employer payroll taxes), Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or its related entities based on the claims resolved by this Settlement.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period factual allegations and primary rights stated in the Operative Complaint and any amendments thereto, and ascertained in the course of the Actions, including, e.g., any and all claims for 1) unpaid wages, 2) unpaid overtime and double time, 3) failure to provide meal periods and properly calculate the rate of compensation on premiums paid, 4) failure to provide rest periods and properly calculate the rate of compensation on premiums paid, 5) failure to provide recovery periods and properly calculate the rate of compensation on premiums paid, 6) failure to pay wages during employment and upon termination, 7) failure to provide accurate itemized wage statements, 8) failure to reimburse expenses, 9) failure to provide or properly compensate paid sick leave, and 10) violations of California’s unfair competition law (Business and Profession Code 17200, et seq.).

10. Aggrieved Employees’ PAGA Release. After the Court’s judgment is final, and Defendant has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Defendant, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendant or their related entities based on the PAGA claims resolved by this Settlement. The Aggrieved Employees’ Releases are as follows:

All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period factual allegations and primary rights stated in the Operative Complaint and any amendments thereto, the PAGA Notices, and ascertained in the course of the Actions, including, e.g., any and all claims for 1) unpaid wages, 2) unpaid overtime and

double time, 3) failure to provide meal periods and properly calculate the rate of compensation on premiums paid, 4) failure to provide rest periods and properly calculate the rate of compensation on premiums paid, 5) failure to provide recovery periods and properly calculate the rate of compensation on premiums paid, 6) failure to pay wages during employment and upon termination, 7) failure to provide accurate itemized wage statements, 8) failure to reimburse expenses, 9) failure to provide or properly compensate paid sick leave and 10) failure to maintain accurate records.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. **Individual Class Payments.** The Administrator will calculate Individual Class Payments as follows:

General Settlement Fund: Seventy-Five percent (75%) of the Net Settlement Amount will be distributed to all Settlement Class Members as the General Settlement Fund. The General Settlement Fund will be distributed to each participating Settlement Class Member based on their pro rata share proportionate workweeks worked during the Class Period. Each Class Members' share, will be calculated by: (a) dividing 75% of the Net Settlement Amount by the total number of Class Period Workweeks worked by all Participating Class Members during the Class Period; and (b) multiplying the result by each Participating Class Member's Class Period Workweeks.

Waiting Time Penalty Fund: Fifteen percent (15%) of the Net Settlement Amount shall be designated as the "Waiting Time Penalty Fund." Each Settlement Class Member whose employment with Defendant ended at any time from September 25, 2015, through January 21, 2023, shall receive an equal, pro-rata share of the Waiting Time Penalty Fund. Each Class Members' share, will be calculated by: (a) dividing 15% of the Net Settlement Amount by the total number of participating Class Members whose employment with Defendant ended at any time from September 25, 2015 through January 21, 2023; and (b) awarding each Class Member an equal amount.

Wage Statement Penalty Fund: Ten percent (10%) of the Net Settlement Amount shall be designated as the "Wage Statement Penalty Fund." Each Settlement Class Member who was employed by Defendant at any time from September 25, 2017 through January 31, 2023 ("Wage Statement Period"), shall receive a portion of the Wage Statement Penalty Fund proportionate to the number of workweeks that he or she worked during the above time period. Each Class Members' share, will be calculated by: (a) dividing 10% of the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the above time period; and (b) multiplying the result by each Participating Class Member's Class Period Workweeks.

2. **Individual PAGA Payments.** The Administrator will calculate Individual PAGA Payments by (a) dividing \$25,000 (the amount allocated to Individual PAGA Payments) by the total number of PAGA Period Workweeks worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Workweeks worked by each individual Aggrieved Employee.

3. **Workweek Challenges.** The number of Class Period Workweeks and/or PAGA Period you worked, as recorded in Defendant's records, are stated in the first page of this Notice. You have until **DATE** to challenge the number of workweeks credited to you. You can submit your challenge

by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.

2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Moniz v. Service King Paint & Body, LLC*, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by DATE, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiffs and Defendant are asking the Court to approve. At least 16 court days before the Final Approval Hearing, Class Counsel and/or Plaintiffs will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Payment stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiffs are requesting as Class Representative Service Payment. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice)

will send you copies of these documents at no cost to you. You can also view these documents on the Administrator's Website or the Court's websites: www.sccourt.org and www.scefiling.org.

You may object to the proposed settlement in writing. You may also appear at the Final Approval Hearing at your expense, either in person, telephonically, or through an attorney, provided you notify the Court of your intention to do so. All written objections, supporting papers and/or notices of intent to appear at the Final Approval Hearing must (a) clearly identify the case name and case number as *Moniz v. Service King Paint & Body, LLC*, Case No. 18CV335706; (b) be submitted to the Court either by mailing the objection to: Clerk of the Court, Superior Court of California, County of Santa Clara, 191 N. 1st Street, San Jose, California 95113, or by filing in person at the same location; (c) also be mailed to Class Counsel and/or the Administrator, whose information can be found in **Section 9** of this Notice; and (d) be filed or postmarked on or before **DATE**.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on **DATE** at **TIME** in Department 19 of the Santa Clara Superior Court, located at 191 N. 1st Street, San Jose, California 95113. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiffs, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually through the instructions on the Court website, if applicable. Check the Court's website for the most current information.

It is possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website at: **SITE** beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Plaintiffs and Defendant have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to Phoenix Settlement Administrator's website at **SITE**. The pleadings and other records in this litigation, including the Settlement Agreement, may be examined (a) online on the Superior Court of California, County of Santa Clara's Electronic Filing and Service Website at www.scefiling.org and entering the Case No. 18CV335706, or (b) in person at Records, Superior Court of California, County of Santa Clara, 191 N. 1st Street, San Jose, California 95113, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays and closures, or you may contact Class Counsel or the Settlement Administrator, whose contact information can be found below.

DO NOT TELEPHONE THE SANTA CLARA SUPERIOR COURT OR DEFENDANT'S COUNSEL TO OBTAIN INFORMATION ABOUT THE SETTLEMENT OR THE CLAIM PROCESS.

Class Counsel:

Name of Attorneys: Paul K. Haines, Sean M. Blakely
Email Addresses: phaines@haineslawgroup.com, sblakely@haineslawgroup.com
Name of Firm: HAINES LAW GROUP, APC
Mailing Address: 2155 Campus Drive, Suite 180 El Segundo, CA 90245
Telephone: (424) 292-2350

Name of Attorneys: Marcus J. Bradley, Esq., Kiley L. Grombacher, Esq. , Lirit A. King, Esq.
Email Addresses: mbradley@bradleygrombacher.com, kgrombacher@bradleygrombacher.com, lking@bradleygrombacher.com
Name of Firm: BRADLEY/GROMBACHER, LLP
Mailing Address: 31365 Oak Crest Drive, Suite 240
Westlake Village, California 91361
Telephone: (805) 270-7100

Name of Attorneys: Eric A. Boyajian
Email Addresses: eric@loeab.com
Name of Firm: LAW OFFICES OF ERIC A. BOYAJIAN, APC
Mailing Address: 450 N. Brand Blvd., Ste 600
Glendale, CA 91203
Telephone: (818) 839-5969

Name of Attorneys: Donald Potter
Email Address: dp@donpotterlaw.com
Name of Firm: Law Office of Donald Potter
Mailing Address: 155 North Lake Avenue, Suite 800
Pasadena, CA 91101
Telephone: (626) 744-1555

Settlement Administrator:
Name of Company: Phoenix Settlement Administrators
Email Address:
Mailing Address:
Telephone:
Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

EXHIBIT C

Via LWDA Website

Labor and Workforce Development Agency

Attn. PAGA Administrator (PAGAinfo@dir.ca.gov)

<https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>

Via Certified Mail (7018 1830 0002 1236 5926)

Service King Paint & Body, LLC

c/o C T Corporation System

818 West Seventh Street, Suite 930

Los Angeles, CA 90017

(Registered Agent for Service of Process for Service King Paint & Body, LLC)

December 26, 2018

RE: **Notice Pursuant to Labor Code Sections 2698, et seq.**

Ajemyan, et al. v. Service King Paint & Body, LLC, Los Angeles Superior Court Case
No. 18STCV09333

To Whom It May Concern:

This office represents Hagop Ajemyan and Hugo Gutierrez (“Named Plaintiffs”). Named Plaintiffs intend to seek penalties for violations of the California Labor Code and Wage Order 9 which are recoverable under California Labor Code section 2698, et seq., the Private Attorneys General Act of 2004 (“PAGA”). This letter is being sent in compliance with California Labor Code section 2699.3. Enclosed herewith is a copy of the proposed First Amended Complaint that Named Plaintiffs intend to file with the court and incorporates it as though fully set forth herein. The proposed complaint sets out the specific provisions of the Labor Code and Wage Order 9 that Named Plaintiffs allege have been violated, including the facts and theories. Thank you for your prompt attention to this matter. If you have any questions or would like to discuss, please contact me.

Sincerely,



Amaras Zargarian, Esq.

Enclosure: proposed First Amended Complaint

Eric A. Boyajian (236335)
Amaras Zargarian (293525)
LAW OFFICES OF ERIC A. BOYAJIAN, APC
9301 Wilshire Blvd., Suite 609
Beverly Hills, California 90210
Telephone: 424-330-2350
Facsimile: 424-330-2351

Attorneys for Plaintiffs
HAGOP AJEMYAN and HUGO GUTIERREZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT
SPRING STREET COURTHOUSE

HAGOP AJEMYAN and HUGO
GUTIERREZ, as individuals and on behalf of
others similarly situated, and as private
attorneys general,

Plaintiffs,

vs.

SERVICE KING PAINT & BODY, LLC, a
Texas limited liability company; and DOES 1
through 50, inclusive,

Defendants.

CLASS ACTION

Case No. 18STCV09333
Hon. Daniel J. Buckley

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

- 1. OVERTIME VIOLATIONS;**
- 2. FAILURE TO PROVIDE SECOND MEAL PERIODS;**
- 3. FAILURE TO AUTHORIZE AND PERMIT THIRD REST PERIODS;**
- 4. MEAL AND REST PERIOD PREMIUM VIOLATIONS;**
- 5. PAYSTUB VIOLATIONS;**
- 6. WAITING TIME PENALTIES;**
- 7. UNFAIR BUSINESS PRACTICES;**
- 8. QUANTUM MERUIT/UNJUST ENRICHMENT;**
- 9. CONVERSION; and**
- 10. PRIVATE ATTORNEYS GENERAL ACT OF 2004 ("PAGA")**

DEMAND FOR JURY TRIAL

1 Plaintiffs HAGOP AJEMYAN (“Ajemyan”) and HUGO GUTIERREZ (“Gutierrez”)
2 (collectively, “Named Plaintiffs”), on behalf of themselves and all others similarly situated, and
3 as private attorneys general, complain and allege as follows:

4 THE PARTIES, JURISDICTION AND VENUE

5 1. Ajemyan is, and at all relevant times mentioned herein was, a resident of the County of
6 Los Angeles, State of California.

7 2. Gutierrez is, and at all relevant times mentioned herein was, a resident of the County
8 of Los Angeles, State of California.

9 3. Defendant Service King Paint & Body, LLC (“Service King”), is, and at all relevant
10 times mentioned herein was, a Texas limited liability company conducting business in the County
11 of Los Angeles, in the State of California, under the fictitious business name of Service King
12 Collision Repair Centers.

13 4. At all relevant times herein, Service King operated collision repair shops throughout
14 the United States, including approximately 42 shops in the State of California.

15 5. Named Plaintiffs are ignorant of the true identities of defendants Does 1 through 50,
16 inclusive, and therefore sue these defendants by such fictitious names. Named Plaintiffs are
17 informed and believe, and thereon allege, that at all times mentioned herein, each of the Doe
18 defendants was the parent, subsidiary, agent, servant, employee, co-venturer, and/or co-conspirator
19 of each of the other defendants and was at all times mentioned, acting within the scope, purpose,
20 consent, knowledge, ratification and authorization of such agency, employment, joint venture and
21 conspiracy. Named Plaintiffs will amend this Complaint to allege their true names and capacities
22 when ascertained. Named Plaintiffs are informed and believe and thereon allege that each of the
23 fictitiously named Doe defendants is responsible in some manner for the occurrences herein
24 alleged, and that Named Plaintiffs’ damages as herein alleged were proximately caused by their
25 conduct.

26 6. Service King and Doe Defendants 1 through 50 are herein collectively referred to as
27 “Defendants”.

28 7. Defendants, at all times herein mentioned, were the employers of Named Plaintiffs and

the proposed class consistent with the California Labor Code and Industrial Welfare Commission Wage Order No. 9 (8 Cal. Code of Regs. § 11090 (referred to as “**Wage Order 9**”)) regulating wages, hours, and working conditions in the transportation industry.

8. Ajemyan worked for Defendants from approximately December 2016 through July 2018.

9. Gutierrez worked for Defendants from approximately July 2017 through June 2018.

10. Named Plaintiffs were employed by Defendants as Service Advisors. Throughout the time of their employment with Defendants, Named Plaintiffs were subjected to a number of wage and hour violations, as set forth below.

CLASS ACTION ALLEGATIONS

11. The claims alleged herein have been brought and may properly be maintained as a class action under Code of Civil Procedure § 382 because there is a well-defined community of interest among the proposed class with respect to the claims asserted herein, and the proposed class and subclasses are easily ascertainable.

12. The **Class Period** is from four years prior to the filing of this complaint, through the date of final disposition of this action.

13. Named Plaintiffs seek to represent a class composed of and defined as follows: all current and former employees of Defendants who were employed by Defendants in the position(s) of “Service Advisor,” “Estimator,” “Writer,” or any combination of the three, or who performed job duties substantially similar to those of a “Service Advisor,” “Estimator,” “Writer,” or any combination of the three in the State of California during the Class Period (collectively referred to as the “**Class**” or “**Class Members**”).

14. Proposed subclasses are defined as follows:

- a. Class Members who no longer work for Defendants, who began working for Defendants on or after three years prior to the filing of this complaint, through the date of final disposition of this action (“**Waiting Time Class**”).

b. Class Members who began working for Defendants on or after one year prior to the filing of this complaint, through the date of final disposition of this action (“**Paystub Class**”).

15. Named Plaintiffs reserve the right to name additional class representatives.

16. Named Plaintiffs reserve the right to establish additional subclasses as appropriate.

17. There is a well-defined community of interest in the litigation and the Class is readily ascertainable.

18. Numerosity: The members of the Class are so numerous that joinder of all members would be unfeasible and impractical. The membership of the entire class is unknown to Named Plaintiffs at this time; however, the class, including each sub-class, is estimated to be over 100 individuals and the identity of such membership is readily ascertainable by inspection of Defendants’ records.

19. Typicality: Named Plaintiffs’ claims are typical of the Class. Named Plaintiffs will fairly and adequately protect the interests of the Class with whom they have a well-defined community of interest.

20. Adequacy: Named Plaintiffs will fairly and adequately protect the interests of each class member, with whom they have a well-defined community of interest and typicality of claims, as demonstrated herein. Named Plaintiffs have no interest that is antagonistic to those of the other class members. Named Plaintiffs’ attorneys, the proposed class counsel, are well-versed in the rules governing class action discovery, certification, and settlement. Named Plaintiffs have incurred, and during the pendency of this action will continue to incur, costs and attorneys’ fees, that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.

21. Superiority: A class action is superior to other available methods for the fair and efficient adjudication of this litigation because individual joinder of all class members is impractical.

22. Public Policy Considerations: Certification of this lawsuit as a class action will advance public policy objectives. Employers of this great state violate employment and labor laws every

1 day. Current employees are often afraid to assert their rights out of fear of direct or indirect
2 retaliation. However, class actions provide the class members who are not named in the complaint
3 anonymity that allows for the vindication of their rights.

- 4 a. Commonality: There are questions of law and fact common to the class and sub-
5 class members that are answerable on a common basis, and these questions
6 predominate over individual questions, as follows: Whether Defendants correctly
7 calculated the “regular rate” when they paid Named Plaintiffs and Class Members
8 their overtime compensation;
- 9 b. Whether Defendants correctly calculated the “regular rate” when they paid Named
10 Plaintiffs and Class Members a premium for missing a meal or rest period;
- 11 c. Whether wage statements provided by Defendants to Named Plaintiffs and Paystub
12 Class members failed to provide the accurate and complete information required by
13 California Labor Code section 226(a) and Wage Order 9, such as:
 - 14 i. Whether it is a violation to provide the incorrect “regular rate” for overtime
15 payments;
 - 16 ii. Whether it is a violation to provide the incorrect “regular rate” for payment
17 of “Californiabreak”;
 - 18 iii. Whether the phrase, “Californiabreak” sufficiently describes what is being
19 paid;
 - 20 iv. Whether “Addl Ot” and “Prem Overtime” can be paid as lump sums without
21 a break down of an applicable rate and hours worked;
 - 22 v. Whether the phrase, “Addl Ot”, sufficiently describes what is being paid;
 - 23 vi. Whether the phrase, “Prem Overtime”, sufficiently describes what is being
24 paid;
- 25 d. Whether Defendants deprived Named Plaintiffs and Class Members of a third rest
26 period when they worked more than ten hours during a work day;
- 27 e. Whether Defendants deprived Named Plaintiffs and Class Members of a second
28 meal period when they worked more than ten hours during a work day;

- 1 f. Whether Defendants failed to timely pay wages due to Named Plaintiffs and
2 Waiting Time Class members upon their discharge;
- 3 g. Whether Defendants engaged in unfair business practices in violation of California
4 Business & Professions Code sections 17200, et seq. with respect to Named
5 Plaintiffs and Class Members;
- 6 h. Whether Named Plaintiffs and Class Members are entitled to recover for quantum
7 meruit/unjust enrichment with respect to Defendants' wrongful actions; and
- 8 i. Whether Defendants converted the property of Named Plaintiffs and Class
9 Members to Defendants' own use and benefit.

10 **GENERAL ALLEGATIONS**

11 23. Defendants operate collision repair shops across the United States, including
12 approximately 42 locations in the State of California.

13 24. Class Members are non-exempt employees paid on an hourly-plus-commission basis.

14 25. Class Members regularly worked more than 10 hours per day, and more than 40 hours
15 per week. They would typically start their work days between 6:30-7:00am, and ended their work
16 days between 7:00-7:30 pm, and often times even later than that. Class Members generally worked
17 Mondays through Fridays, and on rotation on Saturdays.

18 **FIRST CAUSE OF ACTION**

19 **Overtime Violations**

20 **(Against All Defendants)**

21 26. Named Plaintiffs incorporate by reference and re-allege as if fully stated herein each
22 and every allegation set forth above.

23 27. Wage Order 9(3)(A) provides that Defendants are and were required to pay class
24 members working more than eight (8) hours in a day or more than forty (40) hours in a workweek,
25 at the rate of one and one-half times the employee's regular rate of pay for all hours worked in
26 excess of eight (8) hours in a day or more than forty (40) hours in a workweek. Wage Order
27 9(3)(A) moreover provides that Defendants are and were required to pay class members working
28 more than 12 hours in any workday at the rate of double the employee's regular rate of pay for all

hours worked in excess of 12 hours in a given workday. These requirements are also found in California Labor Code section 510.

28. The “regular rate” includes “all remuneration for employment” paid to or on behalf of the employee, except matters specifically excluded. Non-discretionary bonuses and commissions are not excluded. The DLSE has stated that “(t)he regular rate of pay includes many different types of remuneration, for example: hourly earnings, salary, piecework earnings, commission, bonus, value of meals and lodging.” See DLSE 2002 Enforcement Policies & Interpretations Manual (Revised), §§ 49.1-49.1.2.2.

29. When Defendants pay overtime and double time wages to Named Plaintiffs and Class Members, Defendants did not properly calculate the regular rate, in that all remuneration (e.g. commission or non-discretionary productivity bonuses) earned by Named Plaintiffs and Class Members was not included in the regular rate calculation. Instead, only the base hourly rate was used to calculate any overtime/double time wages.

30. As such, Defendants violated Wage Order 9(3)(A) and Labor Code sections 510(a) and 1198.

31. Named Plaintiffs and Class Members are entitled to recovery of such unpaid overtime wages, in an amount according to proof, plus interest thereon at the legal rate, attorney’s fees and costs, pursuant to Labor Code section 1194.

SECOND CAUSE OF ACTION

Failure to Provide Second Meal Periods

(Against All Defendants)

32. Named Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

33. “An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.” Wage Order 9(11)(B); see also Cal. Lab. Code § 512(a).

34. Here, Class Members regularly worked more than 10 hours per day, and they did not waive their second meal period. Even so, Defendants did not have a practice of providing a second meal period to employees.

35. As such, Defendants are violating Wage Order 9(11)(B), and California Labor Code sections 512(a) and 1198.

36. Pursuant to Labor Code 226.7(c), the class is entitled to recover from Defendants one (1) hours' worth of pay at the employee's regular rate of compensation for each work day that the meal period was not provided.

THIRD CAUSE OF ACTION

Failure to Authorize and Permit Third Rest Periods

(Against All Defendants)

37. The allegations of each of the preceding paragraphs are realleged and incorporated herein by reference.

38. "Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages." Wage Order 9(12)(A).

39. Thus, "[e]mployees are entitled to 10 minutes rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on." *Brinker Rest. Corp. v. Super. Ct.* (2012) 53 Cal. 4th 1004, 1029.

40. "A rest or recovery period mandated pursuant to a state law ... or order of the Industrial Welfare Commission ... shall be counted as hours worked, for which there shall be no deduction from wages. This subdivision is declaratory of existing law." Cal. Lab. Code § 226.7(d).

41. Here, Class Members regularly worked more than 10 hours per day, but Defendants did not have a practice of permitting a third rest period to employees.

42. Accordingly, Defendants are in violation of Wage Order 9(12)(A), and California Labor Code sections 226.7(a), and 1198.

43. Pursuant to Labor Code 226.7(c), the class is entitled to recover from Defendants one (1) hours' worth of pay at the employee's regular rate of compensation for each work day that the rest period was not provided.

FOURTH CAUSE OF ACTION

MEAL AND REST PERIOD PREMIUM VIOLATIONS

(Against All Defendants)

44. Named Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth herein.

45. "If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided." Wage Order 9(11)(D).

46. "If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided." Wage Order 9(12)(B).

47. "If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or 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 or recovery period is not provided." Cal. Lab. Code § 226.7(c).

48. Here, as set forth above, second meal periods and third rest periods were not provided to Named Plaintiffs and Class Members. Even so, Defendants failed to pay Class Members the proper premium payment for each day that a lawful meal or rest period was not provided.

1 Defendants sometimes make a payment to Named Plaintiffs and Class Members called a
2 “Californiabreak” on the employees’ paystubs. It is still unclear whether this payment is for a late
3 first lunch, or an interrupted first lunch. However, what is clear is that instead of the being paid at
4 the regular rate for these “Californiabreak” payments, Defendants paid Class Members at their
5 base hourly rate. As with the regular rate for overtime payments, the regular rate for meal/rest
6 premiums must be based on all remuneration, including commission or non-discretionary
7 productivity bonuses.

8 49. As such, Defendants are violating Wage Order 9(11)(D), Wage Order 9(12)(B), and
9 California Labor Code sections 226.7(c) and 1198.

10 50. Pursuant to Labor Code 226.7(c), the class is entitled to recover from Defendants one
11 (1) hours’ worth of pay at the employee’s regular rate of compensation for each work day that a
12 meal and/or rest period was not provided.

13 **FIFTH CAUSE OF ACTION**

14 **PAYSTUB VIOLATIONS**

15 **(Against All Defendants)**

16 51. Named Plaintiffs incorporate by reference and re-allege as if fully stated herein each
17 and every allegation set forth herein.

18 52. California Labor Code section 226(a) states “An employer ... shall furnish ... an
19 accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked
20 by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned
21 and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions,
22 provided that all deductions made on written orders of the employee may be aggregated and
23 shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the
24 employee is paid, (7) the name of the employee and only the last four digits of his or her social
25 security number or an employee identification number other than a social security number, (8)
26 the name and address of the legal entity that is the employer ... and (9) all applicable hourly
27 rates in effect during the pay period and the corresponding number of hours worked at each
28 hourly rate by the employee and....”

53. Defendants are in violation of section 226(a) given that Defendants have, as a result of the facts set forth above, failed to furnish to their employees accurate itemized statements in writing showing the correct gross wages earned, the correct total hours worked, the correct deductions, the correct net wages earned, or the correct applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate.

54. Defendants are moreover in violation of section 226(a) given that Defendants have failed to furnish to their employees accurate itemized statements in writing showing the name and address of the legal entity that is the employer. The paystubs provided by Defendants to Class Members list "Service King Collision Repair" as the name of the employer.

55. As a result, Named Plaintiffs and the Paystub Class are deemed to suffer injury pursuant to Labor Code section 226(e)(2)(B), entitling them to penalties of \$4,000.00 and an award of costs and reasonable attorney's fees pursuant to Labor Code section 226(e)(1).

SIXTH CAUSE OF ACTION
WAITING TIME PENALTIES
(Against All Defendants)

56. Named Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

57. The Waiting Time Class is entitled to receive all accrued but unpaid wages upon discharge. Defendants did not pay, and have yet to pay, the Waiting Time Class all the wages owed because they have not received payment for overtime wages and premiums for missed meal and rest periods.

58. Based on Defendants' intentional failure and refusal to pay all outstanding compensation owed to Named Plaintiffs and the Waiting Time Class, they are liable for waiting time penalties up to a maximum of 30 days of the gross pay, pursuant to Labor Code section 203, in an amount to be established according to proof, plus interest at the legal rate, and attorney's fees and costs.

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(Against All Defendants)

59. Named Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

60. California Business & Professions Code section 17200 et seq. prohibits acts of unfair competition, which include any “unlawful, unfair or fraudulent business act or practice . . .” Defendants’ conduct, as alleged herein, has been, and continues to be, unfair, unlawful and harmful to the class, and to the general public. As such, Named Plaintiffs and Class Members are entitled to restitution of the wages withheld and retained by Defendants; a permanent injunction requiring Defendants to pay all outstanding wages; and declaratory relief.

61. Named Plaintiffs seek to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5. Thus, Named Plaintiffs and Class Members are entitled to an award of attorneys' fees pursuant to California Code of Civil Procedure section 1021.5 and an award of costs.

QUANTUM MERUIT/UNJUST ENRICHMENT

(Against All Defendants)

62. Named Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

63. Named Plaintiffs and Class Members conferred a benefit upon Defendants by working on their behalf without compensation, including but not limited to, working hours for which they were not properly compensated.

64. Defendants had an appreciation or knowledge of the benefit conferred by Named Plaintiffs and Class Members.

65. Defendants accepted and retained the benefit under circumstances as to make it inequitable for Defendants to retain the benefit without payment of its value.

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NINTH CAUSE OF ACTION

CONVERSION

(Against All Defendants)

66. Named Plaintiffs incorporate by reference and re-alleges as if fully stated herein each and every allegation set forth herein.

67. Defendants wrongfully withheld wages which were the property of Named Plaintiffs and Class Members, in violation of their rights.

68. Defendants converted the property of Named Plaintiffs and Class Members, to Defendants' own use and benefit.

69. The right to these wages (property) fully vested to Named Plaintiffs and Class Members at the time the labor and services were performed, and accordingly, is and has been the property of Named Plaintiffs and Class Members, and not the property of Defendants.

70. Once labor has been performed and wages are due, those wages due become fully vested property belonging to those who performed the labor.

71. The right to wages for labor already performed does not arise from contract.

72. As set forth in California Civil Code section 3294, in an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice, the plaintiff, in addition to the actual damages, may recover damages for the sake of example and by way of punishing the defendant.

73. Defendants' actions were despicable and carried on with a willful and conscious disregard of the rights of Named Plaintiffs and Class Members.

74. Defendants' actions subjected Named Plaintiffs, and Class Members to cruel and unjust hardship in conscious disregard of their rights.

75. Defendants' actions were knowing and intentional, and thus constitute intentional misrepresentation, deceit, or concealment of a material fact known to Defendants with the intention of depriving Named Plaintiffs and Class Members of their property, including but not limited to earned wages for labor already performed and to which Named Plaintiffs and Class Members had a fully vested property right to own and possess.

76. Defendants' actions were thus knowing, oppressive, malicious, and fraudulent.

77. Named Plaintiffs and Class Members have been injured by Defendants' oppressive, malicious, intentional and fraudulent actions, entitling Named Plaintiffs and Class Members to punitive and exemplary damages.

78. Named Plaintiffs and Class Members are entitled to immediate possession of all property converted by Defendants, with interest, as well as any and all profits that Defendants acquired by the unlawful conversion of the property of Named Plaintiffs and Class Members.

TENTH CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT OF 2004 ("PAGA")

(Against All Defendants)

79. Named Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

80. Named Plaintiffs bring this lawsuit against Defendants in their capacities as private attorneys general pursuant to the Private Attorneys General Act of 2004, California Labor Code section 2698, et seq. ("PAGA"), for alleged violations of the California Labor Code.

81. The period of liability for the PAGA claims is one year plus 65 days prior to the date of filing of Named Plaintiffs' first amended complaint, through the date of resolution of this action ("**PAGA Period**").

82. "**Aggrieved Employees**" is defined as all current and former employees of Defendants who were employed by Defendants in the position(s) of "Service Advisor," "Estimator," "Writer," or any combination of the three, or who performed job duties substantially similar to those of a "Service Advisor," "Estimator," "Writer," or any combination of the three in the State of California during the PAGA Period.

83. On December 26, 2018, Named Plaintiffs gave written notice to the Labor and Workforce Development Agency ("LWDA") by online filing through the LWDA website, as required by PAGA, of the specific provisions of the California Labor Code alleged to have been violated by Defendants, including the facts and theories in support thereof.

84. Also on December 26, 2018, Named Plaintiffs gave written notice to Service King via

certified mail, as required by PAGA, of the specific provisions of the California Labor Code alleged to have been violated by Defendants, including the facts and theories in support thereof.

85. Attached hereto as **Exhibit 1** is a true and correct copy of Named Plaintiffs' notice to the LWDA and to Service King.

86. The LWDA did not respond to Named Plaintiffs' notice within 65 days. Thus, Named Plaintiffs exhausted the administrative remedies required by PAGA as a prerequisite to initiating the PAGA claims.

OVERTIME VIOLATIONS

87. The foregoing facts establish overtime violations in violation of Wage Order 9(3)(A) and Labor Code sections 510(a) and 1198. Aggrieved Employees will therefore seek civil penalties under California Labor Code section 2699(f)(2), civil penalties under California Labor Code section 558, and attorney's fees and costs.

MEAL PERIOD VIOLATIONS

88. The foregoing facts establish meal period violations such that Defendants are violating Wage Order 9(11)(B), and California Labor Code sections 512(a) and 1198. Aggrieved Employees will therefore seek civil penalties under California Labor Code section 2699(f)(2), civil penalties under California Labor Code section 558, and attorney's fees and costs.

REST PERIOD VIOLATIONS

89. The foregoing facts establish rest period violations such that Defendants are violating Wage Order 9(12)(A), and California Labor Code sections 226.7(a), and 1198. Aggrieved Employees will therefore seek civil penalties under California Labor Code section 2699(f)(2), civil penalties under California Labor Code section 558, and attorney's fees and costs.

FAILURE TO PAY MEAL PERIOD PREMIUMS

90. The foregoing facts establish policy and practice of Defendants' failure to pay meal period premiums, such that Defendants are violating Wage Order 9(11)(D), and California Labor Code sections 226.7(c) and 1198. Aggrieved Employees will therefore seek civil penalties under California Labor Code section 2699(f)(2), civil penalties under California Labor Code section 558, and attorney's fees and costs.

1 FAILURE TO PAY REST PERIOD PREMIUMS

2 91. The foregoing facts establish policy and practice of Defendants' failure to pay rest
3 period premiums, such that Defendants are violating Wage Order 9(12)(B), and California Labor
4 Code sections 226.7(c) and 1198. Aggrieved Employees will therefore seek civil penalties under
5 California Labor Code section 2699(f)(2), civil penalties under California Labor Code section
6 558, and attorney's fees and costs.

7 INACCURATE WAGE STATEMENTS

8 92. The foregoing facts establish that Defendants fail to provide Aggrieved Employees
9 with wage statements as required under Labor Code section 226(a). Aggrieved Employees will
10 therefore seek civil penalties under California Labor Code section 2699(f)(2), civil penalties
11 under California Labor Code section 226.3, and attorney's fees and costs.

12 UNTIMELY PAYMENT OF WAGES DURING EMPLOYMENT

13 93. California Labor Code 204(a) states, "All wages, other than those mentioned in Section
14 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable
15 twice during each calendar month, on days designated in advance by the employer as the regular
16 paydays."

17 94. The foregoing facts establish that as to each pay period, the timing of payments has been
18 violated since Aggrieved Employees were not paid all their wages as required by law.

19 95. As such, Defendants violated California Labor Code section 204(a).

20 96. Aggrieved Employees will therefore seek civil penalties under California Labor Code
21 section 2699(f)(2) and California Labor Code section 210, and attorneys' fees and costs.

22 RECORD-KEEPING VIOLATIONS

23 97. California Labor Code section 1174 states that: "Every person employing labor in this
24 state shall: ... (d) Keep, at a central location ... payroll records showing the hours worked daily
25 by and the wages paid to ... employees employed at the respective plants or establishments.

26 These records shall be kept in accordance with rules established for this purpose by the
27 commission, but in any case shall be kept on file for not less than three years."

28 98. Section 7(A) of Wage Order 9 requires that "Every employer shall keep accurate

information with respect to each employee including the following: ... (3) Time records showing when the employee begins and ends each work period Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded ... (5) Total hours worked in the payroll period and applicable rates of pay.”

99. As a result of Defendants’ practices, as set forth above, Defendants have no accurate records relating to Aggrieved Employees’ work periods, meal periods, total daily hours worked, and total hours worked per payroll period.

100. As such, Defendants are violating Wage Order 9(7)(A); and California Labor Code sections 1198 and 1174(d).

101. Aggrieved Employees will therefore seek civil penalties under California Labor Code section 2699(f)(2) and attorney’s fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Named Plaintiffs pray for relief and judgment against Defendants, jointly and severally, as follows:

Class Certification

1. That this case be certified as a class action;
2. That Named Plaintiffs be appointed as the representatives of the class and sub-classes;
and
3. That counsel for Named Plaintiffs be appointed as Class Counsel.

ON THE FIRST CAUSE OF ACTION (Overtime Wages)

1. The unpaid balance of the full amount of the earned overtime wage, in an amount to be established according to proof at trial, approximating \$1,000,000, plus prejudgment interest at the legal rate pursuant to sections 218.6 and 1194(a) of California Labor Code;
2. Reasonable attorney’s fees and costs of suit pursuant to section 1194(a); and
3. For such other and further relief as the Court may deem proper.

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1 **ON THE SECOND CAUSE OF ACTION (Meal Periods)**

- 2 1. One hour of pay, at the regular rate of compensation, for each meal period not provided,
3 to be established according to proof at trial, approximating \$1,000,000, pursuant to Wage
4 Order 9(11)(B) and California Labor Code sections 226.7; and
5 2. For such other and further relief as the Court may deem proper.

6 **ON THE THIRD CAUSE OF ACTION (Rest Periods)**

- 7 1. One hour of pay, at the regular rate of compensation for each rest period not provided, to
8 be established according to proof at trial, approximating \$1,000,000, pursuant to Wage
9 Order 9(12)(B) and California Labor Code sections 226.7; and
10 2. For such other and further relief as the Court may deem proper.

11 **ON THE FOURTH CAUSE OF ACTION (Premium Payment Violations)**

- 12 1. One hour of pay, at the regular rate of compensation, for each meal and/or rest period
13 premium that was owed but not paid, to be established according to proof at trial,
14 approximating \$2,000,000, pursuant to Wage Order 9 sections (11)(B) and (12)(B), and
15 California Labor Code sections 226.7; and
16 2. For such other and further relief as the Court may deem proper.

17 **ON THE FIFTH CAUSE OF ACTION (Paystubs)**

- 18 1. Penalties pursuant to California Labor Code section 226(e), in an amount not less than
19 \$4,000 per Paystub Class member, as well as reasonable attorney's fees and costs of suit;
20 and
21 2. For such other and further relief as the Court may deem proper.

22 **ON THE SIXTH CAUSE OF ACTION (Waiting Time Penalties)**

- 23 1. Waiting time penalties pursuant to California Labor Code section 203, in an amount to be
24 established according to proof at trial, approximating \$500,000, plus prejudgment interest
25 at the legal rate pursuant to sections 218.6 and 1194(a) of California Labor Code;
26 2. Reasonable attorney's fees and costs of suit pursuant to section 218.5 and 1194(a) of
27 California Labor Code; and
28 3. For such other and further relief as the Court may deem proper.

1 **ON THE SEVENTH CAUSE OF ACTION (Unfair Competition)**

- 2 1. That the Court declare, adjudge and decree that Defendants violated California Business
3 and Professions Code sections 17200, *et seq.* by failing to pay overtime compensation
4 due, failing to provide meal and rest periods or premium wages in lieu thereof, failing to
5 provide accurate wage statements, and failing timely to pay all earned wages upon
6 termination’
- 7 2. For restitution of unpaid wages to Named Plaintiffs and Class Members and prejudgment
8 interest from the day such amounts were due and payable;
- 9 3. For the appointment of a receiver to receive, manage and distribute any and all funds
10 disgorged from Defendants and determined to have been wrongfully acquired by
11 Defendants as a result of violations of California Business & Professions Code sections
12 17200 *et seq.*;
- 13 4. For reasonable attorneys’ fees and costs of suit incurred herein pursuant to California
14 Code of Civil Procedure section 1021.5; and
- 15 5. For such other and further relief as the Court may deem equitable and appropriate.

16 **ON THE EIGHTH CAUSE OF ACTION (Quantum Meruit)**

- 17 1. For an order requiring imposition of a constructive trust and/or disgorgement of
18 Defendants’ ill-gotten gains to pay restitution to Named Plaintiffs and Class Members,
19 and to restore to them all funds acquired by means of any act or practice declared by this
20 Court to be an unlawful, fraudulent, or unfair business act or practice, a violation of laws,
21 statutes or regulations, or constituting unfair competition;
- 22 2. For pre-judgment interest on the amount of any ill-gotten gains, from the date such
23 amounts were due; and
- 24 3. For such other and further relief as the Court may deem equitable and appropriate.

25 **ON THE NINTH CAUSE OF ACTION (Conversion)**

- 26 1. The unpaid balance of the full amount of the converted property, in an amount to be
27 established according to proof at trial plus prejudgment interest at the legal rate;
- 28 2. Punitive damages; and

3. For such other and further relief as the Court may deem proper.

ON THE TENTH CAUSE OF ACTION (PAGA)

1. Civil penalties under California Labor Code sections 2699(f)(2), 558, 226.3, and 210(a), in an amount to be proven at trial but approximately \$1,000,000;
2. For reasonable attorney's fees and costs pursuant to California Labor Code section 2699(g)(1);
3. Pre-Judgment and Post-Judgment interest; and
4. For such other and further relief as the court may deem proper.

DATED: March __, 2019

Respectfully Submitted,

By: _____

Eric A. Boyajian
Amaras Zargarian
Attorneys for Plaintiffs HAGOP AJEMYAN
and HUGO GUTIERREZ

DEMAND FOR A JURY TRIAL

Plaintiffs HAGOP AJEMYAN and HUGO GUTIERREZ and the Class hereby demand a trial by jury.

DATED: March __, 2019

Respectfully Submitted,

By: _____

Eric A. Boyajian
Amaras Zargarian
Attorneys for Plaintiffs HAGOP AJEMYAN
and HUGO GUTIERREZ

Amaras Zargarian

From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
Sent: Wednesday, December 26, 2018 3:39 PM
To: Amaras Zargarian
Subject: Thank you for submission of your PAGA Case.

12/26/2018

LWDA Case No. LWDA-CM-649552-18

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm