Michael J. Jaurigue (SBN 208123)
S. Sean Shahabi (SBN 204710)
Rex J. Phillips (SBN 237747)
JAURIGUE LAW GROUP
300 West Glenoaks Boulevard, Suite 300
Glendale, California 91202
Telephone: 818.630.7280
Facsimile: 888.879.1697
service@jlglawyers.com
michael@jlglawyers.com
sean@jlglawyers.com
rex@jlglawyers.com

Attorneys for Plaintiff Leticia Cornell on behalf of herself, those similarly situated, and/or aggrieved California-based non-exempt employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

LETICIA CORNELL, on behalf of herself, those similarly situated, and/or aggrieved California-based non-exempt employees,

Plaintiff,

v.

FLEMING & BARNES, INC. dba DIMONDALE ADOLESCENT CARE FACILITY; and Does 1 through 100, inclusive,

Defendants.

Case No.: 22STCV29152

CLASS ACTION

Assigned For All Purposes to:
Honorable Elaine Lu
Department 9

SUPPLEMENTAL DECLARATION OF S. SEAN SHAHABI, ESQ., IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT

Hearing
Date: January 21, 2026
Time: 8:30 a.m.
Dept: 9

[*Filed concurrently with Supplemental Brief in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement*]

Complaint Filed: September 7, 2022
Trial Date: Not Set

DECLARATION OF S. SEAN SHAHABI

I, S. SEAN SHAHABI, hereby declare as follows:

1. I am an attorney at law duly licensed to practice in the State of California. I am a Senior Managing Attorney for JAURIGUE LAW GROUP, counsel of record for Plaintiff LETICIA CORNELL ("Plaintiff") in the above-entitled action. I make this declaration on the basis of personal knowledge unless another source of information or belief clearly appears from the context, and as to all such matters, I believe them to be true. This personal knowledge has been attained either by my own observations and experiences or the underlying records and documents of this litigation. If called as a witness, I could and would readily and competently testify to all matters stated herein.

2. I make this declaration in support of Plaintiff's Supplemental Brief in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement.

Background

3. On June 18, 2025, Plaintiff, a former non-exempt employee of Fleming & Barnes, Inc. dba Dimondale Adolescent Care Facility ("Defendant") filed her Notice of Motion and Motion for Preliminary Approval of Class Action and PAGA Settlement ("Motion"). On August 7, 2025, the Court issued a Checklist Order setting forth issues to be addressed regarding Plaintiff's Motion prior to the Court granting preliminary approval. Specifically, the Court identified issues with the Motion itself, the settlement agreement, and the class notice. A true and correct copy of the Court's Checklist Order is attached hereto as **Exhibit A**.

Dunk/ Kullar Analysis

4. On July 9, 2024, the Parties participated in a full-day, private mediation with an experienced mediator in wage and hour class actions, Lou Marlin, Esq. Prior to Mediation, Defendant provided Plaintiff with time and payroll records for the putative class, a list of putative class identifiers (names redacted), and information about their employment status (hire date, termination, etc). The time and payroll records consisted of 2703 pages of records for the year 2020 and 3382 pages of records for 2021. Defendant represented that these records covered all of the employees Defendant employed during those years. Each page corresponded to a semi-monthly period. Defendant also provided all of its employee handbooks and policy manuals applicable to the class, including meal and rest break

policies. Defendant also provided all of Plaintiff's personnel and payroll records, including all unredacted timecards and wage statements. Defendant also provided information regarding the number of class members and workweeks at issue during the relevant time period.

5. The damages calculations derived by my firm, through expert analysis, was based on the employee documents, records, and data provided by Defendant.

6. A supplemental breakdown of Plaintiff's valuation is set forth below:[1]

Total Meal Period Premiums (with interest)	~ $3,059,032.00
Total Rest Break Premiums (with interest)	~ $2,145,682.00
Unpaid Minimum Wages (with interest)	~ $840,076.00
Liquidated Damages (equal amount to unpaid minimum wages and related interest)	~ $840,076.00
Unpaid Overtime Premiums (with interest)	~ $950,000.00
Statutory Penalty – Failure to Provide Accurate Itemized Wage Statements	~ $1,117,250.00
Waiting Time Penalties	~ $2,311,552.00
PAGA Penalties	~ $4,037,500.00
<u>Total</u>	$15,301,168.00

<u>Recovery of Damages for Non-Compliant Meal Periods</u>

7. Plaintiff's Counsel theorized at mediation, based on documents provided by Defendant and narrative evidence of Plaintiff, that Defendant's meal period policies and practices throughout the Class Period were non-compliant. Plaintiff's Counsel theorized that all shifts during the Class Period had meal period violations because Defendant failed to relieve Class Members from their duties at the statutorily required intervals set by California law. Moreover, Plaintiff's Counsel also theorized that Defendant's policy of on-duty meal periods is non-compliant.

8. From the documents produced by Defendant, Plaintiff's Counsel's data analyst

[1] This is the same table and monetary amounts set forth in the Declaration of S. Sean Shahabi filed on June 18, 2025, in support of Plaintiff's Motion for Preliminary Approval, except without the separate line items for "Unpaid Cell Phone Reimbursement" and "Interest," and a corrected PAGA Penalty computation, as detailed further below.

calculated that there were 136,421 shifts which were longer than 5 hours, and that non-compliant meal periods (i.e., late, short, or non-existent) were evident in 134,161 of those shifts (i.e., a 98.3% apparent violation rate). Thus, one calculation performed by Plaintiff's Counsel calculated Defendant's potential exposure to be $2,586,370 (134,161 x ~ $19.28 (the weighted calculated average hourly rate over the class period based on the distribution of meal period violations)) for unpaid meal period premiums. The interest on the unpaid meal period premiums over the class period on this amount was calculated to be $472,662. Plaintiff therefore theorized that Defendant's total potential exposure for unpaid meal period premiums, inclusive of interest, was $3,059,032.

9. Plaintiff's Counsel understood from the mediator and the mediation process that Defendant makes the following defenses in connection with this claim: Defendant argued that it had compliant meal period policies and practices. Defendant argued that Class Members executed meal period waivers. Defendant argued that Class Members signed on duty meal period agreements. Defendant argued that Class Members took timely and full meal periods. Defendant contends that its policy requires their employees to take timely and full meal periods. Defendant further contends that any instance of a Class Member failing to take a compliant meal period was voluntary, in violation of its meal period policy, would necessitate an individualized inquiry and would not lend itself to a manageable trial. Thus, Defendant contends that no monies are owed and, even if any amounts were owed, the amount calculated by Plaintiff's Counsel is excessive. Additionally, Defendant contends that, since it is a non-profit organization, it has significant financial hardship which greatly impacts its ability to pay exorbitant damages without risk of bankruptcy.

10. Plaintiff's Counsel had to, and did, factor in the contentions attributed to Defendant's defenses, when considering whether the settlement reached was fair, reasonable and adequate.

Recovery of Damages for Non-Compliant Rest Periods

11. Plaintiff's Counsel theorized that Defendant's rest period policies and practices were non-compliant in that Class Members were required to always be on-duty and were not otherwise authorized and permitted to take legally-complaint rest periods.

12. From the documents produced by Defendant, Plaintiff's Counsel's data analyst calculated approximately 144,760 shifts of 3.5 hours or greater in length worked by Class Members

during the Class Period. Thus, one calculation of Defendant's total potential exposure in connection with this claim computed potential unpaid rest period premiums in the amount of $1,812,999, based on these number of shifts and a 65% violation rate (i.e., 144,760 (x) 65% (x) ~ $19.28 (the weighted calculated average hourly rate over the class period based on the distribution of rest period violations)). The interest on the unpaid rest period premiums over the class period on this amount was calculated to be $332,683. Plaintiff therefore theorized that Defendant's potential exposure for unpaid rest period premiums based on a 65% violation rate, inclusive of interest, was $2,145,682.

13. Plaintiff's Counsel understood from the mediator and the mediation process that Defendant makes the following defenses in connection with this claim: Defendant argued that it maintained a compliant rest period policy and practice and that, in fact, all Class Members were authorized and permitted to take rest periods and did. Defendant further contends that if Class Members did not take the rest periods they were authorized and permitted to take, they did so voluntarily and thus the same would raise an individualized inquiry that would neither be suited for certification nor manageable at trial. Defendant also contends that the rest period violation is excessive, speculative, and unwarranted and that, instead, there are no monies owed for unpaid rest periods. Additionally, Defendant contends that, since it is a non-profit organization, it has significant financial hardship which greatly impacts its ability to pay exorbitant damages without risk of bankruptcy.

14. Plaintiff's Counsel had to, and did, factor in the contentions attributed to Defendant's defenses, when considering whether the settlement reached was fair, reasonable and adequate.

Unpaid Wages – Off-The-Clock Minimum Wages

15. Plaintiff's Counsel advanced theories in this litigation and at mediation that Defendant failed to pay all wages owed to Class Members because Defendant's practice of recording the Class Members' working hours resulted in off-the-clock work. From its investigation, Plaintiff's Counsel contends that Class Members were routinely required to begin their work shifts prior to clocking in, due to not having access to the office where they could clock in for their shifts. This resulted in Class Members being required to performed their duties off the clock prior to their clock in times.

16. From the documents produced by Defendant, Plaintiff's Counsel's data analyst calculated approximately 151,637 shifts collectively worked by Class Members during the Class Period.

17. One theory advanced at mediation was that Class Members worked at least ten (10) minutes off-the-clock, and often times more, prior to the commencement of each shift. Based on this theory and a calculation predicated on 10 minutes of off-the-clock work per shift, Plaintiff's Counsel (with the assistance of its data analyst) calculated unpaid wages of $666,227, and unpaid interest of $173,849 in connection with this amount, for a total calculated exposure of $840,076.

18. Plaintiff's Counsel understood from the mediator and the mediation process that Defendant makes the following defenses in connection with this claim: Defendant argued that it maintained that the time punch clock was always available to class members for clocking in prior to beginning their shifts and that, if any class member performed work prior to clocking in, they did so without authorization and did so voluntarily, and thus would raise an individualized inquiry that would neither be suited for certification not manageable at trial. Defendant also contends that class members were neither authorized nor permitted under its policies to work off-the-clock. Defendant also contends that the off-the-clock violation is excessive, speculative, and unwarranted and that, instead, there are no monies owed for unpaid off-the-clock work. Additionally, Defendant contends that, since it is a non-profit organization, it has significant financial hardship which greatly impacts its ability to pay exorbitant damages without risk of bankruptcy.

19. Plaintiff's Counsel had to, and did, factor in the contentions attributed to Defendant's defenses, when considering whether the settlement reached was fair, reasonable and adequate.

<u>Unpaid Wages – Off-The-Clock Overtime Wages</u>

20. Plaintiff's Counsel advanced theories in this litigation and at the mediation that in addition to work performed prior to clocking in for the day, that Class Members would work off-the-clock in connection with non-complaint "meal periods" and after clocking out, therefore resulting in unpaid overtime to the extent the Class Member had already worked at least eight (8) hours in the workday, or at least forty (40) hours in the workweek.

21. From the documents produced by Defendant, Plaintiff's Counsel's data analyst

calculated that there 82,825 of shifts of more than eight (8) hours in length during the class period. Based on one of the calculations conducted in connection with Plaintiff's class overtime liability theory, and a damages model predicated on twenty (20) minutes of unpaid overtime in connection with each shift of more than eight (8) hours, Plaintiff's Counsel calculated potential exposure for unpaid off-the-clock overtime wages in the amount of approximately $765,000 (i.e., 82,825 shifts x .33 hours/shift x $28.00 (OT rate)), and unpaid interest of approximately $185,000 in connection with this amount, for a total calculated exposure of approximately $950,000.

22. Plaintiff's Counsel understood from the mediator and the mediation process that Defendant makes the following defenses in connection with this claim: Defendant argued that it maintained that the time punch clock was always available to class members, class members were neither authorized nor permitted under its policies to work off-the-clock, and that, if any class member performed work off-the-clock, they did so without authorization and did so voluntarily, and thus would raise an individualized inquiry that would neither be suited for certification not manageable at trial. Defendant argued that Class Members took timely and full meal periods, and that such meal periods were not interrupted by work. Defendant also contends that the off-the-clock violation is excessive, speculative, and unwarranted and that, instead, there are no monies owed for unpaid off-the-clock work. Additionally, Defendant contends that, since it is a non-profit organization, it has significant financial hardship which greatly impacts its ability to pay exorbitant damages without risk of bankruptcy.

23. Plaintiff's Counsel had to, and did, factor in the contentions attributed to Defendant's defenses, when considering whether the settlement reached was fair, reasonable and adequate.

Wage Statement Violations

24. Plaintiff's Counsel theorized that Class Members are entitled to recover penalties for Defendants' alleged failure to issue compliant wage statements under Labor Code section 226, subdivision (e), for the derivative impact of the failure to pay all wages owed on providing accurate information on wage statements. Specifically, Plaintiff's Counsel theorized that penalties are owed under Labor Code section 226 due to, at minimum, Defendants' (1) failure to pay for all hours worked; and (2) failure to pay premium wages. A non-exempt employee suffering injury as a result of a

knowing and intentional failure by an employer to comply with Labor Code section 226, subdivision (a), is entitled to recover the greater of all actual damages or fifty dollars ($50) for the initial pay period in which a violation occurs and one hundred dollars ($100) per employee for each violation in a subsequent pay period, up to a maximum of $4,000 per employee.

25. From the documents produced by Defendant, Plaintiff's Counsel's data analyst calculated that there were 11,440 pay periods during the relevant statutory time period. If, in fact, Class Members worked shifts during each pay period where work was performed off-the-clock, or meal or rest periods were not provided, as set forth above, every wage statement would thus, Plaintiff's Counsel theorized, violate Labor Code section 226.

26. Based on the statury penalty structure, the 535 employees who worked for Defendant during the time period relevant to this claim (i.e., September 7, 2021, up to the mediation), and the $4,000 cap, Plaintiff's Counsel (with the assistance of its analyst) calculated Defendant's maximum exposure to be $1,117,250.

27. Plaintiff's Counsel understood from the mediator and the mediation process that Defendant makes the following defenses in connection with this claim: Defendant contends that the wage statements issued to the employees fully complied with Labor Code section 226. Defendant contends that because they believe no wages or premiums are unpaid that, thus, there can be no derivative penalties. Plaintiff's Counsel also understood the risks inherent in this claim should Plaintiff fail to obtain certification or prevail on liability on the underlying class claims.

28. Plaintiff's Counsel had to, and did, factor in the contentions attributed to Defendant's defenses, when considering whether the settlement reached was fair, reasonable and adequate.

Waiting Time Penalties

29. Pursuant to Labor Code sections 201, 202 and 203, each employee in the relevant statutory period (*i.e.*, three years before the filing of the initial Complaint and thereafter) is entitled to 30 days' worth of wages as waiting time penalty for not being paid all wages due upon separation of employment. Plaintiff's Counsel theorized at mediation that, under Labor Code section 203, Defendant is liable to pay each Class Member, who was terminated during the relevant statutory period, a full 30-days worth of wages as waiting time penalty for failure to pay wages for off-the-clock work, failure to

pay compensation in lieu of compliant meal and rest periods, and failure to timely pay all wages due at the time of termination or resignation.

30. Based on an analysis of the relevant documents and information provided by Defendant, there were approximately 490 Class Members who were terminated or resigned during the relevant statutory period.

31. Thus, one calculation performed at mediation determined Defendant's maximum exposure for waiting time penalties to be $2,311,552 (i.e., 490 separated Class Members x ~$19.66/hr x 8 hours per day x 30 days).

32. Plaintiff's Counsel understood from the mediator and the mediation process that Defendant contends that there is no credence to Plaintiff's off-the-clock theory and that, thus, no waiting time penalties are owed based on that theory. Defendant further contends that there is no credence to Plaintiff's meal and rest period violations and that, thus, no waiting time penalties are owed based on that theory as well. Defendant further defends that failure to pay premium pay is not a basis for waiting time penalties to issue. Finally, Defendant contends that its actions were not "willful" and that, thus, waiting time penalties cannot be awarded. Thus, Defendant argues that no waiting time penalties are owed.

33. Plaintiff's Counsel had to, and did, factor in the contentions attributed to Defendant's defenses, when considering whether the settlement reached was fair, reasonable and adequate.

PAGA Penalties

34. From the documents produced by Defendant, Plaintiff's Counsel's data analyst calculated that there were 11,440 pay periods in the PAGA Period leading up to the mediation. Plaintiff's claims in the Action under PAGA are substantially similar to those described herein.

35. PAGA penalties include penalties for initial violations and subsequent violations. Plaintiff's Counsel is mindful that defendants contend that only initial violation rates may be used instead of the subsequent violation rates initially used by Plaintiff's Counsel. Specifically, that until "notified that it is violating a Labor Code provision… the employer cannot be presumed to be aware that its continuing underpayment of employees is a "violation" subject to penalties." (*Amaral v. Cintas Corp. No. 2* [*Amaral*] (2008) 163 Cal. App. 4th 1157, 1209.) With this in mind and because Plaintiff's

Counsel is not aware that Defendant at any time was notified by any governmental entity that it violated any Labor Code sections presented in the PAGA Notice and PAGA claims, one of the exposure calculations modeled out for the mediation and detailed below is predicted only on initial violation rates.

36. While Plaintiff's Counsel is informed and believe that reasonable minds differ with regard to calculation of PAGA penalties, Plaintiff's Counsel believes it is reasonable to calculate Defendant's potential exposure in PAGA penalties as follows:

a. Meal Period Violations: Labor Code section 558 prescribes penalties of $50 for an initial violation and $100 for each subsequent violation. Using the initial pay period rate for all violations and a violation every single pay period for every single non-exempt employee in the Settlement Period, this amounts to a maximum exposure of $572,000 (11,440 pay periods x $50).

b. Rest Period Violations: Labor Code section 558 prescribes penalties of $50 for an initial violation and $100 for each subsequent violation. Using the initial pay period rate for all violations and a violation every single pay period for every single non-exempt employee in the Settlement Period, this amounts to a maximum exposure of $572,000 (11,440 pay periods x $50).

c. Minimum Wage Violations: Labor Code section 1197.1 prescribes penalties of $100 for an initial violation and $250 for each subsequent violation. Using the initial pay period rate for all violations and a violation every single pay period for every single non-exempt employee in the PAGA Period, this amounts to a maximum exposure of $1,144,000 (11,440 pay periods x $100).

d. Overtime Violations: Labor Code section 558 prescribes penalties of $50 for an initial violation and $100 for each subsequent violation. Using the initial pay period rate for all violations, and a violation every single pay period for every single non-exempt employee in the PAGA Period, this amounts to a maximum exposure of $572,000 (11,440 pay periods x $50).

e. Waiting Time Penalties: Labor Code section 2699 prescribes penalties of $100 for an initial violation and $200 for each subsequent violation. Because this violation is merited only at separation of employment, a 100% violation rate would likely include just one violation per employee. The data produced by Defendants indicate that there are 335 Aggrieved Employees whose employment was separated during the PAGA Period. This amounts to a maximum exposure of $33,500 (335

Aggrieved Employees x $100).

f. Wage Statement Violations: According to *Gunther v. Alaska Airlines, Inc.* (2021) 287 Cal.Rptr.3d 229, in this instance, Labor Code section 2699 would be the appropriate penalty for wage statement violations that are inaccurate, which prescribes penalties of $100 for an initial violation and $200 for each subsequent violation (*Id.* at 247-248). Using the initial pay period rate for all violations and a violation every single pay period for every single Aggrieved Employee in the PAGA Period, this amounts to a maximum exposure of $1,144,000 (11,440 pay periods x $100).

g. Conclusion: In sum, under this model and with these assumptions, Plaintiff's Counsel calculated Defendant's total maximum exposure for PAGA violations to be $4,037,500 if the Court were to find a 100% violation rate for every Aggrieved Employee for every pay period, were to allow for and find multiple violations within each pay period, and not exercise its discretion to reduce any of those penalties.

37. Plaintiff's Counsel understand that should this matter proceed in litigation, Defendant will contend that no PAGA penalties are likely to be awarded and, even if they were, the maximum exposure calculated by Plaintiff's Counsel is vastly overstated. Defendant is likely to assert that PAGA penalties cannot and should not be stacked and that, even if they could, very few Courts have ever exercised discretion to stack them. Second, Defendant is likely to assert that individualized issues predominate the PAGA claims, making the claims unmanageable for trial. Third, Defendant will deny that a violation for each pay period can be established – that because the PAGA penalties rely upon substantially similar allegations made in the Action, they are subject to the same defenses and, thus, for the same reason, Defendant believes there will be no damages collectible in the class action and no PAGA penalties would be awarded. Fourth, Defendant will contend that a Court is unlikely to exercise its discretion to award civil penalties under PAGA where, as here, there is no conduct shown by Plaintiff that would show any Labor Code violation by Defendant is knowing and intentional that would justify PAGA penalties. Defendant insists that this is especially true in this Action where class action damages are available to Class Members, rendering an award of PAGA penalties in addition to class action damages an unjust, arbitrary, oppressive or confiscatory double recovery. Thus, Defendant will likely contend that the Court cannot, should not and will not exercise its discretion to award any

penalties under PAGA.

38. Plaintiff's Counsel maintains that it is possible to recover the subsequent violation rate for penalties, that stacking is permissible, and that there is no manageability requirement under PAGA (citing *Estrada v. Royalty Carpet Mills, Inc.* (2024) 15 Cal.5th 582). Plaintiff's Counsel also understands the risks inherent should the Court not exercise its discretion to grant any PAGA penalties, in addition to potential issues on the merits, trial manageability, and the possibility that the Court does not use permit stacking of penalties or permit the use of the subsequent violation rate when providing penalties.

39. Plaintiff's Counsel had to, and did, factor in the contentions attributed to Defendant's defenses, when considering whether the settlement reached was fair, reasonable and adequate.

Failure to Indemnify for Business Expenses

40. Plaintiff's Counsel had initially theorized that Defendant failed to reimburse Class Members for business expenses because Class Members were required to use their own personal cell phones for work purposes at times. However, Plaintiff's Counsel did not attribute any relatively significant value to this claim at the mediation.

Spanish Translation Not Necessary for Class Notice

41. Class Members are defined as all persons currently or formerly employed by Defendant either directly or through any subsidiary, staffing agency, or professional employer organization, as non-exempt in the State of California during the Class Period. Defendant requires that all persons employed by Defendant must be able to understand, read and communicate in English. (*See* **Exhibit D** attached hereto (Declaration of Jay Tate-Lammert , ¶ 3)).

42. Thus, given that all Class Members speak, read and write English, the Settlement Agreement at ¶8.4.3 has been revised to remove reference to a "Spanish translation" being provided by the Administrator in the Class Notice. A true and correct copy of the Amended Settlement Agreement is attached hereto as **Exhibit B**.

Settlement Agreement

43. Plaintiff's Counsel and Defendant's Counsel have provided the class data to Third Party Adminstrator, Apex Class Action Administration, to verify the class workweek total and to confirm the

end date of the Class Period. Accordingly, the class workweeks have been verified to total 40,953.43 and the end of the Class Period is confirmed as October 7, 2024. (*See* **Exhibit E** attached hereto (Declaration of Norma Ayala)). Accordingly, the Settlement Agreement has been revised to remove the period shortening option from the escalator clause at ¶9. (*See* **Exhibit B** attached hereto).

44. The Settlement Agreement has been amended and renumbered in its entirety to correct a previous numbering error. (*See* **Exhibit B** attached hereto).

<u>Class Notice</u>

45. The Settlement is to be funded within fourteen (14) calendar days after the Effective Date. The Class Notice at pg. 4, ¶3.1.a has been amended to reflect this and to conform with ¶ 4.3 of the Settlement Agreement. A true and correct copy of the Amended Class Notice is attached hereto as **Exhibit C**.

46. The Class Notice has been amended at ¶ 8 to reflect the correct Court address as Department 9, Springstreet Courthouse, 312 North Spring Street, Los Angeles, CA 90012. (*See* **Exhbit C** attached hereto).

<u>Proof of Submission of Settlement Agreement to the LWDA</u>

47. The proposed settlement agreement was submitted to the LWDA. Attached hereto as **Exhibit F** is a true and correct copy of proof of Submission of the proposed settlement agreement to the LWDA.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on November 6, 2025, at Trabuco Canyon, California.

Sean Shahabi

S. Sean Shahabi, Esq.