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Attorneys for Plaintiffs ALDERIECH VILLAMOR and RONY ALEXIS BONILLA, on behalf of themselves and others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

ALDERIECH VILLAMOR and RONY ALEXIS BONILLA, on behalf of themselves and all others similarly situated, and the general public, Plaintiff, vs. ABERCROMBIE & FITCH STORES, INC. an Ohio corporation; ABERCROMBIE & FITCH MANAGEMENT CO. a Delaware corporation; ABERCROMBIE & FITCH CO. a business entity of unknown form; and DOES 1 through 50, inclusive, Defendants.	Case No.: 25STCV03948 CLASS ACTION Assigned for All Purposes To: Hon. William F. Highberger Department: 10 **DECLARATION OF ENOCH J. KIM IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT** *[filed concurrently with Plaintiffs' Notice of Motion and Motion; Memorandum of Points and Authorities; Declarations of Aldriech Villamor, Rony Alexis Bonilla, Jodey Lawrence; and [Proposed] Order]* Hearing Date: March 8, 2027 Time: 10:00 a.m. Department: 10 Original Complaint Filed: February 13, 2025 FAC Filed: April 18, 2025 SAC Filed: May 14, 2026 Trial Date: None Set

DECLARATION OF ENOCH J. KIM

I, Enoch J. Kim, declare:

1. I am an attorney licensed and admitted to practice before all courts of the State of California and the United States District Courts for the Central, Southern, Eastern and Northern Districts of California. I am Senior Counsel at D.Law, Inc. and attorney of record for Plaintiffs Aldriech Villamor and Rony Alexis Bonilla ("Plaintiffs") on behalf of similarly situated employees of Defendants Abercrombie & Fitch Stores, Inc., Abercrombie & Fitch Management Co., and Abercrombie & Fitch Co. ("Defendants").

2. All of the matters set forth herein are within my personal knowledge, except those matters that are stated to be upon information and belief. As to such matters, I believe them to be true. I have represented Plaintiffs and the putative class since the inception of this matter. I submit this Declaration in support of Plaintiffs' Motion for Preliminary Approval of the parties' Class Action and PAGA Settlement ("Settlement Agreement" or "Settlement"), a true and correct copy of which is attached hereto as **Exhibit 1**.

QUALIFICATIONS AND ADEQUACY OF CLASS COUNSEL

3. D.Law (formerly known as Davtyan Law Firm) prosecutes wage and hour cases, including class actions and PAGA actions on behalf of employees and others who have had their rights violated. D.Law, either on its own or with co-counsel, is currently serving as Plaintiffs' counsel of record in numerous wage and hour and employment class action and PAGA action cases pending in both state and federal court.

4. D.Law is well-qualified and has ample experience, knowledge, and resources to act as counsel and represent Plaintiffs, the putative Class and Aggrieved Employees in this action. Our practice is exclusively focused on employment matters and representing plaintiffs in wage and hour actions with the same or similar causes of actions brought forth in the matter pending before this Court.

5. D.Law has litigated and successfully resolved many wage and hour class action cases involving failure to pay wages and derivative Labor Code claims and penalties. See e.g. *De La Rosa v. The Coca Cola Company et al.* (Superior Court of California in Napa, 17CV000787),

Harvey v. Bed Bath & Beyond of California Limited Liability Company (Superior Court of California in Alameda, RG17885153), *Paredes v. Bottling Group LLC et. al.* (Superior Court of California in Kern), *Ramirez v. Harris Ranch Beef Company* (Superior Court of California in Fresno, 16CECG04103), *Gates v. Gate Gourmet, Inc. et. al.* (Southern District of California, 16-cv-01084-L-AGS), *Hargrave v. Antelope Valley Hospital* (Superior Court of California in Los Angeles, BC663252), *Ramirez v. Milton Roy et. al.* (Superior Court of California in Los Angeles, BC 632 276), *Hawkins v. AvalonBay Communities* (Superior Court of California in Santa Clara, 17CV316492), *Jones Tharpe et al. v. Sprint Corporation et al.* (Superior Court of California in Los Angeles, BC644645), *Ortega et al. v. Nestle Waters North America, Inc. et al.* (Superior Court of California in Los Angeles, BC623610), *Schultz v. Jimbo's Natural Family, Inc.* (Superior Court of California in San Diego, 37-2017-00022348-CUE-OE-CTL), *Ambrose v. Victor Valley Global et al.* (Superior Court of California in San Bernardino, CIVDS1709289), *Puerta-Gildardo v. Real Time Staffing Services LLC et. al.* (Superior Court of California in Los Angeles, BC565445), *Vargo v. Pregis Innovative Packaging LLC* (Superior Court of California in Tulare, 270836), *Conlin v. Aegis Senior Communities LLC* (Northern District of California, 17-cv-05534-LHK), *Galarza v. Kloeckner Metals Corporation* (Central District of California, 2:17-cv-04910-FMO), *Estes v. L3 Technologies, Inc. et al.* (Southern District of California, 3:17-cv-02356-H-JMA), *Rowser v. Trunk Club, Inc.* (Central District of California, 2:17-cv-05064-DSF-RAO), *Leach v. The Claremont Colleges, Inc.* (Superior Court of California in Los Angeles, BC686451), *Vaesau v. PCT Enterprises, Inc. dba Precision Cabinets* (Superior Court of California, County of Contra Costa MSC18-02404), *Terry v. TF Louderback, Inc. dba Bay Area Beverage Company* (Superior Court of the State of California, County of Contra Costa, MSC18-00859), *Roach v. Westcare California, Inc.* (Superior Court of California in Kern County, BCV-17-102367-SDS), *Patton v. Church & Dwight Co., Inc.* (Central District of California, EDCV 18-903-MWF (KKx)), *Juarez v. ISL Employees, Inc.* (Superior Court of California in Madera, MCV074787), *Ferraro v. USC Verdugo Hill s Hospital, et al.* (Superior Court of California in Los Angeles, 18STCV09463), *Ford v. Account Control Technology, Inc., et al.* (Superior Court of California in Los Angeles, 19STCV09369), *Ornelas v. iStorage, et al.* (Superior Court of

California in San Francisco, CGC-18-571421), *Martinez v. Ronpak, Inc.* (Superior Court of California in Riverside, RIC1901307), *Barrera et al. v. Exclusive Wireless, Inc.* (Superior Court of California in Stanislaus, 9000687), *Barajas v. Mancha Development Company LLC* (Superior Court of California in Orange County, 30-2018-00974707-CU-OE-CXC), *Prado v. IMAX Corporation dba IMAC Worldwide Home* (Superior Court of California in San Bernardino, CIVDS1820265), *Rodriguez v. ND Industries, Inc.* (Superior Court of California in Los Angeles, 19STCV38096), *Singletary v. Motel 6 Operating LP, et al.* (Southern District of California, 3:20-cv-0270-LAB-AHG), *Quizon v. CF Watsonville East, LLC, et al.* (Superior Court of California in Santa Cruz, 20CV01868), *Stephenson v. Bakersfield Dodge, Inc.* (Superior Court of California in Kern, BCV-20-102693), *Bacerra v. Hugo Boss Retail, Inc.* (Superior Court of California in San Diego, 37-2021-00002933-CU-OE-CTL), *Walker v. Ariat International, Inc.* (Superior Court of California in Alameda, HG19026439), *Orr v. Petvet Care Centers* (California) Inc. (Superior Court of California in Santa Clara, 19CV354063), *Jimenez v. OEC Distribution Services, Inc.* (Superior Court of California in San Bernardino, CIVDS1915743), *Virdi v. Absolute Security International* (Superior Court of California in San Bernardino, CIVDS 1909589), *Raj v. First Transit, Inc* (Superior Court of California in Sacramento, 34-2021-00295895-CU-OE-GDS), *Marchbanks v. Torrid Administration, Inc.* (Superior Court of California in San Diego, 37-2020-00008179-CU-OE-NC), among others.

6. I am Senior Counsel at D.Law where I manage the class action and PAGA settlement department. I was admitted to the California Bar in December 2008. I received my J.D. from Pepperdine University School of Law and B.S. from University of Southern California. Since graduating from law school, I have dedicated virtually my entire career on the practice of employment law. I have practiced employment law from the plaintiff's side, defense side, and from an in-house position. I have significant experience specifically working on wage and hour class actions from the plaintiff's side as well as the defense side, with the majority of my experience coming from the plaintiff's side.

7. The collective experience of the D.Law attorneys in litigating employment wage and hour matters has been integral in identifying legal issues, evaluating the strengths and weaknesses

of a case, and generally negotiating fair and reasonable class and representative action settlements. Practice in the narrow field of wage and hour litigation requires skill and knowledge concerning the constantly evolving substantive law (state and federal), as well as the procedural law of class and representative action litigation. In this action, the attorneys at D.Law are fully equipped to use the skills and knowledge developed over decades of prosecuting and defending wage and hour class actions to fairly and adequately represent the interests of the Class Members and Aggrieved Employees. Therefore, based on our resources, experience, and knowledge, the attorneys at D.Law are well-qualified to act as Class Counsel and represent the Plaintiffs and the putative Class Members and Aggrieved Employees in this action.

8. We understand the responsibilities owed as counsel to the class members and the aggrieved employees we represent. The attorneys at D.Law thoroughly investigated the claims asserted in this action and have remained committed to dedicating the resources necessary to represent the Class and vigorously pursue their claims. Based upon my experience and understanding of the claims and defenses in this action, I believe the settlement is fair, adequate, and reasonable for the Class Members and Aggrieved Employees and all involved, and that the Settlement is well within the range of reasonableness that would permit it to be finally approved. I am not aware of any conflict of interest with Plaintiffs or any other Class Member that would interfere with the duties as Class Counsel.

9. For purposes of this motion, the "Class" or "Class Members" consist of all current and former non-exempt, hourly-paid employees who worked by Defendant Abercrombie & Fitch Stores, Inc. in the State of California at any time during the Class Period (July 9, 2021, through date the Court enters an order granting Preliminary Approval of the Settlement Agreement). I do not believe that I have any conflicts of interest with the Class or with the Class Representatives. I am not related to the Class Representatives. I have not previously represented Defendants in any matter. I respectfully submit that I and D.Law, Inc. are well suited to act as Class Counsel in this action, and we have and will continue to vigorously represent the interests of the Class Members.

PROCEDURAL HISTORY

10. On February 13, 2025, former Plaintiff Shauna Kohanbashir ("Plaintiff Kohanbashir") filed a class action complaint against Defendants alleging the following causes of action: (1) Failure to Provide Meal Periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198); (2) Failure to Provide Rest Periods (Lab. Code §§ 204, 223, 226.7 and 1198); (3) Failure to Pay Hourly Wages and Overtime (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1197.1 and 1198); (4) Failure to Pay Proper Sick Pay (Lab. Code § 246); (5) Failure to Provide Accurate Written Wage Statements (Lab. Code §§ 226(a)); (6) Failure to Timely Pay All Final Wages (Lab. Code §§ 201, 202 and 203); (7) Failure to Indemnify (Lab. Code § 2802); (8) Unfair Competition (Bus. & Prof. Code §§ 17200 et seq.).

11. Plaintiffs contends that Defendants failed to pay Class Members all wages due and owing, including by requiring off-the-clock work, failing to provide meal and rest breaks, failing to furnish accurate wage statements, failing to timely pay wages including final wages, failing to maintain accurate records, and failing to reimburse necessary business expenses.

12. On February 12, 2025, Plaintiff Kohanbashir submitted a Private Attorneys General Act ("PAGA") notice letter to the Labor Workforce Development Agency ("LWDA") and served Defendants. A true and correct copy of the confirmatory email and the LWDA letter submitted on behalf of Plaintiff is attached hereto as **Exhibit 2**. The LWDA did not express an interest in investigating Plaintiff's claims within the 65-day period. Therefore, on April 18, 2025, Plaintiff filed a First Amended Complaint adding a cause of action for penalties under PAGA.

13. On May 14, 2026, Plaintiff filed a Second Amended Complaint removing Shauna Kohanbashir as a Plaintiff and Class Representative and adding Aldriech Villamor and Rony Alexis Bonilla as Plaintiffs.

INVESTIGATION AND DISCOVERY

14. Before filing the lawsuit, Class Counsel investigated and researched the facts and circumstances underlying the pertinent issues and the law applicable thereto. This required thorough discussions and interviews between Class Counsel and Plaintiffs, as well as preliminary research into the various legal issues involved in the case. After conducting their initial investigation, Class Counsel determined that Plaintiffs' claims were well-suited for class and

representative action adjudication owing to what appeared to be a common course of conduct affecting a similarly situated group of employees.

15. After filing the lawsuit, Class Counsel conducted a thorough investigation of the facts and claims giving rise to the action, including: (1) conducting informal discovery and meeting and conferring with defense counsel about same; (2) reviewing and analyzing a sampling of time and pay records as well as employment handbooks, Plaintiffs' personnel files, relevant policies, and other documentation; (3) researching the applicable law and potential defenses; (4) constructing damage models based on interpretations of California law; and (5) reviewing information provided by Defendants at the mediation.

16. Defendants, for its part, vigorously contested liability, the amount of claimed damages, and the propriety of class certification. After Class Counsel analyzed the relevant documents and other gathered data, Class Counsel believed that this case was appropriate for resolution via mediation. Given the high level of risk present for both sides, the parties elected to mediate Plaintiffs' claims and explore the possibility of settlement.

17. On November 20, 2025, the parties mediated this case with Lonnie Giamela, Esq., who is a respected and highly experienced mediator in wage-and-hour class actions. During mediation, Plaintiffs and Defendants' counsel discussed all aspects of the case, including the risks of litigation and the risks to both parties of proceeding with a motion for class certification as well as the law relating to unpaid wages, meal periods, rest periods, reimbursement, wage statements, and final pay. As a result of the mediation, the parties agreed to settle the lawsuit according to the terms set forth in the Settlement Agreement. From Class Counsel's review of the facts, strengths and weaknesses of the case, the risks and delays posed by further litigation, and Class Counsel's own prior litigation experience, Class Counsel believes that the recovery for each class member is fair and reasonable taking into consideration the amounts received in other wage-and-hour class actions, the risks inherent in litigation of this genre, and the reasonable tailoring of each Class Member's claim to the settlement award he or she will receive. Further, and based on the settlement negotiations, which were extensive and conducted in good faith and at arm's length between attorneys with substantial experience litigating class actions and wage-and-hour cases,

the Settlement Agreement was the product of a non-collusive settlement process in which the parties were forced to make significant compromises in the interest of reaching a full and complete settlement of the lawsuit.

SUMMARY OF SETTLEMENT

18. Defendants have agreed to pay $3,323,000.00 ("Gross Settlement Amount") on a non-reversionary basis. (Exh. 1 [Settlement Agreement], §1.21)

19. The Settlement Agreement defines the "Class" or "Class Members" as "all current and former non-exempt, hourly-paid employees who worked for Defendant Abercrombie & Fitch Stores, Inc. in the State of California at any time during the Class Period (July 9, 2021 through date the Court enters an order granting Preliminary Approval of the Settlement Agreement)." (Exh. 1, §§ 1.5, 1.9, 1.12)

20. The "Net Settlement Amount" shall be the Gross Settlement Amount, less the Class Counsel Fees Payment and Litigation Expenses Payment, the Class Representative Enhancement Payments, Settlement Administration Costs, and PAGA Penalties. (Exh. 1, §1.27) These amounts are detailed as follows:

a) Up to $1,107,666.67 to Class Counsel for attorneys' fees, and not more than Twenty-Five Thousand dollars and Zero cents ($25,000.00) to Class Counsel for litigation costs (Exh. 1, §3.2.2);

b) Up to $75,000.00 for the Settlement Administration Costs (Exh. 1, §3.2.3);

c) Up to $10,000.00 to each Plaintiff for the Class Representative Service Payment (for a total of $20,000.00) (Exh. 1, §3.2.1); and

d) $200,000.00 for civil penalties under the PAGA, where 65% ($130,000.00) will be paid to the LWDA and 35% ($70,000.00) will be included in the Net Settlement Amount and distributed to Settlement Class Members. (Exh. 1, §3.2.5)

21. The "Individual Settlement Payment," which is each Class Member's share of the Net Settlement Amount, will be calculated and apportioned from the Net Settlement Amount based on

the number of workweeks a Class Member worked during the Class Period as a non-exempt employee in California. (Exh. 1, §§ 1.22, 3.2.4)

22. Defendants' employer payroll tax obligations shall be paid in addition to the Gross Settlement Amount, and none of the Gross Settlement Amount will revert to Defendants. (Exh. 1, §§3.2.4.1; 4.3.)

23. The settlement amount was a compromise figure, factoring in the inherent risks related to certification, liability, and damages. However, taking into account all of the circumstances of the action and the defenses raised by Defendants against certification, liability, and damages, Class Counsel believes that the settlement is fair and reasonable.

24. Class Members shall each receive the Class Notice via regular First Class U.S. Mail, using the most current, known mailing addresses identified in the Class List. Before mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. (Exh. 1, §7.4.2.) If the Class Notice is returned as non-deliverable on or before the Response Deadline and a new address is obtained by way of a returned Class Notice, then the Settlement Administrator will promptly forward the original Class Notice to the updated address via first-class regular U.S. mail, indicating on the original packet the date of such re-mailing. (Exh. 1, §7.4.3.)

25. Class Members will have an opportunity to dispute the number of Workweeks and Pay Periods credited to them in their Class Notice. (Exh. 1, §7.5, 7.6) The Settlement Administrator shall decide the dispute and may ask Defendants to produce the personnel and payroll files of the Class Member disputing their credited workweeks in order to resolve the dispute. (Exh. 1, §7.6.)

26. Class Members wishing to opt-out from the Class Settlement must sign and send a written request for exclusion to the Settlement Administrator. (Exh. 1, §7.5.) Class Members will also have the opportunity to object to the Settlement by submitting a written objection to the Settlement Administrator. (Exh. 1, §7.7.) Class Members will have 60 calendar days from the first mailing of the Class Notice to submit a request for exclusion or written objection and an additional 14 calendar days for those Class Members to whom Class Notices are re-mailed. (*Id.*)

THE STRENGTH OF PLAINTIFFS' CASE

IN LIGHT OF THE SETTLEMENT AMOUNT

27. Because the class consists of numerous employees, it was unlikely that the potential monetary claims of individual Class Members would have proved viable without the class-action mechanism. The Settlement Agreement should be approved in light of two California appellate decisions: *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116.

28. The strength of the plaintiff's case in light of the settlement amount is deemed by courts to be the "most important." *Clark v. American Residential Services, LLC* (2009) 175 Cal.App.4th 785, 799 (citing *Kullar*). Here, Plaintiffs allege that Defendants failed to pay minimum wages and overtime, failed to provide proper meal breaks or provide premium pay in lieu thereof, failed to provide proper rest breaks or provide premium pay in lieu thereof, failed to provide accurate wage statements, failed to timely pay all wages upon termination, and failed to reimburse necessary business expenses. Plaintiffs seek related violations of California's Business & Professions Code, and penalties pursuant to Labor Code § 2699 *et seq*. Each of these claims are addressed below.

Minimum Wages and Overtime

29. Plaintiffs alleged that Defendants failed to pay Plaintiffs and Class Members minimum wages and overtime wages for all hours worked. Specifically, Plaintiffs alleged that Class Members were required to perform work off-the-clock for which they were not paid wages, including being required to go through security bag checks each time they entered or left the store and prior to clocking in and waiting in line for a timeclock to become available to clock in. Furthermore, Plaintiffs alleged that Class Members were required to continue working after clocking out for the day.

30. Defendants contended that they paid for all reported hours worked, that Class Members were trained and required to record all hours worked, that any alleged off-the-clock work was performed with Defendants' knowledge and was de minimis, and that Defendants paid wages at

the proper rates. Defendants argued that given their written policies and practices, any unrecorded hours were likely subject to individualized inquiry and unlikely to be certified.

31. Plaintiffs' expert estimated Defendants' maximum exposure on the unpaid wages claims to be approximately $6,824,909.00 (assuming 10 minutes of off-the-clock work per shift and 38.25% attributable to overtime). Given Defendants' defenses and the hurdles facing class certification of off-the-clock based claims, Plaintiffs applied a discount of 90% to get an adjusted realistic exposure of $682,490.90.

Meal Periods and Rest Breaks

32. Plaintiffs alleged that Defendants consistently failed to provide timely and uninterrupted meal breaks to Class Members. *See Brinker Restaurant Corp. v. Super. Ct.* (2012) 53 Cal.4th 1004, 1040 ("[T]he wage order's meal period requirement is satisfied if the employee (1) has at least 30 minutes uninterrupted, (2) is free to leave the premises, and (3) is relieved of all duty for the entire period.").

33. Plaintiffs argued that Defendants had a common practice and policy of denying compliant meal periods. Specifically, Plaintiffs alleged that Class Members were regularly required to work through their meal periods, had their meal periods interrupted, and had to take their meal periods late due to Defendants' work requirements. For each meal period missed, of less than 30 minutes, or taken late for which the employee was not provided a reasonable opportunity to take a complete and timely meal period, an employer must pay the employee an additional one hour of compensation. Labor Code § 226.7. This additional hour of compensation is referred to as "premium pay." To comply with these laws, every employer must keep, for each employee, accurate time records showing when the employee begins and ends each work period and takes his or her meal periods. *See* Wage Order 4-2001(7)(A)(3).

34. Defendants disagreed with Class Counsel's interpretation of the law and facts. Defendants contended that Class Members were given a reasonable opportunity to take their meal periods and that any deviations from their scheduled meal periods were at the voluntary election of Class Members. Defendants also argued that Class Members received most of their meal periods and were paid premium pay for any non-compliant meal breaks. Defendants further

contended that their meal period policies were compliant and that individualized inquiries would preclude class certification of the meal break claim.

35. Plaintiffs' expert estimated Defendants' maximum total exposure on the meal break claim at approximately $455,967.00 (net meal period premiums due offset by meal period premiums paid). However, given Defendants' defenses and the difficulties of obtaining certification of this claim, Plaintiff applied a discount of 80% to get an adjusted realistic exposure of $91,193.40.

36. The same argument applied to rest breaks. Plaintiffs contended that Defendants did not provide Class Members with paid 10-minute rest breaks for every four hours or major fraction thereof. Specifically, Plaintiffs alleged that Class Members were required to work through their rest breaks or had their rest breaks interrupted due to Defendants' work requirements.

37. Defendants maintained that they did provide the reasonable opportunity for Class Members to take duty-free rest breaks. Defendants also pointed out that, unlike meal periods, rest breaks need not be recorded, and Defendants dispute all allegations that breaks were not received. As these considerations would likely depress the damages *vel non* ultimately awarded, Class Counsel applied significant and appropriate discounts to the rest-break claim.

38. Plaintiffs' expert estimated Defendants' maximum total exposure on the rest break claim at approximately $16,584,848.50 (assuming a 50% rest break violation rate). However, given Defendants' defenses and the individualized issues arising from the fact that rest breaks are not recorded, Plaintiffs applied a discount of 90% to get an adjusted realistic exposure of $1,658,484.85.

Wage Statement Violations

39. Plaintiffs also contended that Defendants failed to provide Class Members with accurate, itemized wage statements in writing as required by California Labor Code § 226(a) because the wage statements failed to accurately account for unpaid wages and overtime due to underreporting of hours and off-the-clock work. Moreover, Plaintiffs contended the wage statements failed to accurately account for premium pay for deficiently provided meal and rest breaks which Defendants knew or reasonably should have known were owed to Plaintiffs and

Class Members. Pursuant to Labor Code §§ 226(a) and 226(e), employees are 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) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars ($4,000).

40. Defendants contend that Plaintiffs' claim for further Labor Code § 226(e) penalties are derivative of their underlying meal period and wage claims, and thus are subject to the same defenses. Additionally, Defendants argue this claim has little or no value. *See Maldonado v. Epsilon Plastics, Inc.*, 22 Cal. App. 5th 1308, 1336–37 (2018) (wage statements that accurately report wages paid to employees do not violate Labor Code § 226, even if it is later determined that employer did not properly pay all wages due). Defendants further contend that Labor Code § 226(e) penalties are not automatic. Rather, the employee must show (1) that he or she "suffered injury" from the employer's failure to provide compliant wage statements, *see Elliot v. Spherion Pacific Work, LLC*, 572 F.Supp.2d 1169, 1181 (2008) (applying California law) (holding employee was not entitled to penalties because no injury was shown), and (2) Defendants' noncompliance was "knowing and intentional." Finally, because the damages for this cause of action are penalties, the statute of limitations only runs from one year prior to the filing of the original complaint. *See* Cal. Civ. Pro. § 340.

41. Plaintiffs' expert estimated Defendants' maximum total exposure on the section 226 claim at approximately $17,850,950.00. Plaintiffs believe it may be difficult to prevail on this claim because Class Members would need to show that they suffered an injury and that Defendants' noncompliance was knowing and intentional (on top of the challenges described above with the underlying wage and break claims), which are both subject to many individualized issues making certification of this claim difficult to achieve. As such, Plaintiffs applied a discount of 98% to get an adjusted realistic exposure of $357,019.00.

Failure to Pay Final Wages

42. In failing to pay Class Members their minimum wages, overtime wages, and premium pay for deficiently provided meal periods and rest breaks, all discussed above, Plaintiffs alleged

that Defendants willfully failed to pay Class Members all wages due and certain at the time of termination or within seventy-two (72) hours of resignation, as required under Labor Code § 203.

43. Labor Code § 203 provides that if an employer willfully fails to pay an employee all wages due at termination or within 72 hours of resignation, then that employee's wages shall continue as a penalty until paid for a period of up to thirty (30) days from the date they were due.

44. Defendants argued that, under Labor Code § 203, employers are only obligated to pay waiting-time penalties if they "willfully" fail to pay wages due and owing at the time of termination or resignation. As Title 8, California Code of Regulations, § 13520 states:

> A willful failure to pay wages within the meaning of Labor Code Section 203 occurs when an employer intentionally fails to pay wages to an employee when those wages are due. However, a good faith dispute that any wages are due will preclude imposition of waiting time penalties under Section 203.
>
> A "good faith dispute" that any wages are due occurs when an employer presents a defense, based in law or fact, which, if successful, would preclude any recovery on the part of the employee. The fact that a defense is ultimately unsuccessful will not preclude a finding that a good faith dispute did exist. Defenses presented which, under all the circumstances, are unsupported by any evidence, are unreasonable, or are presented in bad faith, will preclude a finding of a "good faith dispute."

Defendants maintained that because it had viable defenses in both law and fact, especially in light of the *Brinker* holding, that waiting-time penalties could not be awarded and, in any case, such penalties were subject to a three-year limitations period under Labor Code § 203(b).

45. Plaintiffs' expert estimated Defendants' maximum total exposure on the section 203 claim at approximately $54,813,176.00. Plaintiffs estimate it would be difficult to recover waiting-time penalties given that Plaintiffs would need to show willfulness on top of proving the underlying wage and break claims, which are both subject to many individualized issues making certification of this claim difficult to achieve. As such, Plaintiffs applied a discount of 98% to get an adjusted realistic exposure of $1,096,263.52.

Reimbursement for Necessary Business Expenditures

46. Under Labor Code § 2802(a) Defendants must indemnify Plaintiffs and Class Members for all necessary expenditures or losses incurred in direct consequence of the discharge of their

duties. As discussed above, Plaintiffs allege that Plaintiffs and Class Members incurred necessary expenditures in the performance of their job duties for Defendants, including the cost of personal cell phone usage for work-related purposes, but were not reimbursed for those expenses by Defendants. Defendants maintain that Plaintiffs and Class Members did not incur business expenses and/or were properly reimbursed for all business expenses and further contend that any unreimbursed business expenses were not necessary expenditures as required by Labor Code section 2802.

47. Plaintiffs' expert estimated Defendants' maximum exposure on the unreimbursed business expenses claim at approximately $ 3,314,582.00 (assuming $5 per workweek). However, given Defendants' defenses, their reimbursement policy, and the potential for the need for individualized inquiries making class certification of this claim difficult, Plaintiffs applied a discount of 95% to get an adjusted realistic exposure of $165,729.10

PAGA Penalties

48. The Labor Code Private Attorneys General Act, Labor Code § 2699 et seq., allows Plaintiffs to obtain civil penalties on behalf of herself and other Class Members for Defendants' violation of any provision of the Labor Code enumerated under Labor Code § 2699.5. Where civil penalties are provided in the statute, those civil penalties are recoverable; where no civil penalties are recoverable, Labor Code § 2699(f) establishes civil penalties of one hundred dollars ($100) for each aggrieved employee per pay period for the initial violation and two hundred dollars ($200) for each aggrieved employee per pay period for each subsequent violation. Pursuant to Labor Code § 2699(i), sixty-five (65) percent of the penalties recovered must be allocated to the Labor and Workforce Development Agency (LWDA), with the remaining thirty-five (35) percent allocated to the affected employees. The limitations period as for all penalties is one year prior to the filing of the complaint.

49. The provisions of the Labor Code potentially triggering PAGA penalties in this case include but are not limited to Labor Code §§ 203, 204, 226(a), 226.2, 226.7, 510, 1194, and 2802. Defendants asserted that if PAGA penalties were mandatory, an employer's PAGA liability would be huge because of the possibility of collecting multiple civil penalties for a single

violation, and thus such penalties would almost always dwarf the damages available under the causes of action proper. However, PAGA penalties are not mandatory but permissive. Labor Code § 2699(e)(2) states that "a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory." *See, e.g., Lopez v. Friant & Assocs., LLC*, 15 Cal. App. 5th 773, 788 (2017), *rev. denied* (2018) (recognizing court's ability to reduce PAGA penalties). Courts have held that situations similar to the current one (e.g. injuryless violations, technical errors, and substantial compliance) should lead to reductions in penalties. *See Thurman v. Bayshore Transit Management, Inc.*, 203 Cal. App. 4th 1112, 1134–35 (2012) (holding that reduction was justified when employer "attempted to comply with the law"); *Fleming v. Covdien, Inc.*, No. ED CV10-01487 RGK (OPx), 2011 U.S. Dist. LEXIS 154590 at *8–9 (C.D. Cal. August 12, 2011) (reducing PAGA penalties more than 80% – from $2.8 million to $500,000 – when "employees suffered no injury" employers were "not aware" of the violation and "took prompt steps to correct all violations once notified"). Defendants here maintained that they had a strong argument that it would be unjust to award maximum PAGA penalties.

50. Furthermore, PAGA penalties are also derivative of each and every other claim, and Defendants therefore argued the PAGA claims would be subject to the same defenses to the underlying claims. Finally, under *Amaral v. Cintas Corp.*, 163 Cal.App.4th 1157 (2008), it can be argued that penalties under PAGA could, at best, be awarded only at the rates obtainable for initial violations under the applicable statutes because Defendants have never been notified of the alleged violations. *Id.* at 1208–09. Moreover, Section 2699(e)(1) authorizes the Court to exercise the same discretion as the DLSE whether to award civil penalties. *Amaral* 163 Cal. App. 4th 1157, 1211–12. Therefore, if the Labor Commissioner - on whose behalf Plaintiffs are prosecuting this action for civil penalties - would not impose civil penalties in a case like this, the Court may not award civil penalties. Moreover, in *Thurman v. Bayshore Transit Mgmt., Inc.*, 203 Cal.App.4th 1112, 1136 (2012), the Court of Appeal affirmed the trial court's reduction of PAGA civil penalties by 30 percent, finding that awarding the full penalties would have been "unjust"

because "…a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory."

51. Class Counsel estimated Defendants' maximum total exposure on the PAGA claim at approximately $14,119,600 ($100 x 141,196 Pay Periods). However, Class Counsel notes that owing to the discretionary nature of PAGA penalties and the foregoing case law, it is unlikely the Court would award the full penalty and that it would be substantially reduced. Class Counsel applied a discount of 95% in light of the countervailing arguments with regard to the other causes of action, and moreover the Court's power to award "a lesser amount than the maximum civil liability." Thus, Class Counsel calculated the adjusted realistic exposure as $705,980.00.

Unfair Business Practices

52. Plaintiffs pled this cause of action in order to augment their other causes of action and aid in their prosecution. Business & Professions Code § 17208 extends the statute of limitations on Plaintiffs' wage claims, which qualify as unfair business practices, to four years rather than the three years provided by statute.

Summary

53. The foregoing discussion has sought to explain how the settlement amount is adequate in light of the merits of Plaintiffs' case. It has done this by explaining the legal basis for each of Plaintiffs' causes of action, summarizing the evidence that Class Counsel gathered in support of those causes of action, and relating Defendants' legal and factual arguments that worked to derogate from the strength of Plaintiffs' case.

54. Class Counsel had to apply appropriate discounts in light of the facts and law as discussed above. Thus, this settlement, like most others, was the product of compromise. The Gross Settlement Amount of $3,323,000.00 represents a recovery for the Class of approximately 70% of the total realistic exposure of $4,757,160.77 Plaintiffs estimated that Defendants could face on the main claims in this case. Plaintiffs and Class Counsel submit that this is an excellent result in the face of uncertainty and the prospects of protracted and contested litigation through class certification, summary judgment, and trial.

THE RISK, EXPENSE, AND LIKELY DURATION OF FURTHER LITIGATION, AS WELL AS THE RISK OF MAINTAINING CLASS ACTION STATUS THROUGH TRIAL

55. The next *Clark/Kullar* factors recognize that settlements take into consideration the risks and expenses posed by further litigation and, in the class-action context, the risk of non-certification. Consequently, it is proper that trial courts should keep these considerations in mind when judging the adequacy of class action settlements.

56. Further litigation of this case posed real risks for a number of reasons. First, there were the risks of unfavorable rulings on the merits of the various indeterminate legal issues outlined in the previous section. In that section, it was observed that almost every cause of action was subject to some unique indeterminacy of its own, and that the derivative causes of action were thus subject to a double indeterminacy, both their own and those of the causes of action on which they were based.

57. The parties disputed the effect of these and other issues on class certification and decertification. Class Counsel maintained that there were several legal and factual questions at issue in the case that could best be decided on a class-wide basis. Class Counsel contended that the same policies and practices applied to all Class Members and therefore common questions obtained and were likely to predominate over individual inquiries. Defendants disputed these contentions and insisted that the *Brinker* decision called into question the certifiability of cases such as this one. Defendants also argued that their policies were compliant with the law, while Plaintiffs disputed that the policies were lawful, and argued the lawfulness of such policies would give rise to common questions amenable to certification. Thus, the parties had set positions on the propriety of certifiability and liability that did not admit of an easy resolution.

58. Finally, it is always preferable to reach a relatively early resolution of a dispute because, in addition to what has already been said, such resolutions save time and money that would otherwise go to litigation. In light of the risk and expense of the lawsuit proceeding to trial, there was a need to resolve this matter soon than later. Most cases settle sooner or later. If this case settled after further litigation, the settlement amount would have taken into account the

additional costs incurred, and there might have been less available for Class Members after all was said and done. This is not just an abstract contention. The parties were moving into the phase of this litigation where they would have had to depose a number of people such as managers, supervisors, and employees in order to establish liability for trial. Discovery disputes would have been in the offing. The parties were also aware that a class action trial would be a complicated and expensive proceeding, and then there was the likelihood of a long, drawn-out appeals process. In contrast, the settlement provides real benefits for Class Members in the immediate future. The benefits are not insignificant for anyone, especially given the current economic climate. Consequently, the risk and expense of further litigation outweighed any benefit that might have been gained otherwise.

NOTICE TO AND REACTION OF CLASS MEMBERS

TO THE PROPOSED SETTLEMENT

59. It is premature to address this factor now, at the preliminary approval stage; however, some observations are in order. First, the notification procedure set out in the Settlement Agreement provides the greatest likelihood that each and every Class Member will receive the Class Notice, attached to the Settlement Agreement as **Exhibit A**. Under the Settlement Agreement, the Settlement Administrator will send the Class Notice to each Class Member via First Class U.S. mail. (Exh. 1, §7.4.2.) Before mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. (Exh. 1, §7.4.2.) If the Class Notice is returned as non-deliverable on or before the Response Deadline and a new address is obtained by way of a returned Class Notice, then the Settlement Administrator will promptly forward the original Class Notice to the updated address via first-class regular U.S. mail, indicating on the original packet the date of such re-mailing. (Exh. 1, §7.4.3.) Thus, most, if not all, Class Members will likely receive the Class Notice.

60. The Class Notice itself fully apprises Class Members of the nature of the lawsuit, the claims involved, the terms of the settlement, and their options thereunder. The Class Notice provides for a specific procedure to seek exclusion from the Class, and for lodging objections to

the settlement. The efforts taken to ensure that Class Members receive the Class Notice and are well informed about the settlement augur a favorable response rate.

61. If a Class Member disputes the number of workweeks stated for that Class Member in the Class Notice, the Class Member must ask the Settlement Administrator to resolve the matter by submitting in writing under penalty of perjury the workweeks that the Class Member claims to have actually worked for Defendants during the Class Period. (Exh. 1, §7.6.). After consultation with Class Counsel and Defendants' Counsel, the Settlement Administrator will make a determination of the Class Member's total workweeks during the applicable period. *Id*.

CONCLUSION OF THE *CLARK/KULLAR* ANALYSIS

62. The foregoing discussion establishes the fairness of the class-action settlement in the instant case. It has done this by analyzing the settlement in light of the appellate decisions in *Clark* and *Kullar*. This analysis has concluded that the settlement is fair, reasonable, and adequate. Class Counsel conducted a thorough investigation of the subject wage-and-hour practices and engaged in non-collusive, arm's-length negotiations in order to reach a settlement for a period of months following a mediation and mediator's proposal by Lonnie Giamela. Defendants have agreed to pay fair value to settle Plaintiffs' claims given the existence of legal uncertainty, particularly with regard to Plaintiffs' claim for failure to provide proper meal periods. From Class Counsel's substantial experience with wage-and-hour class action lawsuits, Class Counsel believe that this case could not have settled on better terms under the circumstances. Request therefore is made that the settlement be granted preliminary approval so that those persons whom it was intended to benefit shall be afforded the opportunity to determine its adequacy.

REQUEST FOR ATTORNEYS' FEES

63. Under the Settlement, Class Counsel also requests, without opposition from Defendants, the Class Counsel Fees Payment of $1,107,666.67 and reimbursement of actual costs incurred in the Action, which is currently estimated not to exceed $25,000.00. (Exh. 1, §3.2.2). This request is fair, reasonable, and adequate to compensate Class Counsel for the substantial work they have put into this case and, moreover, the risk they assumed by taking it in the first

place. The attorneys' fees award is intended to reimburse Class Counsel for all uncompensated work that they have already done and for all the work they will continue to do in carrying out and overseeing the notification to Class Members, communicating with Class Members regarding their claims, and assisting in the administration of the settlement if it is preliminarily approved.

64. Class Counsel took this case on a contingent-fee basis against a business represented by a reputable defense firm. When we take contingent cases, we must pay careful attention to the economics involved or one bad case can destroy years of work. Accordingly, when we take contingency cases, we anticipate that we shall, if successful, receive a fee that exceeds our normal hourly rate; otherwise, the risk is often too great to bear. Even when we work long hours, the number of hours in a day is limited. Because of this, when we take on one particular matter, we are unable to take on other matters. When Class Counsel became involved in this case, we realized the time commitment that it would entail and we were forced to turn down matters that we otherwise should have been able to handle. In sum, this case claimed a significant portion of Class Counsel's time and attention throughout its pendency.

65. The requested fee is reasonable for the services provided to Class Members and for the benefits they are to receive. Indeed, even with a modest multiplier under the lodestar theory, *see Bihun v. AT&T Information System*, 13 Cal.App.4th 976, 997 (1993), Class Counsel's fees would still be justified. Class Counsel will more fully brief the Court on its lodestar in the motion for final approval.

ENHANCEMENTS TO PLAINTIFFS AS THE CLASS REPRESENTATIVES

66. Plaintiffs herein are entitled to reasonable service payment for their efforts and initiative in bringing and helping to prosecute this action. Plaintiffs spent a considerable amount of time better apprising themselves of their rights, searching for attorneys, and finally contacting Class Counsel, who spent time with Plaintiffs discussing the case and the law. In the end, Plaintiffs decided to vindicate not only their own rights but also those of their co-workers by filing a class action lawsuit.

67. The courage it took to stand up to Defendants by filing and litigating this action in this way should not be underestimated. By suing Defendants, Plaintiffs increased their risk of

retaliation by prospective employers. Plaintiffs' lawsuit has now required Defendants to expend considerable resources, and Plaintiffs justifiably fear the fact that they served as class representatives in a wage-and-hour class action will not be lost on a prospective employer who has to choose between an applicant who has never sued a prior employer and one who has. Plaintiffs contend this risk is particularly real in the information age, where employers can, more easily than ever, perform background checks of prospective employees, sometimes with the stroke of a key. It is common for employers to screen employee candidates to determine whether they have ever filed suit, and employee candidates who might be branded "litigious" are likely to be screened out of the process. In fact, an entire industry has developed for providing employers with background information on employee candidates.

68. But Plaintiffs did not allow their fear of the potential repercussions of being a class representative to deter them from acting for the benefit of Class Members. They have devoted time to helping Class Counsel effectively develop and prosecute this action at every stage of the litigation. Plaintiffs provided Class Counsel with information about Defendants and about the industry generally, reviewed documents, identified witnesses, consulted Class Counsel throughout the litigation repeatedly and at length, participated in the mediation process, monitored the progress of the litigation with Class Counsel, and reviewed and signed the Settlement Agreement.

69. Plaintiffs have spent time with Class Counsel detailing their knowledge of Defendants' practices and helping Class Counsel with the prosecution of this action. They have diligently, adequately, and fairly represented Class Members, and have not placed their interests above any member of the putative class. The payment to Plaintiffs are intended to recognize their time and effort on behalf of the Class. The amount requested is fair and appropriate based on their contribution and involvement. The parties are in agreement that Plaintiffs are entitled to an enhancement for their time and effort in this matter. This sort of payment to a class representative has been a common feature of settlements negotiated by Class Counsel and has been routinely approved by trial courts.

70. In light of the foregoing, Class Counsel believes that the Class Representative Enhancement payments in the amount of $10,000.00 to each Plaintiff is fair and reasonable. This amount is a far cry from the $50,000 of enhancement awards to the two named plaintiffs approved by the trial court in *Clark. See Clark, supra*, 175 Cal.App.4th at 807. Although Class Counsel appreciate that the Court has a duty to ensure that class representative are not overcompensated at the expense of the class, modest incentive awards in employment class actions, such as the one here, are necessary not only to compensate Class Representatives for the time they spent in the case, but also, and more importantly, to encourage class members to challenge questionable employment practices notwithstanding the very real consequences they may face.

CRITERIA SATISFIED FOR CERTIFICATION OF SETTLEMENT CLASS

71. The proposed Class satisfies the criteria for certification of a settlement class under California law, as embodied in California Code of Civil Procedure § 382. Defendants have agreed to the certification of the class for settlement purposes. In general, courts may take a proposed settlement into account in evaluating the propriety of class certification. *See Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794, 1807 fn. 19 (1996). Indeed, a "lesser standard" of scrutiny applies in certifying classes for settlement purposes. *Ibid.* Therefore, the Court should take into consideration the fact that the parties have settled their claims and stipulated to certification for settlement purposes when assessing typicality and adequacy.

a. Numerosity. The putative class is so numerous that joinder of all members is impractical. Class Members are "all current and former non-exempt, hourly-paid employees who worked for Defendant Abercrombie & Fitch Stores, Inc. in the State of California at any time during the Class Period [July 9, 2021 through the date the Court enters an order of Preliminary Approval of the Settlement Agreement]." There are approximately 19,127 persons answering to this definition. Thus, there are a sufficient number of Class Members to warrant certifying this as a class action for settlement purposes.

b. Ascertainability. The putative class is defined in a manner that is precise, objective, and ascertainable. The Class Members have already been identified by reference to Defendants' payroll and personnel records.

c. Typicality. A class representatives' claims are typical when they arise from the same event, practice, or course of conduct that gives rise to the claims of other putative class members, and if their claims rest on the same legal theories. The class representative's claims must be "typical" but not necessarily identical to the claims of other class members. It is sufficient that the representative is similarly situated so that he or she will have the motive to litigate on behalf of all Class Members. *Classen v. Weller*, 145 Cal.App.3d 27, 47 (1983); *B.W.I. Custom Kitchens v. Owens-Illinois, Inc.*, 191 Cal.App.3d 1341, 1347 (1987) ("[I]t has never been the law in California that the class representative must have identical interests with the class members."). Thus, it is not necessary that the class representative should have personally incurred all of the damages suffered by each of the other class members. *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 228 (2001).

Plaintiffs' claims are typical of Class Members' claims because they arose from the same factual basis and are based on the same legal theories. Plaintiffs were employed by Defendants during the Class Period and subject to the allegedly unlawful meal and rest break policies and pay practices at issue in this litigation. Accordingly, Plaintiffs are members of the Class. The central issues of this litigation (whether Defendants failed to pay all wages, whether Defendants failed to provide meal and rest periods, etc.), which would arise if this were an individual action brought by Plaintiffs, apply to the other Class Members as well, and the answer to these questions would determine Defendants' liability to the entire putative class. Thus, Plaintiffs' claims are typical of the claims of the putative class. Accordingly, the typicality requirement is satisfied.

d. Adequacy. A class representative must possess the same interest and suffer the same injury as the class members. "To assure 'adequate' representation, the class representative's personal claim must not be inconsistent with the claims of other members of the class." *J.P. Morgan & Co., Inc. v. Sup.Ct. (Heliotrope General, Inc.)*, 113 Cal.App.4th 195, 212 (2003). Thus, the adequacy requirement is satisfied when the class representative's interests are not

antagonistic to those of the class. *McGhee v. Crocker-Citizens Nat. Bank*, 60 Cal.App.3d 442, 451 (1976).

Plaintiffs do not have any conflicts with the Class and in fact their interests are aligned with those of the Class. Because Plaintiffs' claims are identical to those that would be asserted by the unnamed Class Members were they before the Court, Plaintiffs have every interest in zealously representing the Class. Furthermore, as detailed above, Class Counsel are experienced in wage-and-hour litigation, especially class actions, and have zealously represented the interests of the class in litigating this case. *See infra* ¶¶3–9. Accordingly, the adequacy requirement is satisfied.

e. Commonality. Common questions of law or fact in this case predominate over individual questions. This action involves, *inter alia*, a determination about Defendants' alleged failure to provide meal and rest periods, failure to pay minimum wages, failure to pay all wages due to allegedly common and unlawful policies, failure to pay final wages when required, failure to provide accurate wage statements, failure to pay employees on a timely basis, and largely derivative claims under the Business & Professions Code and PAGA. Plaintiffs contend these practices, including an alleged practice of failing to provide complete meal periods, related meal period policies applicable to the Class, and the alleged failure to provide corresponding premium payments, affected Class Members in the same way. All Class Members were employed during the Class Period. Therefore, the operative Complaint delineates a common course of conduct applicable to all Class Members.

f. Predominance. Individualized issues do not predominate over the issues of law and fact that are common to the class as a whole. The principal issues of controversy are whether Class Members were paid for all hours worked and provided lawful meal breaks. As explained, *supra*, there are common issues of law and fact given that Plaintiffs and all Class Members were subjected to the same policies and pay practices during the relevant time period. Plaintiffs and Class Members seek meal and rest break premiums, unpaid wages and overtime, and penalties for work performed as non-exempt employees for Defendants. These issues are suitable for common

adjudication because all Class Members were subject to the same employment policies and Plaintiffs contend the practices applied uniformly to all Class Members.

g. Superiority. Class resolution is superior to other available methods for the fair and efficient adjudication of the controversy. There is little interest or incentive for Class Members to individually control the prosecution of separate actions. Although the injury resulting from Defendants' policies and practices are real and significant, the cost of individually litigating each such case against Defendants would easily exceed the value of any relief that could be obtained by any one Class Member individually. If Class Members are forced to litigate their claims individually, this would result in about 19,127 individual actions against Defendants. Here, the alternative methods of resolution are individual suits for relatively small amounts. Hence, an individual suit would prove uneconomical for potential plaintiff because litigation costs would dwarf a potential recovery.

72. Except for Plaintiffs' case before this Court, Plaintiffs are unaware of any other actions by Class Members against Defendants asserting similar claims as here.

73. On November 4, 2026, Plaintiffs submitted the Settlement Agreement and the Memorandum of Points and Authorities in Support of Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement to the LWDA. A true and correct copy of the confirmatory email from the LWDA is attached hereto as **Exhibit 3**.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 4th day of November, 2026, at Pasadena, California.

Enoch J. Kim

EXHIBIT 1

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CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement ("Agreement") is made by and between Plaintiffs Aldriech Villamor and Rony Alexis Bonilla ("Plaintiff") and Defendants Abercrombie & Fitch Stores, Inc., Abercrombie & Fitch Management Co. and Abercrombie & Fitch Co. ("Defendants"). The Agreement refers to Plaintiffs and Defendants collectively as "Parties," or individually as "Party."

1. DEFINITIONS.

1.1. "Action" means Plaintiff's lawsuit alleging wage and hour violations against Defendants captioned Shauna Kohanbashir v. Abercrombie & Fitch Stores, Inc. et al. Case No. 25STCV03948 filed on February 13, 2025 in Superior Court of the State of California, County of Los Angeles.

1.2. "Administrator" means Phoenix Settlement Administrators the neutral entity the Parties have agreed to appoint to administer the Settlement.

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

1.4. "Aggrieved Employee" means all current and former non-exempt, hourly-paid employees who worked for Defendant Abercrombie & Fitch Stores, Inc. in the State of California at any time during the PAGA Period.

1.5. "Class" means all current and former non-exempt, hourly-paid employees who worked for Defendant Abercrombie & Fitch Stores, Inc. in the State of California at any time during the Class Period.

1.6. "Class Counsel" means D.Law, Inc.

1.7. "Class Counsel Fees Payment" and "Class Counsel Litigation Expenses Payment" mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.

1.8. "Class Data" means Class Member identifying information in Defendant's possession including the Class Member's name, last-known mailing address, Social Security number, beginning and end dates of employment, number of Workweeks during the Class Period, number of Pay Periods during the PAGA Period, and other information necessary to mail the Class Notice.

1.9. "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).

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

1.11. "Class Notice" means the Court Approved Notice of Class Action Settlement and hearing date for Final Court Approval, to be mailed to Class Members in English in the form, without material variation, attached as **Exhibit A** and incorporated by reference into this Agreement.

1.12. "Class Period" or "Settlement Class Period" means the period from July 9, 2021 through date the Court enters an order granting Preliminary Approval of the Settlement Agreement.

1.13. "Class Representative" means the named Plaintiffs in the Action seeking Court approval to serve as a Class Representative.

1.14. "Class Representative Service Payment" means the payment of $10,000.00 to the Class Representative for initiating the Action and providing services in support of the Action.

1.15. "Court" means the Superior Court of California, County of Los Angeles.

1.16. "Defendants" means Abercrombie & Fitch Stores, Inc., Abercrombie & Fitch Management Co. and Abercrombie & Fitch Co.

1.17. "Defense Counsel" means Littler Mendelson P.C.

1.18. "Effective Date" means the later of the following events: (a) the Court provides notice of entry of a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final and no longer appealable. For purposes of this Agreement, "becomes final and is no longer appealable" shall mean the latter of: (a) the day after the last date by which a notice of appeal, writ, or other appellate proceeding to the applicable Court of Appeal of the order and judgment approving this the Settlement Agreement may be timely filed and none is filed (i.e., 61 days from notice of entry of judgment); (b) if an appeal, writ, or other appellate proceeding is filed, and the appeal is finally disposed of by ruling, dismissal, denial, or in any other manner that confirms the validity of the order and judgment, the day after the last date for filing a request for further review of the order and judgment approving this Agreement passes, and no further review is requested; or (c) if an appeal, writ, or other appellate proceeding is filed and the order approving this Agreement is affirmed and further review of the order is requested, the day after the review is finally resolved and the order and judgment approving this Agreement is affirmed. No funding of the Settlement shall occur until after the Effective Date has passed.

1.19. "Final Approval" means the Court's order granting final approval of the Settlement.

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1.20. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of the Settlement.

1.21. "Gross Settlement Amount" or "GSA" means $3,323,000.00, which is the total amount Defendants agrees to pay under the Settlement except as provided in Paragraph 8 below.

1.22. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

1.23. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 35% of the PAGA Penalties calculated according to the number of Pay Periods worked during the PAGA Period.

1.24. "Judgment" means the judgment entered by the Court based upon the Final Approval.

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

1.26. "LWDA PAGA Payment" means the 65% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.27. "Net Settlement Amount" or "NSA" means Gross Settlement Amount, less the following payments in the amount approved by the Court: Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, the Administration Expenses Payment, Individual PAGA Payments, and the LWDA PAGA Payment.

1.28. "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.

1.29. "Operative Complaint" means the operative Second Amended Complaint filed in the Action on May 14, 2026.

1.30. "Pay Period" means any pay period during which an Aggrieved Employee worked for Defendants during the PAGA Period.

1.31. "PAGA Period" means the period from February 12, 2024 through the date the Court enters an order of Preliminary Approval of the Settlement Agreement.

1.32. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.)

1.33. "PAGA Notice" means Plaintiff's February 12, 2025, letter to Defendants and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

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1.34. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 35% to the Aggrieved Employees and 65% to the LWDA in settlement of the Released PAGA Claims.

1.35. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.36. "Plaintiffs" means Aldriech Villamor and Rony Alexis Bonilla, the named plaintiffs in the Action.

1.37. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.

1.38. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval of the Class Action and PAGA Settlement.

1.39. "Released Class Claims" means the claims being released as described in Paragraph 5.3 below.

1.40. "Released PAGA Claims" means the claims being released as described in Paragraph 5.4 below.

1.41. "Released Parties" means Defendants and any of their past, present and future direct or indirect parents, subsidiaries, predecessors, successors and affiliates, as well as each of their past, present and future officers, directors, employees, partners, members, shareholders and agents, attorneys, insurers, reinsurers, and any individual or entity which could be jointly liable with Defendants.

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

1.43. "Response Deadline" means 60 days after the Administrator mails the Class Notice to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

1.44. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

1.45. "Workweek" means any week during which a Class Member worked for Defendants during the Class Period.

2. RECITALS.

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2.1. On February 13, 2025, Plaintiffs commenced this Action by filing a Complaint alleging causes of action against Defendants for (1) Failure to Provide Meal Periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198); (2) Failure to Provide Rest Periods (Lab. Code §§ 204, 223, 226.7 and 1198); (3) Failure to Pay Hourly Wages and Overtime (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1197.1 and 1198); (4) Failure to Pay Proper Sick Pay (Lab. Code §246) (5) Failure to Provide Accurate Written Wage Statements (Lab. Code §§226(a)) (6) Failure to Timely Pay All Final Wages (Lab. Code §§ 201, 202 and 203); (7) Failure to Indemnify (Lab. Code § 2802); and (8) Unfair Competition (Bus. & Prof. Code §§ 17200 et seq.) On February 12, 2025, Plaintiffs gave timely notice to the LWDA and Defendants that Plaintiffs intended to proceed with a representative action under PAGA (LWDA-CM-1019457-24) pursuant to Labor Code § 2699.3, subd.(a). On April 18, 2025, Plaintiffs filed the First Amended Complaint, which added claims for civil penalties under Labor Code § 2698, *et seq.* On May 14, 2026, Plaintiff filed a Second Amended Complaint removing Shauna Kohanbashir as a Plaintiff and Class Representative and adding Aldriech Villamor and Rony Alexis Bonilla as named Plaintiffs and Class Representatives ("Operative Complaint").

2.2. Defendants deny the allegations in the Operative Complaint, deny any failure to comply with the laws identified in the Operative Complaint, and deny any and all liability for the causes of action alleged.

2.3. On November 20, 2025, the Parties participated in private mediation before Lonnie Giamela. After further discussions and negotiations, the Parties were able to execute a Memorandum of Understanding of the settlement in principle on December 19, 2025.

2.4. In advance of mediation, Class Counsel conducted a thorough investigation into the facts of, and applicable law to, the Action. Prior to mediation, Plaintiffs also obtained and analyzed a sampling of time and payroll data for Class Members and the necessary policy documents through informal discovery to properly evaluate the strength and weaknesses of the claim and engage in meaningful settlement discussions. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116 (2008) ("*Dunk/Kullar*").

2.5. The Court has not granted class certification because the Parties engaged in mediation before the class certification stage. The Parties are stipulating to class certification for settlement purposes only.

2.6. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. <u>MONETARY TERMS</u>.

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3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendants will pay the Gross Settlement Amount of Three Million, Three Hundred and Twenty-Three Thousand dollars and zero cents ($3,323,000.00) on a non-reversionary basis. The Gross Settlement Amount includes employee payroll taxes. The Gross Settlement Amount does not include employer payroll taxes owed on the wage portions of the Individual Class Payments, which Defendants will pay separately.

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 Plaintiff: A Class Representative Service Payment to Plaintiffs of not more than $10,000.00 to each Plaintiff (in addition to any Individual Class Payment and any Individual PAGA Payment Plaintiffs are entitled to receive as Participating Class Members). Defendants will not oppose Plaintiffs' request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payment. The amount of the Class Representative Service Payment is not a material term of this settlement, and not a basis on which to terminate/void this settlement or appeal the Court's order on this settlement.

3.2.2 To Class Counsel: A Class Counsel Fees Payment of not more than one-third of the Gross Settlement Amount, which is currently estimated to be $1,107,666.67, and a Class Counsel Litigation Expenses Payment of actual and reasonable litigation costs and expenses incurred to prosecute the Action. Defendants will not oppose requests for these payments. 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. 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. 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. The amount of the Class Counsel Fees Payment and Class Counsel Litigation Expenses

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Payment are not a material term of this settlement, and not a basis on which to terminate/void this settlement or appeal the Court's order on this settlement.

3.2.3 To the Administrator: An Administrator Expenses Payment not to exceed $75,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than $75,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4 To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

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. The remaining 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. Notwithstanding the above, all Aggrieved Employees will be bound to the PAGA Settlement and will be issued their Individual PAGA Payment, irrespective of whether they submit a Request for Exclusion.

3.2.5 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of $200,000.00 to be paid from the Gross Settlement Amount, with 65% allocated to the LWDA PAGA Payment and 35% 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' share of PAGA Penalties by the total number of Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved

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Employee's Pay Periods. 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 less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks. Based on a review of its records, Defendants represented that there are approximately 19,127 Class Members who collectively worked a total of about 604,224 Workweeks between July 9, 2021 and November 29, 2025.

4.2. Class Data. Not later than 30 days after the Court grants Preliminary Approval of the Settlement, Defendants will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendants have a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendants 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. Defendants shall fully fund the Gross Settlement Amount and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 14 days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendants 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.

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 U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all

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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 retuned undelivered without USPS forwarding address. Within 3 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

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

4.4.4 The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendants 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 Defendants fully fund the entire Gross Settlement Amount and fund all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs, Class Members, and Aggrieved Employees will release claims against all Released Parties as follows:

5.1 Plaintiffs' Release. Plaintiffs release the Released Parties from any and all claims and potential claims that may legally be waived by private agreement, whether known or unknown, which Plaintiffs have asserted or could assert against the Released Parties arising out of or relating in any way to any acts, circumstances, facts, transactions, or omissions occurring up to and including the date Plaintiffs sign this Agreement ("Plaintiffs' Release"). Plaintiffs' Release includes, but is not limited to, (i) any and all Claims arising under Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1866, the Civil Rights Act of

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1991, the Age Discrimination in Employment Act of 1967 (ADEA), the Family and Medical Leave Act (FMLA), the Employee Retirement Income Security Act (ERISA), the National Labor Relations Act (NLRA), the Pregnancy Discrimination Act, the Pregnant Workers Fairness Act (PWFA), the Worker Adjustment and Retraining Notification Act, the Americans with Disabilities Act (ADA), the Uniformed Services Employment and Reemployment Rights Act (USERRA), any amendments to such laws, any other federal, state, or local constitution, charter, law, rule, ordinance, regulation, or order or those of any other country; (ii) Claims based on veterans status; (iii) Claims in equity or under common law including but not limited to claims for tort, breach of contract (express or implied, written or oral), wrongful discharge, defamation, emotional distress, and negligence.

5.2 Plaintiffs' Waiver of Rights Under Civil Code Section 1542. For purposes of Plaintiffs' Release, Plaintiffs expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the Civil Code, which reads:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH 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.

Plaintiffs understand that Section 1542 gives the right not to release existing claims of which they are not now aware, unless Plaintiffs voluntarily choose to waive this right. Having been so apprised, Plaintiffs nevertheless voluntarily waive the rights described in Section 1542, and elect to assume all risks for claims that now exist in their favor, known or unknown. The release of the claims of Plaintiffs as set forth in this paragraph is a condition precedent to enforcement of the Settlement Agreement.

Plaintiffs will direct all reference inquires to The Work Number through www.theworknumber.com/verifier, 800-367-5690, or 800-367-2884, Employer Code 10902. Defendants will respond to all such reference requests by providing only dates of employment and job title for Plaintiffs.

In exchange for the consideration provided herein, Defendants hereby release, relinquish, and give up (and agree not to file any suit or other claim with respect to) any and all claims, demands, obligations, liabilities, debts, losses, breaches, suits, causes of action, known or unknown, foreseen or unforeseen that they may have against Plaintiffs related to Plaintiffs' employment or cessation of employment with Defendants, whether in law or in equity.

5.3 Release by Participating Class Members: Participating Class Members release the Released Parties from any and all claims set forth in the Operative Complaint, including, but not limited to: (1) Minimum Wage Violations (Labor Code §§ 223, 1194, 1194.2, 1197, 1197.1, 1197.2, and 1198); (2) Failure to Pay All Overtime Wages (Labor Code §§ 223, 510, 1198 and 1194); (3) Meal Period Violations (Labor Code §§ 204, 226.7, 512 and 1198); (4) Rest Period Violations (Labor Code §§ 204, 223, 226.7, and 1198); (5) Untimely Payment of

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Wages (Labor Code §§ 201, 202, and 203); (6) Wage Statement Violations (Labor Code § 226); (7) Failure to Pay Proper Sick Pay (Labor Code § 246); (8) Failure to Reimburse Necessary Business Expenses (Labor Code §§ 2800 and 2802); and (9) Unfair Competition (Violation of Business and Professions Code §§ 17200 *et seq*.), and those claims predicated on the same or similar facts and/or claims alleged in the Operative Complaint as well as any claims that could have been pled which arise from the same or similar facts concerning Plaintiffs or the Class, as well as any claims under the California Labor Code and California Industrial Welfare Commission Wage Orders (specifically for violations of Labor Code sections 201, 202, 203, 204, 204b, 210, 223, 226, 226.3, 226.7, 246-248.7, 510, 511, 512, 515, 558, 1174, 1182.12, 1194, 1194.2, 1197 *et seq*., 1197.1, 1198, 2800, 2802, and applicable IWC Wage Orders, and California Code of Regulations, Title 8, section 11000 *et seq*.); any claims for interest, penalties (including but not limited to waiting time penalties but excluding civil penalties under PAGA), injunctive relief, declaratory relief, restitution, alleged or which could have been alleged under the facts, allegations and/or claims pleaded in the Operative Complaint; and any and all other claims under California common law, federal law, and the California Business and Professions Code alleged in or that could have been alleged under the same or similar facts, allegations and/or claims pleaded in the Operative Complaint ("Released Class Claims").

5.4 Release by Aggrieved Employees: All Aggrieved Employees, Plaintiffs, and the State of California are deemed to release the Released Parties from any and all claims set forth in the PAGA Notice seeking penalties pursuant to the California Private Attorneys General Act of 2004 (Labor Code §§ 2698, *et seq*.) based on alleged violations of the California Labor Code, including, but not limited to: (1) Minimum Wage Violations (Labor Code §§ 223, 1194, 1194.2, 1197, 1197.1, 1197.2, and 1198); (2) Failure to Pay All Overtime Wages (Labor Code §§ 223, 510, 1198 and 1194); (3) Meal Period Violations (Labor Code §§ 204, 226.7, 512 and 1198); (4) Rest Period Violations (Labor Code §§ 204, 223, 226.7, and 1198); (5) Untimely Payment of Wages (Labor Code §§ 201, 202, and 203); (6) Wage Statement Violations (Labor Code § 226); (7) Failure to Pay Proper Sick Pay (Labor Code § 246); (8) Failure to Reimburse Necessary Business Expenses (Labor Code §§ 2800 and 2802); and (9) Unfair Competition (Violation of Business and Professions Code §§ 17200 *et seq*.); and those claims predicated on the same or similar facts in the PAGA Notice, as well as any claims that could have been pled which arise from the same or similar facts concerning Plaintiffs or Aggrieved Employees, including PAGA claims as to California Industrial Welfare Commission Wage Orders (specifically for violations of Labor Code sections 201, 202, 203, 204, 204b, 210, 223, 226, 226.3, 226.7, 246-248.7, 510, 511, 512, 515, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197 *et seq*., 1197.1, 1198, 1199, 2800, 2802, 2698 *et seq*., 2699, 2699(a), and applicable IWC Wage Orders, and California Code of Regulations, Title 8, section 11000 *et seq*.; or which could have been alleged under the same or similar facts, allegations and/or claims pleaded in the PAGA Notice ("Released PAGA Claims").

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6. MOTION FOR PRELIMINARY APPROVAL. Plaintiffs will prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approval.

6.1. Plaintiff's Responsibilities. Plaintiffs will prepare all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under Dunk/Kullar and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from 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; (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient (if any). In their Declaration, Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2. Responsibilities of Counsel. Class Counsel will obtain a prompt hearing date for the Motion for Preliminary Approval, file the Motion for Preliminary Approval no later than 16 court days before the hearing, unless otherwise ordered by the Court, and deliver the Court's Preliminary Approval Order to the Administrator.

6.3. Duty to Cooperate. 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, Phoenix Settlement Administrators agrees to be bound by this Agreement and

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to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

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

7.4. Notice to Class Members.

7.4.1 No later than three (3) calendar days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, Aggrieved Employees, Workweeks, and Pay Periods in the Class Data.

7.4.2 Using best efforts to perform as soon as possible, and in no event later than 7 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice, substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

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 shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

7.4.4 The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 60 days otherwise provided in the Class Notice for all Class

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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, Defendants 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, which ever are later.

7.5 Requests for Exclusion (Opt-Outs).

7.5.1 Class Members who wish to exclude themselves from (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 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 shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of validity and authenticity shall be final and not appealable or otherwise susceptible to challenge.

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 5.1 and 5.2 of this Agreement, regardless of 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 shall not receive an Individual Class Payment

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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 Released PAGA Claims identified in Paragraph 5.4 of this Agreement and are eligible for an Individual PAGA Payment.

7.6 Challenges to Calculation of Workweeks. Each Class Member shall 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 Workweeks and Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination 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 fax, email, or 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

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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 five (5) days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

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 and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly Report"). The Weekly Reports must include 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 and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.

7.8.5 Administrator's Declaration. Not later than 14 days before the date by which Plaintiffs is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of

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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 ten (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.** Based on its records, Defendants have estimated that 19,127 Class Members worked approximately 604,224 Workweeks between July 9, 2021 and November 29, 2025. If the actual number of Workweeks during the Class Period exceeds 604,224 by more than 10% (i.e., if there are more than 664,646 Workweeks), Defendants shall have the option to either (1) increase the Gross Settlement Amount in proportion to the increase in Workweeks over 10% (e.g., if the number of Workweeks is 11% greater than 604,224, Defendants will have the option to increase the Gross Settlement Amount by 1%); or (2) in its unilateral discretion, if Defendants do not wish to pay the proportional increase, they may instead elect to end the Class Period on the date that the total number of Workweeks reaches 664,646. If the Gross Settlement Amount is increased pursuant to this provision, the Class Counsel Fees Payment shall be one-third of the increased Gross Settlement Amount.

9. **DEFENDANTS' RIGHT TO WITHDRAW.** Defendants shall have the right to withdraw from this Settlement or terminate this Settlement if more than 10% of the Class Members submit timely requests to opt out of the Settlement. Defendants will be responsible for the Administration Expenses incurred to date upon its election to withdraw from the Settlement. Defendants must notify Class Counsel and the Court of its election to withdraw not later than seven (7) 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").

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

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Court no later than five (5) 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 shall 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, 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 shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on 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 shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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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 Defendants that any of the allegations in the Operative Complaint have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendants' 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, Defendants reserve the right to contest certification of any class for any reasons, and Defendants reserve all available defenses to the claims in the Action, and Plaintiffs reserves the right to move for class certification on any grounds available and to contest Defendants' 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, Defendants 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, Defendants and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. Thereafter, Plaintiffs and Class Counsel agree not to publicize the terms of this Settlement with the media, including but not limited to, any newspaper, journal, magazine, website and/or online reporter of settlements or on any website or through social media. This paragraph does not

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restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

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 shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

12.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

12.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendants, 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. Further, Plaintiffs and Class Counsel warrant and represent that there are no liens on the Settlement Agreement.

12.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

12.7. 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.

12.8. No Tax Advice. Neither Plaintiffs, Class Counsel, Defendants nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

12.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

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

12.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

12.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

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

12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendants in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs shall destroy, all paper and electronic versions of Class Data received from Defendants unless, prior to the Court's discharge of the Administrator's obligation, Defendants makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

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

12.16. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

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

To Plaintiff:

D.Law, Inc.
David Keledjian

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d.keledjian@d.law
Enoch J. Kim
e.kim@d.law
Matthew Carraher
m.carraher@d.law
Svetlana Hovhannisyan
l.hovhannisyan@d.law
250 N. Madison Ave.., 2nd Floor
Pasadena CA 91101
Telephone: (818) 962-6465
Fax: (818) 962-6469

To Defendant:

Rachael Lavi, Bar No. 294443
rlavi@littler.com
Cassidy C. Veal, Bar No. 323899
cveal@littler.com
LITTLER MENDELSON, P.C.
2049 Century Park East,
5th Floor
Los Angeles, California 90067.3107
Telephone: 310.553.0308
Facsimile: 800.715.1330

12.18. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

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

12.20. Termination of Settlement. Subject to the obligation(s) of mutual full cooperation set out in this Agreement, either Plaintiffs or Defendants may terminate this Settlement if after submitting the Settlement for approval to the Court as set forth in the Agreement, any Court declines to enter the preliminary approval order, the final approval order, or judgment in substantially the form submitted by the Parties as to any Material Term, or if an appeal opposing the judgment is not ultimately dismissed. Material Terms include: the definition of Settlement Class Members (Paragraph 1.9), the definition of Aggrieved Employees (Paragraph 1.4), the definition of Class Period (Paragraph 1.12), the definition of Effective Date (Paragraph 1.18), the definition of Gross Settlement Amount (Paragraph 1.21), the

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definition of PAGA Period (Paragraph 1.31), the definition of Released Class Claims (Paragraph 1.39), the definition of Released PAGA Claims (Paragraph 1.40), the definition of Released Parties (Paragraph 1.41), and Plaintiffs' Release (Paragraph 5.1). The terminating Party shall give to the other Party (through its/their counsel) written notice of its decision to terminate no later than fourteen (14) calendar days after receiving notice that one of the enumerated events has occurred. Termination shall have the following effects:

12.20.1 The MOU and the Settlement Agreement shall be terminated and shall have no force or effect, and no Party shall be bound by any of its terms.

12.20.2 In the event the Settlement Agreement is terminated, Defendants shall have no obligation to make any payments to any party, Class Member, Aggrieved Employee or attorney. If there are any fees incurred by the Settlement Administrator and the Settlement is terminated by Defendants, Defendants shall solely be responsible for any costs and fees incurred by the Settlement Administrator.

12.20.3 The preliminary approval order, final approval order and judgment shall be vacated.

12.20.4 The Settlement Agreement and all negotiations, statements and proceedings relating thereto shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions prior to the Settlement.

12.20.5 Except as otherwise discoverable, neither this Agreement nor any ancillary documents, actions, statements or filings in furtherance of settlement (including all matters associated with the mediation) shall be admissible or offered into evidence in the Action or any other action for any purpose whatsoever.

DATED: 7/20/2026

BY: Signed by: Aldriech Villamor B916869450DA44E...

Aldriech Villamor

DATED:

BY: _____

Rony Alexis Bonilla

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definition of PAGA Period (Paragraph 1.31), the definition of Released Class Claims (Paragraph 1.39), the definition of Released PAGA Claims (Paragraph 1.40), the definition of Released Parties (Paragraph 1.41), and Plaintiffs' Release (Paragraph 5.1). The terminating Party shall give to the other Party (through its/their counsel) written notice of its decision to terminate no later than fourteen (14) calendar days after receiving notice that one of the enumerated events has occurred. Termination shall have the following effects:

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12.20.3 The preliminary approval order, final approval order and judgment shall be vacated.

12.20.4 The Settlement Agreement and all negotiations, statements and proceedings relating thereto shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions prior to the Settlement.

12.20.5 Except as otherwise discoverable, neither this Agreement nor any ancillary documents, actions, statements or filings in furtherance of settlement (including all matters associated with the mediation) shall be admissible or offered into evidence in the Action or any other action for any purpose whatsoever.

DATED: BY: _____

Aldriech Villamor

DATED: 7/21/2026 BY: Signed by: 4937DE3C840943E...

Rony Alexis Bonilla

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DATED: BY: _____

Name: Robert Ball

Title: Executive Vice President, Chief Financial Officer

Abercrombie & Fitch Stores, Inc., Abercrombie & Fitch Management Co. and Abercrombie & Fitch Co.

DATED: 7/21/26

D.LAW, INC.

BY: _____
David Keledjian
Enoch J. Kim
Counsel for Plaintiffs Aldriech Villamor and Rony Alexis Bonilla

DATED: July 22, 2026

LITTLER MENDELSON, P.C

BY: _____
Rachael Lavi
Counsel for Defendants Abercrombie & Fitch Stores, Inc., Abercrombie & Fitch Management Co. and Abercrombie & Fitch Co.

EXHIBIT A

Superior Court of California, County of Santa Clara
Kohanbashir v. Abercrombie & Fitch Stores, Inc. et al.
Case No. 25STCV03948

The Superior Court for the State of California authorized this Notice.
It's not junk mail, spam, an advertisement, or solicitation by a lawyer.
This is not a lawsuit against you and you are not being sued

COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL ("Notice")

To: All current and former non-exempt, hourly-paid employees who worked for Defendant Abercrombie & Fitch Stores, Inc. in the State of California at any time during the period of July 9, 2021 through [date of Preliminary Approval Order] ("Class Period").

YOU MAY BE ELIGIBLE TO RECEIVE PAYMENT FROM THE CLASS ACTION AND PAGA SETTLEMENT DESCRIBED IN THIS NOTICE.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	To receive a Settlement payment, you do not need to do anything. Your payment will be mailed to you, automatically, if the Court grants final approval of the Settlement. *You must, however, keep a current address on file with the Settlement Administrator to ensure receipt of your check.*
CHANGE CONTACT AND ADDRESS INFORMATION	Update your address with the Settlement Administrator to ensure your check is sent to the correct address.
EXCLUDE YOURSELF FROM THE CLASS SETTLEMENT	If you do not want to participate in the Class portion of the Settlement, you may exclude yourself (opt out) from the Class portion of the Settlement. If you exclude yourself from the Class portion of the Settlement, you will not receive an Individual Class Payment (defined below). This option preserves your right to pursue the Released Class Claims (defined below) against Defendants. However, even if you exclude yourself from the Class portion of the Settlement, you will still receive your Individual PAGA Payment from the PAGA portion of the Settlement (if eligible) and be bound by it as further explained below.
OBJECT	Write to the Settlement Administrator if you think the Settlement is not fair or you can appear at a hearing to explain to the Court why you think the Settlement is not fair.

- **YOUR RIGHTS AND OPTIONS – AND THE DEADLINES TO EXERCISE THEM – ARE EXPLAINED IN THIS NOTICE.**
- **DEFENDANT WILL NOT RETALIATE IN ANY MANNER AGAINST ANYONE FOR PARTICIPATING OR NOT PARTICIPATING IN THIS SETTLEMENT.**

BACKGROUND ON THE LAWSUIT

1. Why did I get this notice?

You received this notice because Defendants' records identify you as someone who worked for Defendant Abercrombie & Fitch Stores, Inc. in California as a non-exempt, hourly-paid employee at any time during the Class Period, making you a "Class Member." The Settlement will resolve certain wage and hours claims of Class Members, which are described below, during the Class Period. The Settlement will also resolve claims for civil penalties brought under the California Private Attorneys General Act ("PAGA"). If you are a Class Member, you are also an "Aggrieved Employee" if you worked for Defendant Abercrombie & Fitch Stores, Inc. in California as a non-exempt, hourly-paid employee at any time from February 12, 2024, through [Date of Preliminary Approval Order] ("PAGA Period").

The purpose of this Notice is to explain the lawsuit, the pending Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court has preliminarily approved the proposed Settlement and directed that you receive this Notice. The Court has not yet decided whether to grant final approval. The Court will hold a final approval hearing (details provided below) to determine whether to finally approve the Settlement.

2. What is this Class and PAGA Lawsuit about?

On February 13, 2025, Plaintiffs commenced this Action by filing a Complaint alleging causes of action against Defendants for (1) Failure to Provide Meal Periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198); (2) Failure to Provide Rest Periods (Lab. Code §§ 204, 223, 226.7 and 1198); (3) Failure to Pay Hourly Wages and Overtime (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1197.1 and 1198); (4) Failure to Pay Proper Sick Pay (Lab. Code §246) (5) Failure to Provide Accurate Written Wage Statements (Lab. Code §§226(a)) (6) Failure to Timely Pay All Final Wages (Lab. Code §§ 201, 202 and 203); (7) Failure to Indemnify (Lab. Code § 2802); and (8) Unfair Competition (Bus. & Prof. Code §§ 17200 et seq.) On February 12, 2025, Plaintiffs gave timely notice to the LWDA and Defendants that Plaintiffs intended to proceed with a representative action under PAGA (LWDA-CM-1019457-24) pursuant to Labor Code § 2699.3, subd.(a). On April 18, 2025, Plaintiffs filed the First Amended Complaint, which added claims for civil penalties under Labor Code § 2698, *et seq.* On May 14, 2026, Plaintiff filed a Second Amended Complaint removing Shauna Kohanbashir as a Plaintiff and Class Representative and adding Alderiech Villamore and Alexis Bonilla as named Plaintiffs and Class Representatives ("Operative Complaint").

Defendants deny all allegations in the Operative Complaint and contend that they have fully complied with the California Labor Code. The Settlement is not an admission of any wrongdoing by Defendants or an indication that any law was violated or that this case was suitable for class or representative treatment.

3. Why is there a Settlement?

The Court has not decided in favor of Plaintiffs or Defendants or made any decision as to whether this case could proceed on a class or representative basis. Instead, with the assistance of an experienced and neutral mediator, the Parties successfully negotiated the Settlement to resolve the Action rather than continue the expensive and time-consuming process of litigation. Both sides agree the proposed Settlement is a compromise of disputed claims.

4. Who are the Attorneys for the Parties?

Counsel for Plaintiffs and the Class ("Class Counsel") Counsel for Defendant:

Counsel for Plaintiff:
David Keledjian
Enoch J. Kim
Matthew Carraher
Svetlana Hovhannisyan
D.LAW, INC.
250 N. Madison Ave., Second Floor
Pasadena, CA 91101
Telephone: (818) 962-6465
Fax: (818) 962-6469

Rachael Lavi, Bar No. 294443
Cassidy C. Veal, Bar No. 323899
LITTLER MENDELSON, P.C.
2049 Century Park East,
5th Floor
Los Angeles, California 90067.3107
Telephone: 310.553.0308
Facsimile: 800.715.1330

THE TERMS OF THE SETTLEMENT

5. What is the Settlement Amount?

The proposed Settlement provides for a maximum payment of $3,363,000.00 (the "Gross Settlement Amount"). From the Gross Settlement Amount, Class Counsel will apply to the Court for attorneys' fees of $1,107,666.67 and actual litigation costs, which is currently estimated not to exceed $25,000.00; a payment of up to $10,000.00 to each Plaintiff for their time and efforts to initiate and prosecute the Lawsuit ("Class Representative Service Payment"); PAGA Penalties of $200,000.00, with $130,000.00 allocated to the California Labor Workforce Development Agency ("LWDA") and $70,000.00 allocated to the Aggrieved Employees as Individual PAGA Payments based on the number of pay periods worked during the PAGA Period; and payment not to exceed $75,000.00 to Phoenix Settlement Administrators ("Administrator") for settlement administration expenses ("Administration Expenses Payment"). The exact amount of the attorneys' fees, litigation costs, Class Representative Service Payment, and Administration Expenses Payment will be determined by the Court at the Final Approval Hearing. The remaining portion of the Gross Settlement Amount ("Net Settlement Amount") will be apportioned and paid out to Class Members who do not opt out from the Settlement ("Participating Class Members") as individual payments based on the number of workweeks worked during the Class Period ("Individual Class Payments").

6. How will the Individual Class Payments to Participating Class Members be calculated?

Participating Class Members will receive Individual Class Payments as a proportional amount of the Net Settlement Amount. **A claim form is not required**. Class Members who opt out of the Class portion of the Settlement will not receive an Individual Class Payment and will not be bound by the Class portion of the Settlement.

Each Participating Class Member's Individual Class Payment will be a pro-rata share of the Net Settlement Amount based on the number of workweeks worked during the Class Period ("Workweeks"). The Administrator will calculate the total Workweeks for all Participating Class Members. The respective Workweeks for each Participating Class Member will be divided by the total Workweeks for all Participating Class Members, resulting in the pro-rata share of the Net Settlement Amount that each Participating Class Member would be entitled to.

All Individual Class Payments to Participating Class Members shall be allocated as follows for tax purposes: 20% of each Participating Class Member's Individual Class Payment will be allocated to wage claims (the "Wage Portion"). The Wage Portion is subject to tax withholding and will be reported on an IRS W-2 Form. 10% of each Participating Class Member's Individual Class Payment will be allocated to interest and the remaining 70% allocated to penalties (the "Non-Wage Portion"). The Non-Wage Portion is 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.

Your total estimated Workweeks is _____. Based on that, your anticipated approximate Individual Class Payment is _____.

7. How will the PAGA Penalties be allocated to the LWDA and Aggrieved Employees?

The Parties will ask the Court to approve $200,000.00 in PAGA Penalties in settlement of claims of civil penalties under PAGA. As required under PAGA, 65% of the PAGA Penalties, or $130,000.00, will be paid to the LWDA ("LWDA PAGA Payment"). The remaining 35% of the PAGA Penalties, or $70,000.00, will be paid to Aggrieved Employees ("Individual PAGA Payment").

No claim form is required to receive an Individual PAGA Payment. Because Aggrieved Employees cannot opt out of the PAGA portion of the Settlement, Aggrieved Employees will receive an Individual PAGA Payment and be bound by the PAGA portion of the Settlement even if they opt out of the Class portion of the Settlement.

Each Aggrieved Employee's Individual PAGA Payment will be a pro-rata share of the 35% ($70,000.00) of the PAGA Penalties to be distributed to Aggrieved Employees. Individual PAGA Payments will be based on the number of Pay Periods that each Aggrieved Employee worked for Defendant during the PAGA Period as a proportion of all Pay Periods worked by all Aggrieved Employees during the PAGA Period. For tax purposes, 100% of the Individual PAGA Payments will be allocated as penalties for which an IRS Form 1099 will be issued, if required by law.

Your total estimated Pay Periods are _____. Based on that, your anticipated Individual PAGA Payment is _____.

HOW TO GET A PAYMENT

8. How can I get a settlement payment?

If you do nothing, you will automatically receive your Individual Class Payment and Individual PAGA Payment (if any) after the Court's approval of the Settlement becomes final. You must notify the Administrator of any change in your name and/or mailing address if the information shown on this is not correct.

It is your responsibility to keep the Administrator informed of any change in your address. Settlement payments will be mailed to the last known address the Settlement Administrator has on file for you. You can contact the Administrator by U.S. Mail, email, or phone at _____ if you need to update your contact information.

9. What do I do if I believe my Workweeks and/or Pay Periods are incorrect?

If you believe the Workweeks and/or Pay Periods above are not correct, you may send a letter to the Administrator indicating what you believe to be the correct information. Your letter must be postmarked, emailed, or faxed on or before _____, 2026 [*60 days within mailing of Notice*]. You should include any documents or other information which supports what you believe to be the number of Workweeks and/or Pay Periods you worked. The Settlement Administrator will resolve any dispute regarding these issues based on Defendants' records and any information you provide.

10. When can I expect to receive a settlement check?

Individual Class Payments and Individual PAGA Payments will be mailed to Participating Class Members and Aggrieved Employees approximately 14 days after the Administrator receives the funds from Defendants (due

14 days after the Effective Date). The "Effective Date" means the later of the following events: (a) the Court provides notice of entry of a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final and no longer appealable. For purposes of this Agreement, "becomes final and is no longer appealable" shall mean the latter of: (a) the day after the last date by which a notice of appeal, writ, or other appellate proceeding to the applicable Court of Appeal of the order and judgment approving this the Settlement Agreement may be timely filed and none is filed (i.e., 61 days from notice of entry of judgment); (b) if an appeal, writ, or other appellate proceeding is filed, and the appeal is finally disposed of by ruling, dismissal, denial, or in any other manner that confirms the validity of the order and judgment, the day after the last date for filing a request for further review of the order and judgment approving this Agreement passes, and no further review is requested; or (c) if an appeal, writ, or other appellate proceeding is filed and the order approving this Agreement is affirmed and further review of the order is requested, the day after the review is finally resolved and the order and judgment approving this Agreement is affirmed.

Settlement checks should be cashed promptly upon receipt. Proceeds of checks that remain uncashed after 180 days from the date of issuance will be transferred to 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 Fund, you should consult the rules of the Fund for instructions on how to retrieve your money. If your settlement check is lost or misplaced, you should contact the Settlement Administrator immediately.

WHAT HAPPENS IF THE COURT APPROVES THE SETTLEMENT

11. What am I giving up to get an Individual Settlement Payment?

If the Court approves the Settlement and unless you exclude yourself from the Class portion of the Settlement, you will become a Participating Class Member, and that means that you cannot sue, continue to sue, or be part of any other lawsuit against Defendant concerning the claims being resolved in the Settlement. Specifically, you will be giving up or "releasing" the claims described below:

Release by Participating Class Members: Participating Class Members release the Released Parties from any and all claims set forth in the Operative Complaint, including, but not limited to: (1) Minimum Wage Violations (Labor Code §§ 223, 1194, 1194.2, 1197, 1197.1, 1197.2, and 1198); (2) Failure to Pay All Overtime Wages (Labor Code §§ 223, 510, 1198 and 1194); (3) Meal Period Violations (Labor Code §§ 204, 226.7, 512 and 1198); (4) Rest Period Violations (Labor Code §§ 204, 223, 226.7, and 1198); (5) Untimely Payment of Wages (Labor Code §§ 201, 202, and 203); (6) Wage Statement Violations (Labor Code § 226); (7) Failure to Pay Proper Sick Pay (Labor Code § 246); (8) Failure to Reimburse Necessary Business Expenses (Labor Code §§ 2800 and 2802); and (9) Unfair Competition (Violation of Business and Professions Code §§ 17200 *et seq*.), and those claims predicated on the same or similar facts and/or claims alleged in the Operative Complaint as well as any claims that could have been pled which arise from the same or similar facts concerning Plaintiffs or the Class, as well as any claims under the California Labor Code and California Industrial Welfare Commission Wage Orders (specifically for violations of Labor Code sections 201, 202, 203, 204, 204b, 210, 223, 226, 226.3, 226.7, 246-248.7, 510, 511, 512, 515, 558, 1174, 1182.12, 1194, 1194.2, 1197 *et seq*., 1197.1, 1198, 2800, 2802, and applicable IWC Wage Orders, and California Code of Regulations, Title 8, section 11000 *et seq*.); any claims for interest, penalties (including but not limited to waiting time penalties but excluding civil penalties under PAGA), injunctive relief, declaratory relief, restitution, alleged or which could have been alleged under the facts, allegations and/or claims pleaded in the Operative Complaint; and any and all other claims under California common law, federal law, and the California Business and Professions Code alleged in or that could have been alleged under the same or similar facts, allegations and/or claims pleaded in the Operative Complaint ("Released Class Claims").

"Released Parties" means Defendants and any of their past, present and future direct or indirect parents, subsidiaries, predecessors, successors and affiliates, as well as each of their past, present and future officers, directors, employees, partners, members, shareholders and agents, attorneys, insurers, reinsurers, and any individual or entity which could be jointly liable with Defendants.

12. What PAGA Claims are released by the Settlement?

Release by Aggrieved Employees: All Aggrieved Employees, Plaintiffs, and the State of California are deemed to release the Released Parties from any and all claims set forth in the PAGA Notice seeking penalties pursuant to the California Private Attorneys General Act of 2004 (Labor Code §§ 2698, *et seq*.) based on alleged violations of the California Labor Code, including, but not limited to: (1) Minimum Wage Violations (Labor Code §§ 223, 1194, 1194.2, 1197, 1197.1, 1197.2, and 1198); (2) Failure to Pay All Overtime Wages (Labor Code §§ 223, 510, 1198 and 1194); (3) Meal Period Violations (Labor Code §§ 204, 226.7, 512 and 1198); (4) Rest Period Violations (Labor Code §§ 204, 223, 226.7, and 1198); (5) Untimely Payment of Wages (Labor Code §§ 201, 202, and 203); (6) Wage Statement Violations (Labor Code § 226); (7) Failure to Pay Proper Sick Pay (Labor Code § 246); (8) Failure to Reimburse Necessary Business Expenses (Labor Code §§ 2800 and 2802); and (9) Unfair Competition (Violation of Business and Professions Code §§ 17200 *et seq*.); and those claims predicated on the same or similar facts in the PAGA Notice, as well as any claims that could have been pled which arise from the same or similar facts concerning Plaintiffs or Aggrieved Employees, including PAGA claims as to California Industrial Welfare Commission Wage Orders (specifically for violations of Labor Code sections 201, 202, 203, 204, 204b, 210, 223, 226, 226.3, 226.7, 246-248.7, 510, 511, 512, 515, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197 *et seq*., 1197.1, 1198, 1199, 2800, 2802, 2698 *et seq*., 2699, 2699(a), and applicable IWC Wage Orders, and California Code of Regulations, Title 8, section 11000 *et seq*.; or which could have been alleged under the same or similar facts, allegations and/or claims pleaded in the PAGA Notice ("Released PAGA Claims").

"PAGA Notice" is the letter submitted to the LWDA and Defendant by Plaintiff on February 12, 2025.

EXCLUDING YOURSELF FROM THE CLASS SETTLEMENT

13. How do I opt out of the Class portion of the Settlement?

If you wish to preserve your right to pursue your own separate lawsuit against Defendants for the Released Class Claims or otherwise do not want to participate in the Class portion of the Settlement for whatever reason, you have the option to exclude yourself from the Class portion of the Settlement. However, you cannot opt out of the PAGA portion of the Settlement. Class Members who opt out of the Class portion of the Settlement will still be bound by the PAGA portion of the Settlement and will receive an Individual PAGA Payment (if any).

To opt out of the Class portion of the Settlement and the release of Released Class Claims, you must provide a signed and dated letter to the Administrator requesting to be excluded. The letter must include the case name, case number (located at the top of this Notice), your full name, mailing address, email address or telephone number, and a statement that you request exclusion from the Settlement and do not wish to participate in the Settlement. The letter should be signed by you and faxed, emailed, or postmarked on or before _____, 2026 [*60 days within mailing of Notice*]. Opt-out requests faxed, emailed, or postmarked after the deadline will be invalid. The Administrator's information is below:

Administrator: Phoenix Settlement Administrators
Email Address:
Mailing Address:
Telephone:
Fax Number:

14. If I don't exclude myself from the Class portion of the Settlement, can I sue Defendants for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Defendants for the claims being released by the Class portion of the Settlement, the Released Class Claims. If you have a claim or lawsuit already filed against Defendants or any of the Released Parties, you should speak to your lawyer in that case immediately. You may need to exclude yourself from the Class portion of the Settlement to continue your own lawsuit. You cannot exclude yourself from the PAGA portion of the Settlement.

OBJECTING TO THE SETTLEMENT

15. How do I tell the Court that I don't like the Settlement?

If you are a Participating Class Member and don't think the Settlement is fair, you can object to some or all of the Settlement. You can either object to the Settlement in person at the Final Approval Hearing or you can submit a written objection. Written objections must be faxed, emailed, or mailed to the Administrator by _____, 2026 [*60 days within mailing of Notice*].

The written objection should state your name, mailing address, email address or telephone number, and describe all reasons for objecting to the terms of the Settlement. You should also include or attach any documents upon which your objection is based. If the Court overrules the objection at the Final Approval Hearing, the Settlement will be approved and you will receive your Individual Class Payment. If you do not submit a written objection, you may still appear at the Final Approval Hearing to voice your objection or to otherwise observe the proceedings.

Class Members who opt out from the Class portion of the Settlement have no right to object to the Settlement.

THE COURT'S FINAL APPROVAL HEARING

16. When and where will the Court decide whether to grant final approval of the Settlement?

The Court will hold a "Final Approval Hearing" in Department 10 of the Los Angeles County Superior Court located at 111 North Street Los Angeles, CA 90012 on _____ 2027, at ___. At this hearing, the Court will determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve the Class Counsel's request for attorneys' fees and costs, the Class Representative Service Payments, and the Administration Expense Payment.

The Court may reschedule the Final Approval Hearing without further notice to Class Members. You can also check the Court's docket in this case, which will have the most up to date information about the case, by visiting the Court's websites at https://www.lacourt.ca.gov/pages/lp/access-a-case/tp/find-case-information.

17. Do I have to come to the Final Approval Hearing?

No. Class Counsel will answer any questions the Court may have. But you are welcome to come at your own expense. If you timely submit a written objection, you don't have to come to Court to talk about it but you may. You may also hire and pay your own lawyer to attend if you so desire.

GETTING MORE INFORMATION

18. Whom may I contact if I have questions about the Settlement?

You may contact Class Counsel at the contact information above in Paragraph 4 if you have any questions about the Settlement. You may also contact the court-appointed Administrator, Phoenix Settlement Administrators, using its contact information provided above.

You may also visit [insert website URL] to review important case notices and documents.

PLEASE DO NOT TELEPHONE THE SUPERIOR COURT CLERK TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

EXHIBIT 2

Subject: Thank you for submission of your PAGA Case.
Date: Wednesday, February 12, 2025 at 2:54:31 PM Pacific Standard Time
From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY
To: Brent Jordan Insua

[You don't often get email from lwdadonotreply@dir.ca.gov. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

2/12/2025

LWDA Case No. LWDA-CM-1079586-25
Law Firm : D. Law
Plaintiff Name : Shauna Kohanbashir and other aggrieved employees
Employer: Abercrombie & Fitch Stores, Inc.; Abercrombie & Fitch Management Co.; Abercrombi
Filing Fee : $75.00
IFP Claimed : No

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.

Please note that a PAGA Notice is not a complaint within the meaning of Division 5 (Labor Code §§6300 et seq.). To file a complaint about workplace safety and health hazards with Cal/OSHA, please visit: https://www.dir.ca.gov/dosh/complaint.htm

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

D.Law

450 N. Brand Blvd, Suite 840
Glendale, CA 91203

(818) 962-6465
(818) 962-6469

February 12, 2025

VIA ON-LINE SUBMISSION AND MAIL:
https://dir.tfaforms.net/128 **(copy by certified mail to all Defendants)**

Private Attorneys General Act
Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Abercrombie & Fitch Stores, Inc.
6301 Fitch Path
New Albany, OH 43054
Certified Mail Tracking Number: 9414811206206451684448

Abercrombie & Fitch Stores, Inc.
CT Corporation, Agent for Service of Process
330 N. Brand Blvd.
Glendale, CA 91203
Certified Mail Tracking Number: 9414811206206451680235

Abercrombie & Fitch Management Co.
6301 Fitch Path
New Albany, OH 43054
Certified Mail Tracking Number: 9414811206206451688323

Abercrombie & Fitch Management Co.
CT Corporation, Agent for Service of Process
330 N. Brand Blvd.
Glendale, CA 91203
Certified Mail Tracking Number: 9414811206206451681423

Abercrombie & Fitch Co.
6301 Fitch Path
New Albany, OH 43054
Certified Mail Tracking Number: 9414811206206451609007

LWDA Case No.: LWDA-CM-1079586-25

Re: Labor Code § 2698, et seq. Penalties – PAGA Notice Letter to the LWDA
Shauna Kohanbashir v. Abercrombie & Fitch Stores, Inc., et al.

Gentlepersons:

This office represents Plaintiff Shauna Kohanbashir ("Plaintiff") and other similarly situated aggrieved employees (collectively "Aggrieved Employees") for violations of California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 246, 510, 512, 515, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq.*, and 2802; provisions of the

Industrial Welfare Commission (IWC) Wage Order(s); and California Business & Professions Code § 17200 et seq.

The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et. seq.* ("the Act"). Unless specified below, Plaintiff would like to bring a representative action, pursuant to the Act, on behalf of himself and all other similarly situated, Aggrieved Employees, and the State of California, against Defendants, Abercrombie & Fitch Stores, Inc., Abercrombie & Fitch Management Co., Abercrombie & Fitch Co., and DOES 1 through 50 inclusive (all defendants being referred to herein collectively as "Defendants").

Additionally, this correspondence will serve to satisfy the notice requirements under the Act, along Plaintiff's Class Action Complaint, which is attached hereto and incorporated by reference herein. The Complaint is being concurrently filed in Alameda County Superior Court and will be assigned a local case number. The Complaint allegations and claims are incorporated into this Notice Letter.

We also set forth herein the facts and theories and the California Labor Code violations which Defendants engaged in with respect to Plaintiff an all of their Aggrieved Employees in California. The Class Action Complaint provides the details of Plaintiff's class-wide claims and claims under the Act, and the applicable California law governing them. It, along with this Notice Letter, addresses in detail numerous violations that subject Defendants to civil and statutory penalties under the Act.

Relevant Facts

Plaintiff was employed by Defendants as a non-exempt hourly employee in California. Aggrieved Employees include all non-exempt hourly employees of Defendants within the state of California from one year prior to the date of this letter and continuing through the present (Plaintiff and Aggrieved Employees are collectively referred to herein as "Aggrieved Employees"). However, with regard to the allegations under Labor Code § 226(a) ***only***, Plaintiff expands the scope and definition of the Aggrieved Employees to all employees of Defendants within the state of California from one year prior to the date of this letter and continuing through the present.

Defendants had a common policy and practice of systemically failing to pay Aggrieved Employees proper wages and overtime for all hours worked, at the proper rates of pay.

Aggrieved Employees were consistently required to perform work, off-the-clock, for which they were not paid wages. Specifically, Aggrieved Employees were required to go through security bag checks each time they entered or left the store, and prior to clocking in. Next, prior to clocking into their shifts, Aggrieved Employees were required to wait in line for a timeclock to become available for them to clock in. Next, Aggrieved Employees were required to work off-the-clock before being allowed to clock in for their shift. Furthermore, after clocking out for the day, Aggrieved Employees were required to continue working. Moreover, Aggrieved Employees were required to remain on-call, restricted from engaging if their own activities, and ready to report to work, with no advance notice. Finally, Aggrieved Employees were required to use their personal cell phone for work-related purposes while off-the-clock, for which no wages were paid. The forgoing and uncompensated working time was under the direction and control of Defendants, for which no wages were paid.

This uncompensated time caused Aggrieved Employees to work in excess of eight (8), ten (10) and/or twelve (12) hours a day and/or forty (40) hours a week, entitling Aggrieved Employees to minimum and overtime wages, which they were systemically denied.

Defendants had a common policy and practice of systemically denying Aggrieved Employees the opportunity to take meal periods in compliance with California Law. Specifically, the uncompensated pre-shift duties, as referenced herein, delayed Aggrieved Employees' meal periods. Next, Aggrieved Employees were not relieved of all work duties during unpaid meal periods and were required to go through security bag checks after clocking out for a meal break and before clocking back in at the end of a meal break.

Aggrieved Employees were not provided with meal periods of at least thirty (30) minutes for each five (5) hour work period due to (1) Defendants' policy of not scheduling each meal period as part of each work shift; and (2) no formal written meal policy that encouraged employees to take their meal periods, or that advised Aggrieved Employees of their meal and rest period rights.

Defendants had a common policy and practice of systemically denying Aggrieved Employees the opportunity to take rest breaks in compliance with the California Law. Aggrieved Employees were not provided with rest periods of at least ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1) Defendants' policy of not scheduling each rest period as part of each work shift, including second rest breaks for shifts of six (6) hours or more; (2) no formal compliant written rest period policy that encouraged employees to take their rest periods, or that properly advised Aggrieved Employees of their rest period rights; (3) Defendants' policy and practice of requiring Aggrieved Employees to continue working through their rest breaks due to the excessive workload.

Furthermore, Defendants failed to pay Aggrieved Employees premium pay wages at their appropriate regular rates of pay for each meal and rest period denied.

Defendants had a common policy and practice of systemically failing to pay Aggrieved Employees the requisite sick time pay in accordance with California Law. Specifically, Aggrieved Employees worked for Defendants for more than 30 days, but were not paid at least one hour of sick pay for every 30 hours of work, or at least 3 days of sick time for every 12 month period of work.

Aggrieved Employees were not provided with accurate wage statements as mandated by law pursuant to Labor Code section 226. Specifically, Defendants failed to issue wage statements as "a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing." Additionally, the wage statements issued to Aggrieved Employees were not recorded in "ink or other indelible form."

Defendants failed to comply with Labor Code section 226(a)(1) as "gross wages earned" were not accurately reflected in that: all hours worked, including overtime, were not included.

Defendants failed to comply with Labor Code section 226(a)(2) as "total hours worked by the employee" were not accurately reflected in that: all hours worked, including overtime, were not

included.

Defendants failed to comply with Labor Code section 226(a)(5) as "net wages earned" were not accurately reflected in that: all hours worked, including overtime, were not included.

Defendants failed to comply with Labor Code section 226(a)(9) as "all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee" were not accurately reflected in that: all hours worked, including overtime, were not included.

Furthermore, Defendants failed to provide Aggrieved Employees with paper pay stubs as required by Labor Code § 226, applicable Wage Orders, and DLSE Opinion Letters. Plaintiff's and Aggrieved Employees' wage statement were only provided in electronic format in violation of Labor Code § 226.

Aggrieved Employees were not reimbursed for business expenses incurred in executing their duties under Defendant's employ. Specifically, Aggrieved Employees were required to use their personal cellular phones for work-related duties. Aggrieved Employees were also required to incur internet costs in order to check their work schedules posted online. Aggrieved Employees were not reimbursed for these necessary work-related expenses.

PAGA Claim Details, Legal Bases for Violations and Penalties:
As addressed above and in further detail in the Class Action Complaint, the Aggrieved Employees complain of the following violations committed by Defendants:

Failure to Pay Minimum Wages
Defendants violated the law by failing to pay Aggrieved Employees minimum wages for all hours worked. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states, "[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful." The applicable minimum wages fixed by the commission for work during the relevant period is found in the Wage Orders.

In California, employees must be paid at least the then applicable state minimum wage for all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014, and paragraphs 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Paragraph 2(H) of the applicable IWC Wage Orders defines "Hours Worked" as "the time during which an employee is subject to the control of an employer and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Additionally, pursuant to Labor Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay its employees for all hours worked. Defendants failed to do so.

California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states: "The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful." The minimum wage provisions

of California Labor Code are enforceable by private civil action pursuant to Labor Code § 1194(a) which states: "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees and costs of suit."

As described in California Labor Code §§ 1185 and 1194.2, any action for wages incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also, California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for all hours worked. All hours must be paid at the statutory or agreed rate, or at the minimum rate in the absence of a contractually agreed upon one. The underpayment of wages to Aggrieved Employees is and has been a direct consequence of Defendants' unlawful compensation policies and practices, which applied uniformly to the Aggrieved Employees working at locations and work sites throughout California.

Defendants had a common policy and practice of systemically failing to pay Aggrieved Employees proper wages and overtime for all hours worked, at the proper rates of pay.

Aggrieved Employees were consistently required to perform work, off-the-clock, for which they were not paid wages. Specifically, Aggrieved Employees were required to go through security bag checks each time they entered or left the store, and prior to clocking in. Next, prior to clocking into their shifts, Aggrieved Employees were required to wait in line for a timeclock to become available for them to clock in. Next, Aggrieved Employees were required to work off-the-clock before being allowed to clock in for their shift. Furthermore, after clocking out for the day, Aggrieved Employees were required to continue working. Moreover, Aggrieved Employees were required to remain on-call, restricted from engaging if their own activities, and ready to report to work, with no advance notice. Finally, Aggrieved Employees were required to use their personal cell phone for work-related purposes while off-the-clock, for which no wages were paid. The forgoing and uncompensated working time was under the direction and control of Defendants, for which no wages were paid.

Defendants have the ability to pay minimum and overtime wages for all time worked and have willfully refused to pay such wages with the intent to secure for Defendants a discount upon this indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Aggrieved Employees.

In light of the forgoing, the Aggrieved Employees seek to recover wages and penalties. Aggrieved Employees are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor Code § 1194(a). the other Aggrieved Employees further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory and civil penalties against Defendants, in a sum as provided by the California Labor Code and/or other applicable statutes, including pursuant to Labor Code § 558, and Wage Order provisions. To the extent minimum wage compensation is determined to be owed to the Aggrieved Employees who have terminated their

employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under California Labor Code § 203, which penalties are sought herein on behalf of these Aggrieved Employees. Defendants' failure to timely pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code § 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was willful, intentional and not in good faith. Further, other Aggrieved Employees are entitled to seek and recover statutory costs.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Pay Wages and Overtime in Violation of Labor Code § 510

Defendants violated the law by failing to pay Aggrieved Employees earned wages and overtime. Specifically, Aggrieved Employees consistently worked in excess of eight (8), ten (10), and twelve (12) hours a day, and/or forty (40) hours a week. However, Aggrieved Employees were not paid overtime wages for hours worked in excess of 8 hours a day. Moreover, the uncompensated time, discussed above caused Aggrieved Employees to work in excess of eight (8), ten (10), and twelve (12) hours a day and/or 40 hours a week, further entitling Aggrieved Employees overtime wages which they were consistently denied, all in violation of Labor Code § 510 and applicable Wage Orders.

Defendants also failed to Aggrieved Employees overtime wages at the proper and applicable regular rates of pay. Specifically, Aggrieved Employees earned commissions, spiff pay, as well as performance-based non-discretionary bonuses in addition to their hourly pay. However, these supplemental earnings were not accounted for when determining Aggrieved Employees' regular rates of pay, and respective and proper overtime rates of pay.

Defendants have violated Labor Code § 1194 and Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular hourly rates for hours worked in excess of eight hours in a workday or in excess of forty hours in any workweek or for the first eight hours worked on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve hours in any one day or for hours worked in excess of eight hours on any seventh day of work in a workweek. Defendants had a consistent policy of not paying Employees wages for all hours worked, including by requiring off the clock work as addressed above and by under-reporting actual hours worked. With work shifts generally requiring eight hours or more of work on a given day, this unpaid off the clock work resulted in Aggrieved Employees working past eight hours on a shift or more than forty hours in a week, which required that they be paid at the correct overtime rate of 1.5 times their regular rate.

When considered in combination with the other wage violations addressed above, Aggrieved Employees were not properly compensated, nor were they paid overtime and double time rates for hours worked in excess of 8, 10, and 12 hours in a given day, and/or forty hours in a given week. Defendants did not make available to Employees a reasonable protocol for correcting time records

when Employees worked overtime hours or to fix incorrect time entries or those that Defendants unlawfully under-recorded to the Employee's detriment. Defendants have also violated these provisions by requiring other similarly situated Aggrieved Employees to work through meal periods when they were required to be clocked out or to otherwise work off the clock to complete their daily job duties.

In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, 1174, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including paragraphs 2(K), 2(S), 3(A), 4, and 20. Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Meal-Period Liability Under Labor Code §§ 226.7 and 512 and Penalties

Defendants had a common policy and practice of systemically denying Aggrieved Employees the opportunity to take meal periods in compliance with California Law. Specifically, the uncompensated pre-shift duties, as referenced herein, delayed Aggrieved Employees' meal periods. Next, Aggrieved Employees were not relieved of all work duties during unpaid meal periods and were required to go through security bag checks after clocking out for a meal break and before clocking back in at the end of a meal break.

Aggrieved Employees were not provided with meal periods of at least thirty (30) minutes for each five (5) hour work period due to (1) Defendants' policy of not scheduling each meal period as part of each work shift; and (2) no formal written meal policy that encouraged employees to take their meal periods, or that advised Aggrieved Employees of their meal and rest period rights.

Defendants also failed to pay Aggrieved Employees "premium pay," i.e. one hour of wages at each Aggrieved Employee's effective regular rate of pay, for each meal period that Defendants failed to provide or deficiently provided, including by miscalculating any premium payments they did make. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each meal period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2) and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Rest-Break Liability Under Labor Code § 226.7 and Penalties

Defendants have consistently failed to provide Aggrieved Employees with paid rest breaks of not less than 10 minutes for every work period of 4 or more consecutive hours, as required by Labor Code. Aggrieved Employees were not provided with rest periods of at least ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1) Defendants' policy of not scheduling each rest period as part of each work shift, including second rest breaks for shifts of six (6) hours or more; (2) no formal compliant written rest period policy that encouraged employees to take their rest periods, or that properly advised Aggrieved Employees of their rest period rights; (3) Defendants' policy and practice of requiring putative class members to continue working through their rest breaks due to the excessive workload.

Defendants also failed to pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided, or miscalculated any premiums paid. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each rest period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Pay Proper Sick Time

Labor Code Section 246 affords an employee "who works in California for 30 or more days within a year from the commencement of employment [] paid sick days . . . of not less than one hour per every 30 hours worked" and "no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period."

Additionally, Subsection (l) of Section 246 provides:

> For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations:
>
> (1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek.

Defendants had a common policy and practice of systemically failing to pay Aggrieved Employees the requisite sick time pay in accordance with California Law. Specifically, Aggrieved Employees worked for Defendants for more than 30 days, but were not paid at least one hour of sick pay for every 30 hours of work, or at least 3 days of sick time for every 12 month period of work.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 203, 204, 246, 2926, 2927, and 2699.5 seeking all civil penalties available and applicable under Labor Code §§ 204, 210, 246, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Reimburse for Necessary Business Expenditures in Violation of Labor Code § 2802

Defendants have consistently required Aggrieved Employees to incur necessary business expenses in the execution of their duties under Defendants' employ. Specifically, Aggrieved Employees were required to use their personal cellular phones for work-related duties. Aggrieved Employees were also required to incur internet costs in order to check their work schedules posted online. Aggrieved Employees were not reimbursed for these necessary work-related expenses in violation of Labor Code § 2802.

Defendants systematically and uniformly failed to reimburse those lawful and necessary work related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9. Defendants are liable for PAGA penalties resulting from their failure to reimburse necessary business expenses incurred by the Aggrieved Employees. Accordingly, Aggrieved Employees are entitled to recover, and hereby seek through this Representative Action, all civil and statutory penalties authorized for violations of California Labor Code §§ 1198 and 2802, and Section 9(B) of the applicable IWC Wage Orders, and Plaintiff seeks all civil and statutory penalties available and applicable under Labor Code §§ 2802 and 2699(f)(2), and also attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Issue Accurate and Itemized Wage Statements in Violation of Labor Code § 226

California Labor Code § 226(a) requires an employer to furnish each employee with an accurate, itemized wage statements in writing. These statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a), Aggrieved Employees suffered injuries, including among other things confusion over whether they received all wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact compensated them correctly for all hours worked.

Defendants failed to provide Aggrieved Employees with accurate itemized wage statements in writing, as required by the Labor Code. Specifically, Defendants failed to provide Employees with accurate itemized wage statements in writing, as required by the Labor Code. The wage statements given to Aggrieved Employees failed to accurately account for unpaid wages, overtime, premium pay for deficiently provided meal periods and rest breaks.

Additionally, for the purposes of Subsection (a)(9), Plaintiff seeks to expand the scope of the Aggrieved Employees she seeks to represent to extend to all individuals employed by Defendants during the applicable period. The wage statements issued to Aggrieved Employees failed to state all applicable hourly rates for which Aggrieved Employees were paid as required by Labor Code § 226(a)(9).

In light of these violations, and pursuant to Labor Code §§ 226(a) and 226(e) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, Aggrieved Employees are 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) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars ($4,000). They are also entitled to an award of costs and reasonable attorneys' fees.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to provide Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code §226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars ($250) per employee per violation in an initial citation and one thousand dollars ($1,000) per employee for each violation in a subsequent citation, …"

Failure to Issue Semimonthly Payments in Violation of Labor Code § 204

In failing to pay Aggrieved Employees wages, overtime, premium pay, etc., and failing to provide them with checks and wage statements, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as well as the meal and rest periods taken by Aggrieved Employees, as required by Labor Code § 1174 and the applicable IWC wage orders.

Defendants also required Aggrieved Employees to work hours off the clock for which they were not compensated, including during interrupted or otherwise on-duty meal and rest periods. Defendants also failed to pay all overtime premium wages owed for work conducted on a work shift and a workday or miscalculated these premiums by not including all forms of remuneration in the regular rate, as addressed above. Therefore, when Aggrieved Employees received wage statements and pay checks, they did not compensate all hours worked on a timely basis, resulting in Defendants' systematic failure to pay all wages owed to Aggrieved Employees twice monthly in accordance with the requirements of Labor Code § 204. Additionally, by not providing wage statements as required under section 204, Defendants systematically violated Labor Code § 204 and § 226.

Given the above described off the clock work, Plaintiff was not paid at the correct overtime rate for all hours he worked after eight hours into a shift or over forty in a work week and that he was not paid all double time owed either. Defendants' uniformly applied payroll policies and practices thus resulted in further systematic and ongoing violations of the requirements of Labor Code § 204.

In light of the foregoing, Aggrieved Employees seek to recover wages and penalties, interest, fees and costs pursuant to Labor Code §§ 201.3, 210, 218.5, 558, and 1194. In failing to pay Aggrieved Employees minimum wages and overtime, off the clock work, by not providing proper meal and rest periods, failing to provide accurate itemized wage statements, and failing to pay Employees wages upon termination or timely upon resignation, all discussed above, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants also failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and paragraph 7 of the applicable IWC Wage Orders, entitling Aggrieved Employees to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 203, 204, 2926, 2927, and 2699.5 seeking all civil penalties available and applicable under Labor Code §§ 204, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Keep Records In Accordance With Labor Code § 1174

Labor Code § 1174 requires employers to keep records showing payroll data and the hours worked daily by and the wages paid to employees. By failing to pay Aggrieved Employees proper wages, overtime, double time, premium pay, etc., and by not recording meal period start and end times, all discussed herein, Defendants failed to maintain proper employment records in accordance with Section 1174. In light of the forgoing, Aggrieved Employees seek to recover penalties pursuant to Labor Code §§ 1174.5 and 2699, *et seq.* Defendants have also failed to comply with paragraph 7 of the applicable California IWC Wage Orders by failing to maintain time records showing when the employee begins and ends each work period, meal periods, wages earned pursuant to Labor Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from payment of wages and accurately reporting total hours worked by the Aggrieved Employees, and they are entitled to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to provide the Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Aggrieved Employees under Labor Code §§ 226, 1174, 1198, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 558,

1174.5, 1199, and 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Waiting Time Penalties Pursuant to Labor Code § 203

Some Aggrieved Employees no longer work for Defendants; they either resigned or were terminated from Defendants' employ. Based on the forgoing, Defendants have had a consistent policy of failing to pay all wages earned by and owed to Aggrieved Employees at the time of their termination of within seventy-two hours of their resignation, as required by California under Labor Code § 203. In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558 and further specifically seek penalties and wages under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199, 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Unfair Competition Under Business and Professions Code § 17200, *et seq.*

Consequently, Defendants' conduct has been and continues to be unfair, unlawful, and harmful to Aggrieved Employees and the general public in violation of Business & Professions Code § 17200 *et seq*.

Plaintiff's PAGA Claim under Labor Code § 2698 *et seq*. and Recovery Bases:

After complying with the notice procedures of Labor Code § 2699.3 and the running of the notice period after the filing of the Class Action Complaint, Plaintiff will file an amended Complaint asserting, as a representative action on behalf of the California Attorney General and the other similarly Aggrieved Employees, a PAGA claim for violations of the above addressed underlying claims and seeking penalties as specified by the applicable corresponding provisions.

The Aggrieved Employees seek penalties under Labor Code §§ 2698 and 2699 for Defendants' violation of Labor Code provisions included under Labor Code § 2699.5, including the penalty provisions, without limitation, based, *inter alia*, on the following California Labor Code sections: §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 246, 510, 512, 515, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq.*, and 2802 including as follows:

(a) Wage Claims: For failure to provide the Aggrieved Employees all earned regular pay and minimum wages for regular hours worked and for failure to pay overtime premium wages for overtime hours worked, failure to pay proper reporting time and sick pay under Labor Code §§ 510, 1194(a), 1197, and 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable under Labor Code

§§ 246, 510, 558, 1194.2, 1197.1, 1198, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(b) Meal and Rest Period Claims: For failure to provide the Aggrieved Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable, including under paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide the Aggrieved Employees with wage statements or with accurate, itemized wage statements and failure to maintain employment records for Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code §226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars ($250) per employee per violation in an initial citation and one thousand dollars ($1,000) per employee for each violation in a subsequent citation, …";

(d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(e) Failure to Reimburse Business Expenses: For Defendants' failure to reimburse the necessary work related expenses incurred under Labor Code §§ 1197, 1197.1, 1198, and 2802, and Sections 2(K), 4, 9, and 20 of the applicable IWC Wage Order(s), seeking civil penalties available and applicable under Labor Code §§ 1197, 1197.1, 1198, 2802, 2699.5, and 2699(f)(2) and paragraph 9 and 20 of the IWC Wage Orders, and also attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(f) All Alleged Violations of the IWC Wage Orders: For any above addressed violation of the applicable provisions of the IWC Wage Orders constituting violations of Labor Code § 1198 and Labor Code § 2699.5 and seeking penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

We have been constrained to initially move forward with the filing of this Complaint, alleging the causes of action discussed herein, without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

This letter and the attached Complaint therefore provide the requisite notice under the Act to the LWDA and Defendants by setting forth the specific provisions of the Labor Code and related provisions Plaintiff alleges have been violated, including the facts and relevant theories alleged against Defendants and joint employers. To prevent the violations described in the Complaint and herein from occurring, and to remedy past violations, Plaintiff respectfully requests that the LWDA conduct an investigation into Defendants' employment practices in accordance with the Act.

Wherefore we request that you advise us, by certified mail within sixty days of the postmark on this letter, whether you intend to proceed with these claims or whether he Aggrieved Employees should include them in an amended Labor Code § 2698 *et seq.* claim under the Act in an amended Complaint.

Regards,

D.LAW, INC.

David Yeremian

Cc: **Abercrombie & Fitch Stores, Inc.**, **Abercrombie & Fitch Management Co.**, **Abercrombie & Fitch Co.,** by Certified Mail

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Attorneys for Plaintiff SHAUNA KOHANBASHIR

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

SHAUNA KOHANBASHIR, on behalf of herself and all others similarly situated, and the general public,

Plaintiff,

v.

ABERCROMBIE & FITCH STORES, INC. an Ohio corporation; ABERCROMBIE & FITCH MANAGEMENT CO. a Delaware corporation; ABERCROMBIE & FITCH CO. a business entity of unknown form; and DOES 1 through 50, inclusive,

Defendants.

Case No.:

CLASS ACTION COMPLAINT

1. Failure to Provide Meal Periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198);
2. Failure to Provide Rest Periods (Lab. Code §§ 204, 223, 226.7 and 1198);
3. Failure to Pay Hourly Wages and Overtime (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1197.1 and 1198);
4. Failure to Pay Proper Sick Pay (Lab. Code § 246);
5. Failure to Provide Accurate Written Wage Statements (Lab. Code §§ 226(a));
6. Failure to Timely Pay All Final Wages (Lab. Code §§ 201, 202 and 203);
7. Failure to Indemnify (Lab. Code § 2802);
8. Unfair Competition (Bus. & Prof. Code §§ 17200 *et seq.*)

JURY TRIAL DEMANDED

Plaintiff SHAUNA KOHANBASHIR ("Plaintiff"), on behalf of herself, all others similarly situated, and the general public, complains and alleges as follows:

INTRODUCTION

1. Plaintiff brings this class action against Defendants ABERCROMBIE & FITCH STORES, INC. an Ohio corporation; ABERCROMBIE & FITCH MANAGEMENT CO. a Delaware corporation; ABERCROMBIE & FITCH CO. a business entity of unknown form; and DOES 1 through 50, inclusive, (collectively referred to as "Defendants") for alleged violations of the California Labor Code and California Business and Professions Code. As set forth below, Plaintiff alleges that Defendants have:

a. failed to pay them overtime wages at the correct rate;

b. failed to pay them overtime and/or double time wages by failing to include all applicable remuneration in calculating the regular rate of pay;

c. failed to provide them with meal periods;

d. failed to provide them with rest periods;

e. failed to pay them premium wages for missed meal and rest periods;

f. failed to pay them proper reporting time pay;

g. failed to pay them proper sick time pay;

h. failed to provide them with accurate written wage statements;

i. failed to reimburse them with necessary business expenditures; and

j. failed to pay them all their final wages following separation of employment.

Based on these alleged Labor Code violations, Plaintiff now brings this class action to recover unpaid wages, liquidated damages, penalties, restitution, and related relief on behalf of herself, all others similarly situated, and the general public.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction to hear this case because the monetary damages and restitution sought by Plaintiff from Defendants' conduct exceeds the minimal jurisdiction of the Superior Court of the State of California.

3. Venue is proper in the County of Los Angeles pursuant to Code of Civil Procedure

sections 395(a) and 395.5 in that liability arose this county because at least some of the transactions that are the subject matter of this Complaint occurred therein and/or each defendant is found, maintains offices, transacts business and/or has an agent therein.

4. Venue is proper in Los Angeles County because Defendants' have at all times alleged herein, conducted business in Los Angeles County, and throughout California. As such, venue is proper in any county in California.

PARTIES

5. Plaintiff SHAUNA KOHANBASHIR is, and at all relevant times mentioned herein, an individual residing in the State of California.

6. Plaintiff is informed and believes, and thereupon alleges that Defendant ABERCROMBIE & FITCH STORES, INC. is, and at all relevant times mentioned herein, an Ohio corporation doing business in the State of California.

7. Plaintiff is informed and believes, and thereupon alleges that Defendant ABERCROMBIE & FITCH MANAGEMENT CO. is, and at all relevant times mentioned herein, a Delaware corporation doing business in the State of California.

8. Plaintiff is informed and believes, and thereupon alleges that Defendant ABERCROMBIE & FITCH CO. is, and at all relevant times mentioned herein, a business entity of unknown form doing business in the State of California.

9. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff will amend this Complaint to allege the true names and capacities of the DOE defendants when ascertained. Plaintiff is informed and believes, and thereupon alleges that each of the fictitiously named defendants are responsible in some manner for the occurrences, acts and omissions alleged herein and that Plaintiff's alleged damages were proximately caused by these defendants, and each of them. Plaintiff will amend this complaint to allege both the true names and capacities of the DOE defendants when ascertained.

10. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times mentioned herein, some or all of the defendants were the representatives, agents, employees, partners,

directors, associates, joint venturers, joint employers, owners, principals or co-participants of some or all of the other defendants, and in doing the things alleged herein, were acting within the course and scope of such relationship and with the full knowledge, consent, and ratification by such other defendants.

11. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times mentioned herein, some of the defendants pursued a common course of conduct, acted in concert and conspired with one another, and aided and abetted one another to accomplish the occurrences, acts and omissions alleged herein.

12. Plaintiff is informed and believes and thereon alleges that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, that Defendants carried out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in all respects as the employers or joint employers of Employees. Defendants, and each of them, exercised control over the wages, hours or working conditions of Employees, or suffered or permitted Employees to work, or engaged, thereby creating a common law employment relationship, with Employees. Therefore, Defendants, and each of them, employed or jointly employed Employees.

13. This action has been brought and may be maintained as a class action pursuant to Code of Civil Procedure section 382 because there is a well-defined community of interest among the persons who comprise the readily ascertainable classes defined below and because Plaintiff is unaware of any difficulties likely to be encountered in managing this case as a class action.

14. **Relevant Time Period**: The relevant time period is defined as the time period beginning four years prior to the filing of this action until judgment is entered.

a. **Hourly Employee Class**: All persons employed by Defendants, collectively or separately, and/or any staffing agencies and/or any other third parties in hourly or non-exempt positions in California four years prior to the filing of this action and ending on the date that final judgment is entered in this action ("Hourly Employee Class").

b. **Meal Period Sub-Class**: All **Hourly Employee Class** members who worked in a shift in excess of five hours during the four years prior to the filing of this action and ending on the date that final judgment is entered in this action.

c. **Rest Period Sub-Class**: All **Hourly Employee Class** members who worked a

shift of at least three and one-half (3.5) hours the four years prior to the filing of this action and ending on the date that final judgment is entered in this action.

d. **Waiting Time Penalties Sub-Class**: All **Hourly Employee Class** members who separated from their employment with Defendants during the period beginning three years before the filing of this action and ending when final judgment is entered.

e. **Sick-Pay Class:** All persons employed by Defendants in California who, at any time from four years prior to the filing of this action and ending on the date that final judgment is entered in this action, worked for more than 30 days for Defendants, and were not paid for at least one hour of sick time for every 30 hours of work thereafter, or at least 3 days of sick time for every 12-month period of employment.

f. **Wage Statement Class**: All persons employed by Defendants in California during the period beginning one year before the filing of this action and ending when final judgment is entered.

g. **Expense Reimbursement Class:** All persons employed by Defendants in California who incurred business expenses during the **Relevant Time Period**.

h. **UCL Class**: All **Hourly Employee Class** and **Expense Reimbursement Class** members employed by Defendants in California during the four years prior to the filing of this action and ending on the date that final judgment is entered in this action.

15. **Reservation of Rights**: Pursuant to Rule of Court 3.765(b), Plaintiff reserves the right to amend or modify the class definitions with greater specificity, by further division into sub-classes and/or by limitation to particular issues.

16. **Numerosity**: The class members are so numerous that the individual joinder of each individual class member is impractical. While Plaintiff does not currently know the exact number of class members, Plaintiff is informed and believes, and thereupon alleges that the actual number exceeds the minimum required for numerosity under California law.

17. **Commonality and Predominance:** Common questions of law and fact exist as to all class members and predominate over any questions which affect only individual class members. These common questions include, but are not limited to:

a. Whether Defendants maintained a policy or practice of failing to provide employees with their rest periods;

b. Whether Defendants maintained a policy or practice of failing to provide employees with their meal periods;

c. Whether Defendants failed to pay premium wages to class members when they have not been provided with meal and rest periods at the appropriate rates of pay;

d. Whether Defendants failed to pay minimum and/or overtime wages to class members for all time worked;

e. Whether Defendants failed to pay proper sick time pay;

f. Whether Defendants failed to provide class members with accurate written wage statements as a result of providing them with written wage statements with inaccurate entries for, among other things, amounts of gross and net wages, and total hours worked;

g. Whether Defendants applied policies or practices that result in late and/or incomplete final wage payments;

h. Whether Defendants failed to reimburse class members for all necessary business expenses incurred during the discharge of their duties;

i. Whether Defendants are liable to class members for waiting time penalties under Labor Code section 203; and

j. Whether class members are entitled to restitution of money or property that Defendants may have acquired from them through unfair competition;

18. **Typicality:** Plaintiff's claims are typical of the other class members' claims. Plaintiff is informed and believes, and thereupon alleges that Defendants have a policy or practice of failing to comply with the California Labor Code and Business and Professions Code as alleged in this Complaint.

19. **Adequacy of Class Representative:** Plaintiff is an adequate class representative and has no interests that are adverse to, or otherwise conflict with, the interests of absent class members and is dedicated to vigorously prosecuting this action on their behalf. Plaintiff will fairly and adequately represent and protect the interests of the other class members.

20. **Adequacy of Class Counsel:** Plaintiff's counsel are adequate class counsel in that they have no known conflicts of interest with Plaintiff or absent class members, are experienced in wage and hour class action litigation, and are dedicated to vigorously prosecuting this action on behalf

of Plaintiff and absent class members.

21. **Superiority:** A class action is vastly superior to other available means for fair and efficient adjudication of the class members' claims and would be beneficial to the parties and the Court. Class action treatment will allow a number of similarly situated persons to simultaneously and efficiently prosecute their common claims in a single forum without the unnecessary duplication of effort and expense that numerous individual actions would entail. In addition, the monetary amounts due to many individual class members are likely to be relatively small and would thus make it difficult, if not impossible, for individual class members to both seek and obtain relief. Moreover, a class action will serve an important public interest by permitting class members to effectively pursue the recovery of monies owed to them. Further, a class action will prevent the potential for inconsistent or contradictory judgments inherent in individual litigation.

GENERAL ALLEGATIONS

22. Plaintiff worked for Defendants as a non-exempt employee during the relevant and statutory periods.

23. Defendants had a common policy and practice of systemically failing to pay Plaintiff and Class Members proper wages and overtime for all hours worked, at the proper rates of pay. Plaintiff and Class Members were also consistently required to perform work, off-the-clock, for which they were not paid wages. Specifically, Plaintiff and Class Members were required to go through security bag checks each time they entered or left the store, and prior to clocking in. Next, prior to clocking into their shifts, Plaintiff and Class Members were required to wait in line for a timeclock to become available for them to clock in. Next, Plaintiff and Class Members were required to work off-the-clock before being allowed to clock in for their shift. Furthermore, after clocking out for the day, Plaintiff and Class Members were required to continue working. Moreover, Plaintiff and Class Members were required to remain on-call, restricted from engaging if their own activities, and ready to report to work, with no advance notice. Finally, Plaintiff and Class Members were required to use their personal cell phone for work-related purposes while off-the-clock, for which no wages were paid. The forgoing and uncompensated working time was under the direction and control of Defendants, for which no wages were paid.

24. This uncompensated time caused Plaintiff and Class Members to work in excess of eight (8), ten (10) and/or twelve (12) hours a day and/or forty (40) hours a week, entitling Plaintiff and Class Members to minimum and overtime wages, which they were systemically denied.

25. Defendants had a common policy and practice of systemically denying Plaintiff and Class Members the opportunity to take meal periods in compliance with the California Law. Specifically, the uncompensated pre-shift duties, as referenced herein, delayed Plaintiff and Class Members' meal periods. Next, Plaintiff and Class Members were not relieved of all work duties during unpaid meal periods and were required to go through security bag checks after clocking out for a meal break and before clocking back in at the end of a meal break.

26. Plaintiff and Class Members were not provided with meal periods of at least thirty (30) minutes for each five (5) hour work period due to (1) Defendants' policy of not scheduling each meal period as part of each work shift; (2) no formal written meal policy that encouraged employees to take their meal periods, or that advised Class Members of their meal and rest period rights; and (3) Defendants' practice of not relieving Plaintiff and Class Members of all work duties during unpaid meal periods and rest periods.

27. Defendants had a common policy and practice of systemically denying Plaintiff and Class Members the opportunity to take rest periods in compliance with the California Law. Plaintiff and Class Members were not provided with rest periods of at least ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1) Defendants' policy of not scheduling each rest period as part of each work shift, including second rest breaks for shifts of six (6) hours or more; (2) no formal compliant written rest period policy that encouraged employees to take their rest periods, or that properly advised Plaintiff and Class Members of their rest period rights; (3) Defendants' policy and practice of requiring putative class members to continue working through their rest breaks due to the excessive workload.

28. Furthermore, Defendants failed to pay Plaintiff and Class Members premium pay wages at their appropriate regular rates of pay for each meal and rest period denied.

29. Plaintiff and Class Members were not provided with accurate wage statements as mandated by law pursuant to Labor Code section 226. Specifically, Defendants failed to issue wage

statements as "a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing." Additionally, the wage statements issued to Plaintiff and Class Members were not recorded in "ink or other indelible form."

30. Defendants failed to comply with Labor Code section 226(a)(1) as "gross wages earned" were not accurately reflected in that: all hours worked, including overtime, were not included.

31. Defendants failed to comply with Labor Code section 226(a)(2) as "total hours worked by the employee" were not accurately reflected in that: all hours worked, including overtime, were not included.

32. Defendants failed to comply with Labor Code section 226(a)(5) as "net wages earned" were not accurately reflected in that: all hours worked, including overtime, were not included.

33. Defendants failed to comply with Labor Code section 226(a)(9) as "all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee" were not accurately reflected in that: all hours worked, including overtime, were not included.

34. Furthermore, Defendants failed to provide Plaintiff and Class Members with paper pay stubs as required by Labor Code § 226, applicable Wage Orders, and DLSE Opinion Letters. Plaintiff's and Class Members' wage statement were only provided in electronic format in violation of Labor Code § 226.

35. Plaintiff and Class Members were not reimbursed for business expenses incurred in executing their duties under Defendant's employ. Specifically, Plaintiffs and Class Members were required to use their personal cellular phones for work-related duties. Plaintiff and Class Members were also required to incur internet costs in order to check their work schedules posted online. Plaintiffs and Class members were not reimbursed for these necessary work-related expenses.

36. Finally, Defendants had a common policy and practice of systemically failing to pay Plaintiff and Class Members the requisite sick time pay in accordance with California Law. Specifically, Plaintiff and Class Members worked for Defendants for more than 30 days but were not paid at least one hour of sick pay for every 30 hours of work, or at least 3 days of sick time for every

12-month period of work.

FIRST CAUSE OF ACTION

FAILURE TO PROVIDE MEAL PERIODS

(Lab. Code §§ 226.7, 512, 1174, and 1198)

(Plaintiff and Meal Period Sub-Class)

37. Plaintiff incorporates by reference the preceding paragraphs of the Complaint as if fully alleged herein.

38. At all relevant times, Plaintiff and the **Meal Period Sub-Class** members have been non-exempt employees of Defendant entitled to the full meal period protections of both the Labor Code and the applicable Industrial Welfare Commission Wage Order.

39. Labor Code section 512 and Section 11 of the applicable Industrial Welfare Commission Wage Order impose an affirmative obligation on employers to provide non-exempt employees with uninterrupted, duty-free meal periods of at least thirty minutes for each work period of five hours, and to provide them with two uninterrupted, duty-free meal periods of at least thirty minutes for each work period of ten hours.

40. Labor Code section 226.7 and Section 11 of the applicable Industrial Welfare Commission Wage Order ("Wage Order") both prohibit employers from requiring employees to work during required meal periods and require employers to pay non-exempt employees an hour of premium wages on each workday that the employee is not provided with the required meal period.

41. Compensation for missed meal periods constitutes wages within the meaning of Labor Code section 200.

42. Labor Code section 1198 makes it unlawful to employ a person under conditions that violate the applicable Wage Order.

43. Section 11 of the applicable Wage Order states:

> No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and employee. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an 'on duty' meal period and counted as time worked. An 'on duty' meal

> period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.

44. At all relevant times, Plaintiff was not subject to a valid on-duty meal period agreement. Plaintiff is informed and believes that, at all relevant times, **Meal Period Sub-Class** members were not subject to valid on-duty meal period agreements with Defendants.

45. Plaintiff alleges that, at all relevant times during the applicable limitations period, Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal Period Sub-Class** with uninterrupted, duty-free meal periods for at least thirty (30) minutes for each five (5) hour work period, as required by Labor Code section 512 and the applicable Wage Order. Specifically, the uncompensated pre-shift duties, as referenced herein, delayed Plaintiff and members of the **Meal Period Sub-Class** meal periods. Next, Plaintiff and members of the **Meal Period Sub-Class** were not relieved of all work duties during unpaid meal periods and were required to go through security bag checks after clocking out for a meal break and before clocking back in at the end of a meal break.

46. Plaintiff alleges that, at all relevant times during the applicable limitations period, Defendants maintained a policy or practice of failing to pay premium wages to **Meal Period Sub-Class** members when they worked five (5) hours without clocking out for any meal period.

47. Plaintiff alleges that, at all relevant times during the applicable limitations period, Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal Period Sub-Class** with a second meal period when they worked shifts of ten (10) or more hours and failed to pay them premium wages as required by Labor Code 512 and the applicable Wage Order.

48. Moreover, Defendants written policies fail to inform Meal period Class Members of their meal period rights under the Labor Code and applicable Wage Orders.

49. At all relevant times, Defendants failed to pay Plaintiff and the **Meal Period Sub-Class** members additional premium wages, and/or were not paid premium wages at the employees' regular rates of pay when required meal periods were not provided.

50. Pursuant to Labor Code section 204, 218.6, 226.7 and 512, Plaintiff, on behalf of

herself and the **Meal Period Sub-Class** members, seeks to recover unpaid premium wages, interest thereon, and costs of suit.

51. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of herself and the **Meal Period Sub-Class** members, seeks to recover reasonable attorneys' fees.

SECOND CAUSE OF ACTION

FAILURE TO PROVIDE REST PERIODS

(Lab. Code §§ 204, 223, 226.7 and 1198)

(Plaintiff and Rest Period Sub-Class)

52. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

53. At all relevant times, Plaintiff and the **Rest Period Sub-Class** members have been non-exempt employees of Defendants entitled to the full rest period protections of both the Labor Code and the applicable Wage Order.

54. Section 12 of the applicable Wage Order imposes an affirmative obligation on employers to permit and authorize employees to take required rest periods at a rate of no less than ten (10) minutes of net rest time for each four (4) hour work period, or major fraction thereof, that must be in the middle of each work period insofar as practicable.

55. Labor Code section 226.7 and Section 12 of the applicable Wage Order both prohibit employers from requiring employees to work during required rest periods and require employers to pay non-exempt employees an hour of premium wages at the employees' regular rates of pay, on each workday that the employee is not provided with the required rest period(s).

56. Compensation for missed rest periods constitutes wages within the meaning of Labor Code section 200.

57. Labor Code section 1198 makes it unlawful to employ a person under conditions that violate the Wage Order.

58. Plaintiff alleges that, at all relevant times during the applicable limitations period, Defendants maintained a policy or practice of not providing members of the **Rest Period Sub-Class**

with net rest period of at least ten (10) uninterrupted minutes for each four (4) hour work period, or major fraction thereof, as required by the applicable Wage Order.

59. Plaintiff and **Rest Period Sub-Class** members were not provided with rest periods of at least ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1) Defendants' policy of not scheduling each rest period as part of each work shift, including second rest breaks for shifts of six (6) hours or more; (2) no formal compliant written rest period policy that encouraged employees to take their rest periods, or that properly advised **Rest Period Sub-Class** members of their rest period rights; (3) Defendants' policy and practice of requiring **Rest Period Sub-Class** members to remain on the premises during their rest breaks; (4) Defendants' policy and practice of requiring **Rest Period Sub-Class** members to continue working through their rest breaks due to the excessive workload and maintaining and monitoring their cellular phones during breaks.

60. At all relevant times, Defendants failed to pay Plaintiff and the **Rest Period Sub-Class** members additional premium wages when required rest periods were not provided.

61. Pursuant to Labor Code section 204, 218.6 and 226.7, Plaintiff, on behalf of herself and **Rest Period Sub-Class** members, seeks to recover unpaid premium wages, interest thereon, and costs of suit.

62. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of herself and **Rest Period Sub-Class** members, seeks to recover reasonable attorneys' fees.

THIRD CAUSE OF ACTION

FAILURE TO PAY HOURLY AND OVERTIME WAGES

(Lab. Code §§ 223, 510, 1194, 1197 and 1198)

(Plaintiff and Hourly Employee Class)

63. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

64. At all relevant times, Plaintiff and **Hourly Employee Class** members are or have been non-exempt employees of Defendants entitled to the full protections of the Labor Code and the applicable Wage Order.

65. Section 2 of the applicable Wage Order defines "hours worked" as "the time during which an employee is subject to the control of the employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so."

66. Section 4 of the applicable Wage Order requires an employer to pay non-exempt employees at least the minimum wage set forth therein for all hours worked, which consist of all hours that an employer has actual or constructive knowledge that employees are working.

67. Labor Code section 1194 invalidates any agreement between an employer and an employee to work for less than the minimum or overtime wage required under the applicable Wage Order.

68. Labor Code section 1194.2 entitles non-exempt employees to recover liquidated damages in amounts equal to the amounts of unpaid minimum wages and interest thereon in addition to the underlying unpaid minimum wages and interest thereon.

69. Labor Code section 1197 makes it unlawful for an employer to pay an employee less than the minimum wage required under the applicable Wage Order for all hours worked during a payroll period.

70. Labor Code section 1197.1 provides that it is unlawful for any employer or any other person acting either individually or as an officer, agent or employee of another person, to pay an employee, or cause an employee to be paid, less than the applicable minimum wage.

71. Labor Code section 1198 makes it unlawful for employers to employ employees under conditions that violate the applicable Wage Order.

72. Labor Code section 204 requires employers to pay non-exempt employees their earned wages for the normal work period at least twice during each calendar month on days the employer designates in advance and to pay non-exempt employees their earned wages for labor performed in excess of the normal work period by no later than the next regular payday.

73. Labor Code section 223 makes it unlawful for employers to pay their employees lower wages than required by contract or statute while purporting to pay them legal wages.

74. Labor Code section 510 and Section 3 of the applicable Wage Order require employees to pay non-exempt employees overtime wages of no less than one and one-half (1.5) times their

respective regular rates of pay for all hours worked in excess of eight (8) hours in one workday, all hours worked in excess of forty (40) hours in one workweek, and/or for the first eight (8) hours worked on the seventh consecutive day of one workweek.

75. Labor Code section 510 and Section 3 of the applicable Wage Order also require employers to pay non-exempt employees overtime wages of no less than two (2) times their respective regular rates of pay for all hours worked in excess of twelve (12) hours in one workday and for all hours worked in excess of eight (8) hours on a seventh consecutive workday during the workweek.

76. Plaintiff is informed and believes that, at all relevant times, Defendants have applied centrally devised policies and practices to her and **Hourly Employee Class** members with respect to working conditions and compensation arrangements.

77. At all relevant times, Defendants failed to pay hourly wages to Plaintiff and **Hourly Employee Class** members for all time worked, including but not limited to, overtime hours at statutory and/or agreed rates.

78. Plaintiff and **Hourly Employee Class** members were not paid proper wages and overtime for all hours worked, at the proper rates of pay. Plaintiff and **Hourly Employee Class** members were consistently required to perform work, off-the-clock for which they were not paid wages. Specifically, Plaintiff and **Hourly Employee Class** members were required to go through security bag checks each time they entered or left the store, and prior to clocking in. Next, prior to clocking into their shifts, Plaintiff and **Hourly Employee Class** members were required to wait in line for a timeclock to become available for them to clock in. Next, Plaintiff and **Hourly Employee Class** members were required to work off-the-clock before being allowed to clock in for their shift. Furthermore, after clocking out for the day, Plaintiff and **Hourly Employee Class** members were required to continue working. Moreover, Plaintiff and **Hourly Employee Class** members were required to remain on-call, restricted from engaging if their own activities, and ready to report to work, with no advance notice. Finally, Plaintiff and **Hourly Employee Class** members were required to use their personal cell phone for work-related purposes while off-the-clock, for which no wages were paid. The forgoing and uncompensated working time was under the direction and control of Defendants, for which no wages were paid.

79. This uncompensated time caused Plaintiff and **Hourly Employee Class** members to work in excess of eight (8), ten (10), and twelve (12) hours a day and/or forty (40) hours a week, entitling Plaintiff and **Hourly Employee Class** members to minimum and overtime wages, which they were systemically denied.

80. As a result of Defendants' unlawful conduct, Plaintiff and **Hourly Employee Class** members have suffered damages in an amount, subject to proof, to the extent they were not paid the full amount of wages earned during each pay period during the applicable limitations period, including overtime wages.

81. Pursuant to Labor Code sections 204, 218.6, 223, 510, 1194 and 1194.2, Plaintiff, on behalf of herself and **Hourly Employee Class** members, seeks to recover unpaid straight time and overtime wages, interest thereon and costs of suit.

82. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of herself and **Hourly Employee Class** members, seeks to recover reasonable attorneys' fees.

FOURTH CAUSE OF ACTION

FAILURE TO PAY PROPER SICK PAY

(Lab. Code § 246)

(Plaintiff and Sick Pay Class)

83. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

84. Labor Code Section 246 affords an employee "who works in California for 30 or more days within a year from the commencement of employment [] paid sick days . . . of not less than one hour per every 30 hours worked" and "no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period."

85. Additionally, Subsection (l) of Section 246 provides:

> For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations:

> (1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek.

86. Defendants had a common policy and practice of systemically failing to pay Plaintiff and **Sick Pay Class** Members the requisite sick time pay in accordance with California Law. Specifically, Plaintiff and **Sick Pay Class** Members worked for Defendants for more than 30 days, but were not paid at least one hour of sick pay for every 30 hours of work, or at least 3 days of sick time for every 12 month period of work.

87. Therefore, **Sick Pay Class** Members are owed the unpaid balance of said wages pursuant to the Wage order according to proof at trial, interest pursuant to Labor Code §§ 218.6 and 1194(a), Civil Code §§ 3287 and § 3289, and reasonable attorneys' fees and costs and/or penalties pursuant to Labor Code § 558(a).

FIFTH CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE WRITTEN WAGE STATEMENTS

(Lab. Code § 226)

(Plaintiff and Wage Statement Penalties Sub-Class)

88. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

89. Labor Code section 226(a) states:

> An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all

> applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay and the total hours worked for each temporary services assignment. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. For purposes of this subdivision, 'copy' includes a duplicate of the itemized statement provided to an employee or a computer-generated record that accurately shows all of the information required by this subdivision.

90. The Division of Labor Standards Enforcement ("DLSE") has sought to harmonize the "detachable part of the check" provision and the "accurate itemized statement in writing" provision of Labor Code section 226(a) by allowing for electronic wage statements so long as each employee retains the right to elect to receive a written paper stub or record and that those who are provided with electronic wage statements retain the ability to easily access the information and convert the electronic statements into hard copies at no expense to the employee. (DLSE Opinion Letter July 6, 2006).

91. Plaintiff is informed and believes that, at all relevant times during the applicable limitations period, Defendants have failed to provide Plaintiff and **Wage Statement Class** members with written wage statements as described above. Additionally, the wage statements issued to class members failed to account for the unpaid minimum wages, overtime, and premium pay wages described above.

92. Furthermore, Defendants failed to provide Plaintiff and **Wage Statement Class** Members with paper pay stubs as required by Labor Code § 226, applicable Wage Orders, and DLSE Opinion Letters. Plaintiff's and **Wage Statement Class** members' wage statements were only provided in electronic format in violation of Labor Code § 226.

93. Defendants failed to comply with Labor Code section 226(a)(8) as the wage statements issues to Plaintiff and **Wage Statement Class** Members failed to state "the name and address of the legal entity that is the employer."

94. Plaintiff is informed and believes that Defendants' failure to provide Plaintiff and **Wage Statement Class** members with accurate written wage statements was intentional in that Defendants have the ability to provide them with accurate wage statements but have intentionally

provided them with written wage statements that Defendants have known do not comply with Labor Code section 226(a).

95. Plaintiff and **Wage Statement Class** members have suffered injuries, in that Defendants have violated their legal rights to receive accurate wage statements and have misled them about their actual rates of pay and wages earned. In addition, inaccurate information on their wage statements has prevented immediate challenges to Defendants' unlawful pay practices, has required discovery and mathematical computations to determine the amount of wages owed, has caused difficulty and expense in attempting to reconstruct time and pay records, and/or has led to the submission of inaccurate information about wages and deductions to federal and state government agencies.

96. Pursuant to Labor Code section 226(e), Plaintiff, on behalf of herself and **Wage Statement Class** members, seeks the greater of actual damages or $50.00 for the initial pay period in which a violation of Labor Code section 226(a) occurred, and $100.00 for each subsequent pay period in which a violation of Labor Code section 226(a) occurred, not to exceed an aggregate penalty of $4000.00 per class member, as well as awards of reasonable attorneys' fees and costs.

SIXTH CAUSE OF ACTION

FAILURE TO TIMELY PAY ALL FINAL WAGES

(Lab. Code §§ 201-203)

(Plaintiff and Waiting Time Penalties Sub-Class)

97. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

98. At all relevant times, Plaintiff and **Waiting Time Penalties Sub-Class** members have been entitled, upon the end of their employment with Defendants, to timely payment of all wages earned and unpaid before termination or resignation.

99. At all relevant times, pursuant to Labor Code section 201, employees who have been discharged have been entitled to payment of all final wages immediately upon termination.

100. At all relevant times, pursuant to Labor Code section 202, employees who have resigned after giving at least seventy-two (72) hours' notice of resignation have been entitled to

payment of all final wages at the time of resignation.

101. Plaintiff is informed and believes that, at all relevant times during the applicable limitations period, Defendants have failed to timely pay **Waiting Time Penalties Sub-Class** members all their final wages in accordance with the Labor Code.

102. Plaintiff is informed and believes that, at all relevant times during the applicable limitations period, Defendants have maintained a policy or practice of paying **Waiting Time Penalties Sub-Class** members their final wages without regard to the requirements of Labor Code sections 201 or 202 by failing to timely pay them all final wages.

103. Plaintiff is informed and believes, and thereupon alleges that Defendants' failure to timely pay all final wages to her and **Waiting Time Penalties Sub-Class** members has been willful in that Defendants have the ability to pay final wages in accordance with Labor Code sections 201 and/or 202 but have intentionally adopted policies or practices that are incompatible with those requirements.

104. Pursuant to Labor Code sections 203 and 218.6, Plaintiff, on behalf of herself and **Waiting Time Penalties Sub-Class** members, seeks waiting time penalties from the dates that their final wages have first become due until paid, up to a maximum of thirty days, and interest thereon.

105. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine and/or the common fund doctrine, Plaintiff, on behalf of herself and **Waiting Time Penalties Sub-Class** members, seeks awards of reasonable attorneys' fees and costs.

SEVENTH CAUSE OF ACTION

FAILURE TO INDEMNIFY

(Lab. Code § 2802)

(Plaintiff and Reimbursement Class)

106. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

107. Labor Code section 2802(a) states:

> An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the

> directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.

108. Plaintiff and **Expense Reimbursement Class** members were not reimbursed for business expenses incurred in executing their duties under Defendant's employ. Specifically, Plaintiffs and **Expense Reimbursement Class** members were required to use their personal cellular phones for work-related duties. Plaintiff and **Expense Reimbursement Class** members were also required to incur internet costs in order to check their work schedules posted online. Plaintiffs and **Expense Reimbursement Class** members were not reimbursed for these necessary work-related expenses.

109. Accordingly, Plaintiff and **Expense Reimbursement Class** members are entitled to restitution for all unpaid amounts due and owing to within four (4) years of the date of the filing of the Complaint and until the date of entry of judgment.

110. Plaintiff, on behalf of herself, and **Expense Reimbursement Class** members, seeks interest thereon and costs pursuant to Labor Code section 218.6, and reasonable attorneys' fees and costs pursuant to Code of Civil Procedure section 1021.5.

EIGHTH CAUSE OF ACTION

UNFAIR COMPETITION

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

(Plaintiff and UCL Class)

111. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

112. Business and Professions Code section 17200 defines "unfair competition" to include any unlawful business practice.

113. Business and Professions Code sections 17203-17204 allow a person who has lost money or property as a result of unfair competition to bring a class action in accordance with Code of Civil Procedure section 382 to recover money or property that may have been acquired from similarly situated persons by means of unfair competition.

114. California law requires employers to pay hourly, non-exempt employees for all hours

they are permitted or suffered to work, including hours that the employer knows or reasonable should know that employees have worked.

115. Plaintiff and the **UCL Class** members re-allege and incorporate the FIRST, SECOND, THIRD, FOURTH, FIFTH, AND SEVENTH causes of action herein.

116. Plaintiff lost money or property as a result of the aforementioned unfair competition.

117. Defendants have or may have acquired money by means of unfair competition.

118. Plaintiff is informed and believes, and thereupon alleges that by committing the Labor Code violations described in this Complaint, Defendants violated Labor Code sections 215, 216, 225, 226.6, 226.7, 246, 354, 408, 512, 510, 553, 1175, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 1199, and 2802 as well as applicable Wage Orders, which make it a misdemeanor to commit the violations alleged herein.

119. Defendants have committed criminal conduct through their policies and practices of, *inter alia*, failing to comport with their affirmative obligations as an employer to: provide non-exempt employees with compliant meal and rest periods; pay for all hours worked at the proper rates of pay; proper sick time pay; and reimbursement for necessary business expenditures.

120. Defendants' unlawful conduct as alleged in this Complaint amounts to and constitutes unfair competition within the meaning of Business and Professions Code section 17200 *et seq*. Business and Professions Code section 17200 *et seq*. protects against unfair competition and allows a person who has suffered an injury-in-fact and has lost money or property as a result of an unfair, unlawful or fraudulent business practice to seek restitution on his own behalf and on behalf of similarly situated persons in a class action proceeding.

121. As a result of Defendants' violations of the Labor Code during the applicable limitations period, Plaintiff has suffered an injury-in-fact and has lost money or property in the form of earned wages. Specifically, Plaintiff has lost money or property as a result of Defendants' conduct.

122. Plaintiff is informed and believes that other similarly situated persons have been subject to the same unlawful policies or practices of Defendants.

123. Due to the unfair and unlawful business practices in violation of the Labor Code, Defendants have gained a competitive advantage over other comparable companies doing business in

the State of California that comply with their legal obligations.

124. California's Unfair Competition Law ("UCL") permits civil recovery and injunctive relief for "any unlawful, unfair or fraudulent business act or practice," including if a practice or act violates or is considered unlawful under any other state or federal law.

125. Accordingly, pursuant to Business and Professions Code sections 17200 and 17203, Plaintiff requests the issuance of temporary, preliminary and permanent injunctive relief enjoining Defendants, and each of them, and their agents and employees, from further violations of the Labor Code and applicable Wage Orders.

126. Accordingly, pursuant to Bus. & Prof. Code sections 17200 and 17203, Plaintiff requests the issuance of temporary, preliminary and permanent injunctive relief enjoining Defendants, and each of them, and their agents and employees, from further violations of the Labor Code and applicable Industrial Welfare Commission Wage Orders; and upon a final hearing seeks an order permanently enjoining Defendants, and each of them, and their respective agents and employees, from further violations of the Labor Code and applicable Industrial Welfare Commission Wage Orders.

127. Pursuant to Business and Professions Code section 17203, Plaintiff, on behalf of herself and **UCL Class** members, seeks declaratory relief and restitution of all monies rightfully belonging to them that Defendants did not pay them or otherwise retained by means of its unlawful and unfair business practices.

128. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine and/or the common fund doctrine, Plaintiff and **UCL Class** members are entitled to recover reasonable attorneys' fees in connection with their unfair competition claims.

129. Pursuant to Business and Professions Code section 17203, Plaintiff, on behalf of herself and **UCL Class** members, seeks declaratory relief and restitution of all monies rightfully belonging to them that Defendants did not pay them or otherwise retained by means of its unlawful and unfair business practices.

130. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine and/or the common fund doctrine, Plaintiff and **UCL Class** members are entitled to recover

reasonable attorneys' fees in connection with their unfair competition claims.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of herself, all others similarly situated, and the general public, prays for relief and judgment against Defendants as follows:

a. An order that the action be certified as a class action;

b. An order that Plaintiff be appointed class representative;

c. An order that counsel for Plaintiff be appointed class counsel;

d. Unpaid wages and overtime;

e. Actual damages;

f. Liquidated damages;

g. Unreimbursed expenses;

h. Restitution;

i. Declaratory relief;

j. Pre-judgment interest;

k. Statutory penalties;

l. Costs of suit;

m. Reasonable attorneys' fees; and

n. Such other relief as the Court deems just and proper.

Dated: February 12, 2025

D.LAW, INC.

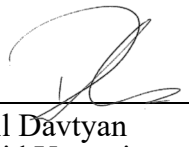
Emil Davtyan
David Yeremian
David Keledjian
Elizabeth Harrier
Attorneys for Plaintiff
SHAUNA KOHANBASHIR , and the putative class

DEMAND FOR JURY TRIAL

Plaintiff, on behalf of herself, all other similarly situated, and the general public, hereby demands a jury trial on all issues so triable.

Dated: February 12, 2025

D.LAW, INC.



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Attorneys for Plaintiff
SHAUNA KOHANBASHIR, and the putative class

EXHIBIT 3