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Attorneys for Plaintiff, LAURA CIAVARELLA,
 individually and as a proxy for the State of California

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

[UNLIMITED CIVIL----COMPLEX]

LAURA CIAVARELLA, an individual, and as
 a proxy for the State of California

Plaintiff,

vs.

S90 TECHNOLOGY, LLC, a limited liability
 company; SEAN CROWLEY, an individual;
 MATTHEW RIGGIO, an individual; and
 DOES 1 through 5, inclusive,

Defendants.

Case No.: 30-2022-01285790-CU-OE-CXC

*Assigned for All Purposes to the Hon. Judge
 Peter Wilson in Dept. CX-102*

**DECLARATION OF AMBER B.
 DERHAM IN SUPPORT OF PAGA
 DISMISSAL WITHOUT PREJUDICE**

[Filed concurrently with [Proposed] Order To
 Dismiss PAGA Claim Without Prejudice]

Complaint Filed: October 11, 2022
 Trial Date: None Set

DECLARATION

I, Amber B. Derham, declare as follows:

1. I am an attorney at law duly licensed to practice before all of the courts of the State of California and Tennessee, and the United States District Court Central, and Northern Districts of California, and am an attorney at the law firm of Gutierrez Derham Law Firm LLP. I am attorney of record for Plaintiff LAURA CIAVARELLA in the above-entitled lawsuit.

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. If called to testify, I could and would testify truthfully to the matters set forth in this Declaration.

Settlement Agreement of Non-PAGA Claims

1 1. On August 17, 2023, the parties fully executed a Settlement Agreement and Release of
 2 Certain Claims Without Prejudice to the PAGA Claim (“Settlement Agreement”) concerning Orange
 3 County Court Case No. 30-2022-01285790-CU-OE-CXC, which settlement dictates dismissal of the
 4 PAGA Claim without Prejudice, and dismissal of Plaintiff’s personal claims with prejudice

5 **LWDA Notifications**

6 2. Attached hereto as **Exhibit A** is a true and correct copy of Plaintiff’s July 29, 2022,
 7 PAGA Notice to the Labor and Workforce Development Agency (“LWDA”).

8 3. My office submitted a copy of the Settlement Agreement to the Labor and Workforce
 9 Development Agency through its online submission portal at <https://dir.tfaforms.net/315>. Attached
 10 hereto as **Exhibit B** is a true and correct copy of the confirmation email.

11 4. My office submitted a copy of this Declaration and the Proposed Order to the Labor and
 12 Workforce Development Agency through its online submission portal at <https://dir.tfaforms.net/315>.
 13 Attached hereto as **Exhibit C** is a true and correct copy of the confirmation email.

14 **Discovery and Investigation**

15 5. The parties engaged in written discovery and investigation surrounding the claims
 16 asserted in Plaintiff’s Complaint. Plaintiff’s claim under PAGA is predicated on violations of Labor
 17 Code sections 2802, 226.7, 512, 226, 510, 204, 226, 1198, 1174(d), 558, 210, 226.3, 1174.5, 201, 202, 203,
 18 1198.5, 432.

19 6. During this investigation, Defendants presented Plaintiff with verified discovery
 20 responses disputing Plaintiff’s allegations as framed within the scope of the PAGA Notice and denying
 21 the existence of any other potentially aggrieved employee. Attached hereto as Exhibit E is a true and
 22 correct copy of Defendant’s Responses to Special Interrogatories.

23 7. Further, I am informed by Defendant’s attorneys that due to economic hardship,
 24 Defendant S90 Technology LLC is unable to pay any monies to satisfy a payment of PAGA penalties
 25 due to their financial situation and are currently struggling to stay in business. Attached hereto as
 26 **Exhibit D** is a Declaration of Sean Crowley in support of the PAGA Dismissal.

27 **No Consideration Is Given in the Settlement Agreement for the Dismissal of the PAGA**
 28 **Claim Without Prejudice.**

1 8. Plaintiff has agreed to resolve her individual claims in this action (consisting of the
2 second through fifth causes of action) for an amount of \$17,500. This allows Plaintiff to recover
3 damages for her individual claims and attorneys fees and costs incurred to obtain the same. Plaintiff has
4 agreed to dismiss these individual claims with prejudice.

5 I declare under penalty of perjury under the laws the State of California that the foregoing is true
6 and correct. Executed on September 29, 2023.



Amber Derham

EXHIBIT A

July 29, 2022

VIA LWDA ONLINE PORTAL
<https://dir.tfaforms.net/308>

Labor and Workforce Dev. Agency
Attn: PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Laura Ciavarella v. S90 Technology LLC et al.

Our Client: Laura Ciavarella

Our File No.: 4-131

Subject: Private Attorneys General Act Notice of Labor Code Violations

To Whom It May Concern:

We are writing on behalf of our client, Laura Ciavarella (“Plaintiff”), regarding S90 Technology LLC’s (“Employer(s)” or “Defendant(s)”) violations of the California Labor Code, for which Plaintiff intends to seek “civil penalties” in a civil action under the California Labor Code Private Attorneys General Act of 2004 (“PAGA”) on behalf of Plaintiff, other current or former aggrieved employees, and the State of California. This notice is sent to the employer pursuant to the PAGA. As used in this PAGA notice, the term “violation” applied to Labor Code statutes has the same meaning as Labor Code § 22.

Nature of PAGA

The California Supreme Court has identified a number of the legal characteristics of a PAGA representative action. First, an employee plaintiff suing under the PAGA does so as the proxy or agent of the state's labor law enforcement agencies, not other employees. *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348, 380 (2014). Second, the employee plaintiff represents the same legal right and interest as those agencies—namely, the recovery of civil penalties that otherwise would have been assessed and collected by the Labor and Workforce Development Agency. (*Id.*) Thus, a PAGA claim “is fundamentally a law enforcement action.” *Arias v. Super. Ct.*, 46 Cal. 4th at 986 (2009); *Williams v. Super. Ct.*, 3 Cal. 5th 531, 538 (2017) (“a PAGA suit, essentially a qui tam action filed on behalf of the state to assist it with labor law enforcement”).

As a law enforcement action, the issue is the employer's conduct, not whether the employees suffered injury or harm. This is because the "harm" or "injury" at issue in a PAGA action is the harm to the public interest in "maximum compliance with the state labor laws." *Arias*, 46 Cal. 4th at 980. PAGA's purpose includes "deputizing private citizens to pursue violators." *Huff v. Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745, 756 (2018).

The PAGA statute only requires the PAGA representative to be an employee "against whom one or more of the alleged violations was committed," meaning a PAGA plaintiff need only have experienced just one of the alleged violations, not all of them. *Huff*, 23 Cal. App. 5th at 753; *Jeske v. Maxim Healthcare Servs.*, 2012 WL 78242, *13 (E.D. Cal. Jan. 10, 2012); *Holak v. K Mart Corp.*, No. 1:12-CV-00304-AWI-MJ) 2015 WL 2384895, at *5 (E.D. Cal. May 19, 2015) ("By the plain language of the statute, an aggrieved employee need only suffer one of the Labor Code violations alleged against his or her employer to be able to bring a PAGA claim on behalf of himself or herself and current or former employees who suffered any Labor Code violation at the hands of the employer. Plaintiff need not have actually suffered all of the Labor Code violations that she alleges to have taken place for purposes of seeking PAGA penalties."). And "every PAGA action, whether seeking penalties for Labor Code violations as to only one aggrieved employee—the plaintiff bringing the action—or as to other employees as well, is a representative action on behalf of the state." *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348, 386-387 (2014).

PAGA conforms to the traditional criteria of qui tam actions, "except that a portion of the penalty goes not only to the citizen bringing the suit but to all employees affected by the Labor Code violation." *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th at 382. PAGA is not meaningfully distinguishable from comparable qui tam statutes outside the employment context, including the California False Claims Act (Gov. Code, § 12650 et seq.) the Insurance Frauds Prevention Act (Ins. Code, § 1871 et seq.) the Safe Drinking Water and Toxic Enforcement Act of 1986, colloquially known as Proposition 65 (Health & Saf. Code § 25249.5 et seq.) and many others. *Cal. Bus. & Industrial Alliance v. Becerra* (CA4/3 G059561 6/30/22) "Moreover, civil penalties recovered on the state's behalf are intended to 'remediate present violations and deter future ones,' not to redress employees' injuries." *Kim v. Reins Int'l Cal., Inc.*, 9 Cal. 5th 73, 86 (2020).

A corporate employer's owner, president, secretary, and directors are liable for civil penalties as an "other person" who caused violations of the Labor Code, even if there is no allegation that the alter ego doctrine applies or that there is any other basis on which to pierce the corporate veil. *Atempa v. Pedrazzani*, 27 Cal. App. 5th 809 (2018). A "person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation." Lab. Code § 558.1. Even if Defendant's Managers/Members, Sean Crowley and Matthew Riggio, did not cause past violations, any continued violations of statutes or provisions, which are explained below, that are not promptly remedied will be caused by them.



Factual Background

Defendant employed Plaintiff, as a Junior Account Executive, and misclassified as exempt, from at least around June 4, 2019, to June 2, 2022. Plaintiff should have been classified as an hourly non-exempt worker. As a company-wide practice, Defendant regularly required Plaintiff and its other non-exempt employees to work over eight hours per day and/or forty per week, without being paid premium overtime compensation.

As a company-wide practice, Defendant regularly required Plaintiff and its other non-exempt employees to work over eight hours per day and/or forty per week, without being paid premium overtime compensation.

As a company-wide practice, Defendant regularly required Plaintiff and its other non-exempt employees to work without being provided meal/rest breaks.

As a company-wide practice, Defendant regularly provided wage statements to Plaintiff and its other non-exempt employees that did not accurately show all hours worked and gross wages earned.

As a company-wide practice, Defendant knew that Plaintiff and its other non-exempt employees worked from home and used their home internet, yet failed to pay them for any associated home internet expenses. As a company-wide practice, Defendant knew that Plaintiff and its other non-exempt employees used their personal cell phones for work, yet failed to pay them for any associated cell phone expenses.

As a company-wide practice, Defendant did not provide Plaintiff and its other non-exempt employees with their final pay upon termination of employment.

On June 28, 2022, Plaintiff requested her employment records pursuant to Labor Code sections 226, 1198.5 and 432. To date, Defendant has failed to provide the records.

The relevant period of the below allegations for this notice is from one year preceding this letter, to present and ongoing.

Violations of Labor Code §§ 2802, 226.7, 512, 226, 510, 204, 226, 1198, 1174(d), 558, 210, 226.3, 1174.5, 201, 202, 203, 1198.5, 432

Labor Code § 2802

“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.” Lab. Code § 2802(a). In *Cochran v. Schwan*’s, the court held:

If an employee is required to make work-related calls on a personal cell phone, then he or she is incurring an expense for purposes of section 2802. It does not matter whether the phone bill is paid for by a third person, or at all. In other words, it is no concern to the employer that the employee may pass on the expense to a family member or friend, or to a



carrier that has to then write off a loss. It is irrelevant whether the employee changed plans to accommodate work-related cell phone usage. Also, the details of the employee's cell phone plan do not factor into the liability analysis. Not only does our interpretation prevent employers from passing on operating expenses, it also prevents them from digging into the private lives of their employees to unearth how they handle their finances vis-à-vis family, friends and creditors. To show liability under section 2802, an employee need only show that he or she was required to use a personal cell phone to make work-related calls, and he or she was not reimbursed.

Cochran v. Schwan's Home Serv., Inc., 228 Cal. App. 4th 1137, 1144–45 (2014), review denied (Nov. 25, 2014).

Here, like in *Cochran*, if an employee is required to do work-related activities on a personal cell phone, then he is incurring an expense for purposes of section 2802. Here, as in *Cochran*, to show liability under section 2802, an employee need only show that he was required or directed to use a personal cell phone to do work-related activities and was not reimbursed.

Defendants did not reimburse or pay Plaintiff or the other aggrieved employees for any portion of their cell phone expenses, in violation of Labor Code § 2802(a).

Labor Code § 2802 does not have a civil penalty specifically provided. Thus, Labor Code § 2699(f) is applicable to impose 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.

Labor Code § 226.7

“An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.” Lab. Code § 226.7(b). “If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.” Lab. Code § 226.7(c).

Relevant Wage Orders of the Industrial Welfare Commission, applicable to Defendants, such as Wage Order No. 4-2001 section 12 for example, provide that “Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

As a company-wide practice, Defendant regularly required Plaintiff and its other non-exempt employees to work without being provided the opportunity to have a rest break. As a



company-wide practice, Defendant did not allow them the opportunity to be relieved of all duties to take a rest break. As a company-wide practice, Defendant did not compensate them in lieu of providing rest breaks. As such, Defendant violated California Labor Code section 226.7(b) and 226(c).

California Labor Code section 226.7 does not provide for its own self-contained “civil penalty” within the statute. Thus, California Labor Code section 2699(f)(2) applies to provide a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation.

Labor Code § 512

“An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes.” Lab. Code § 512(a).

As set forth above, Defendants did not permit Plaintiff and other aggrieved employees uninterrupted duty-free meal periods with the opportunity to be relieved of all duties for meal breaks on the days they worked more than five hours. As set forth above, Defendants did not permit Plaintiff and other aggrieved employees uninterrupted second duty-free meal periods with the opportunity to be relieved of all duties for meal breaks on the days they worked more than 10 hours.

California Labor Code section 512 does not provide for its own self-contained “civil penalty” within the statute. Thus, California Labor Code section 2699(f)(2) applies to provide a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation.

Labor Code § 510

“Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.” Lab. Code § 510(a).

Plaintiff’s co-workers regularly worked more than eight hours per workday. They were not compensated with premium overtime pay for those overtime hours worked more than eight per day. As such, Defendants violated Labor Code § 510.

California Labor Code section 510 does not provide for its own self-contained “civil penalty” within the statute. Thus, California Labor Code section 2699(f)(2) applies to provide a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation.

Labor Code § 204



Labor Code Section 204(a) provides that “All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.”

Plaintiff’s co-workers regularly worked more than eight hours per workday. They were not compensated with the earned premium overtime pay for those overtime hours worked more than eight per day. As such, Defendants violated Labor Code Section 204(a) by failing to pay for all the overtime premium wages on regular paydays. Labor Code Section 204 does not provide for its own self-contained civil penalty within the statute. Thus, Labor Code Section 2699(f)(2) applies to provide a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation.

Labor Code § 226

“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 (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.” Lab. Code § 226(a).

Due to Defendant’s failure to account for the time worked and rest break premiums, Plaintiff and other aggrieved employees’ itemized wage records did not show: (1) the accurate total hours worked; (2) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate; (3) the accurate gross wages earned; and (4) the accurate net wages earned. As such, Defendants violated Labor Code Section 226(a)(1)(2)(5)(9). Defendant also failed to keep itemized wage statement records of the foregoing.

Defendant also violated section 226 by not providing copies of Plaintiff’s itemized wage statements within 21 days (to date, Defendant has ignored this request).

Labor Code Section 226 does not provide for its own self-contained “civil” penalty within the statute. Thus, Labor Code Section 2699(f)(2) applies to provide a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation.



Labor Code § 1198

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. California Labor Code section 1173 defines commission as the IWC. Further, the “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Lab. Code § 1198.

Sections 3(A)(1) of IWC Order Nos. 1-2001, 2-2001, 3-2001, 4-2001, 5-2001, 6-2001, 7-2001, 8-2001, 9-2001, 10-2001, 11-2001, 12-2001, 13-2001, 16-200, Section 3(C) of IWC Order No. 15-2001, and Section 4 of IWC Order No. 17-2001, provide that “employees shall not be employed more than eight (8) hours in any workday or more than 40 in a workweek unless the employee receives one and one half (1 1/2) times such employee’s regular rate of pay for all hours worked over 40 hours in the workweek.” Section 7(A) requires every employer to keep accurate time records showing when the employee begins and ends each work period and the total hours worked in the payroll period.

As set forth above, Plaintiff and his co-workers regularly worked more than eight hours per workday. They were not compensated with the earned premium overtime pay for those overtime hours worked more than eight per day.

Relevant Wage Orders of the IWC, applicable to Defendants, such as Wage Order No. 4-2001 section 12, provide that “Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

As set forth above, on numerous occasions, Defendants did not permit Plaintiff and other aggrieved employees to have uninterrupted rest breaks with the opportunity to be relieved of all duties for rest breaks.

Relevant Wage Orders of the IWC, applicable to Defendants, such as Wage Order No. 4-2001 section 11, provide that “(A) 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 the employee. (C) 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.”

As set forth above, on numerous occasions, Defendants did not permit Plaintiff and other aggrieved employees to have uninterrupted duty-free meal breaks with the opportunity to be relieved of all duties for meal breaks.



Based on the foregoing, Defendants violated California Labor Code section 1198 by violating the above-referenced sections of relevant Wage Orders of the IWC.

California Labor Code section 1198 does not provide for its own self-contained “civil penalty” within the statute. Thus, California Labor Code section 2699(f)(2) applies to provide a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation.

Based on the foregoing, Defendants violated California Labor Code section 1198 by violating the above-referenced sections of relevant Wage Orders of the IWC.

California Labor Code section 1198 does not provide for its own self-contained “civil penalty” within the statute. Thus, California Labor Code section 2699(f)(2) applies to provide a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation.

Labor Code § 1174(d)

Labor Code Section 1174(d) provides that every person employing labor in this state shall keep payroll records showing the hours worked daily by and the wages paid to employees employed for not less than three years. "Person" means any person, association, organization, partnership, business trust, limited liability company, or corporation. Lab. Code § 18.

Defendants failed to maintain records showing the actual and accurate hours worked by Plaintiff's co-workers, aggrieved employees, in violation of Labor Code Section 1174(d). Labor Code Section 1174 does not provide for its own self-contained civil penalty within the statute. Thus, Labor Code Section 2699(f)(2) applies to provide a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation.

Labor Code § 558

Pursuant to Labor Code section 558(a) any employer or other person acting on behalf of an employer who violates, or causes to be violated, [Labor Code sections 510 and 512] or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty in a PAGA action as follows:

- (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid . . .
- (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid . . .

As discussed above, Defendants violated Labor Code sections 510, 512, and the above-referenced provisions of IWC Wage Orders as applicable. As such, Defendants are subject to pay the pre-determined amount of civil penalties for the initial and subsequent violations.

Labor Code § 210

Pursuant to Labor Code § 210(a), in addition to, and entirely independent and apart from,



any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Section 204 shall be subject to a civil penalty as follows:

- (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee.
- (2) For each subsequent violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.

As discussed above, Defendants violated Labor Code § 204. As such, Defendants are subject to pay a pre-determined amount of civil penalties for the initial and subsequent violations “plus 25 percent of the amount unlawfully withheld,” as indivisible civil penalties pursuant to Section 210(a).

Labor Code § 226.3

“Any employer who violates subdivision (a) of section 226 shall be subject to a civil 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, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.” Lab. Code § 226.3. This section “sets out a civil penalty for *all* violations of section 226.” *Raines v. Coastal Pacific Food Distribs., Inc.*, 23 Cal. App. 5th 667, 675 (2018). Because Defendant violated California Labor Code section 226(a), Defendant is subject to civil penalties under section 226.3 applicable to Plaintiff and other current and former aggrieved employees.

Labor Code § 1174.5

Pursuant to Labor Code Section 1174.5, any person employing labor who willfully fails to maintain accurate and complete records required by subdivision (d) of Section 1174 shall be subject to a civil penalty of five hundred dollars (\$500). As discussed above, Defendant violated Labor Code Labor Code Section 1174(d). Defendant willfully failed to maintain records showing the accurate hours worked daily by the aggrieved employees. Thus, Defendants are subject to civil penalties.

Labor Code §§ 201-203

Due to the overtime and rest break violations, Plaintiff did not timely receive all of her final pay within the required timeframe from her discharge date. Thus, Defendant violated Labor Code sections 201-203. Defendant also did this to other aggrieved employees. Labor Code Sections 201-203 do not provide for their own self-contained civil penalty within the statute. Thus, Labor Code Section 2699(f)(2) applies to provide a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation.

Labor Code § 1198.5

Labor Code section 1198.5 provides that an employer shall make personnel records available for inspection to the former employee, or his or her representative, at reasonable



intervals and at reasonable times, but “not later than 30 calendar days from the date the employer receives a written request.” Lab. Code § 1198.5(b). “Upon a written request from a current or former employee, or his or her representative, the employer shall also provide a copy of the personnel records, at a charge not to exceed the actual cost of reproduction.” *Id.*

Defendants failed to provide the complete personnel records that Plaintiff requested within 30 days from the date of the request. This practice violates Labor Code section 1198.5. Labor Code section 1198.5 does not provide for its own self-contained “civil” penalty within the statute. Thus, Labor Code Section 2699(f)(2) applies to provide a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation.

Other aggrieved employees are any current or former California employees who were not provided with their complete personnel records within 30 days from their requests.

Labor Code § 432

Defendant also violated Labor Code section 432 by not responding to Plaintiff’s request for employment records that she had signed.

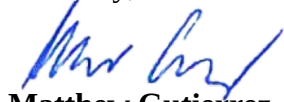
Civil Action

Plaintiff demands that Defendant take immediate measures to redress the above-referenced violations. Plaintiff intends to initiate a civil action, on behalf of the State of California to seek civil penalties in a cause of action under the PAGA for every violation that affected Plaintiff and other aggrieved employees. If Defendant, or its attorneys if it is represented in this matter, have any questions about the aggrieved employees or the extent of the violations, please see above details and feel free to contact the undersigned, in writing, for any clarification.

The civil action will be a representative action and, as held by the California Supreme Court in *Arias*, need not meet the requirements for class certification. Moreover, the PAGA has no notice requirements for unnamed aggrieved employees in federal courts, unlike Rule 23 of the Federal Rules of Civil Procedure, nor may such employees opt out of a PAGA action. *Baumann v. Chase Inv. Services Corp.*, 747 F.3d 1117 (9th Cir. Mar. 13, 2014). In a PAGA action, the court does not inquire into the named plaintiff’s and class counsel’s ability to fairly and adequately represent unnamed employees. *Id.* Further, an employee plaintiff need not comply with the Rule 23 requirements, including the “manageability” requirement, to assert a PAGA cause of action. *Hamilton v. Wal-Mart Stores* (9th Cir. 19-56161 6/30/22).

Based on the foregoing, Plaintiff requests an immediate notification from the Labor and Workforce Development Agency, so Plaintiff may pursue civil penalties on behalf of the State of California.

Sincerely,



Matthew Gutierrez, Esq.



MG:ep

cc:

Sean Crowley, Member

Matthew Riggio, Member

Human Resources

S90 Technology LLC

11 Orchard Rd., Ste 107

Lake Forest, CA 92630

[Via Certified Mail 7021 1970 0000 0044 0713]



EXHIBIT B

Emily Page

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Sent: Tuesday, August 22, 2023 12:56 PM
To: Emily Page
Subject: Thank you for your Proposed Settlement Submission

08/22/2023 12:54:33 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

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

EXHIBIT C

EXHIBIT D

1 KIRK C. PEARSON (SB# 267135)
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11 Attorneys for Defendants, S90 TECHNOLOGY, LLC,
12 SEAN CROWLEY, AND MATTHEW RIGGIO

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

14 **COUNTY OF ORANGE**

15 **[UNLIMITED CIVIL—COMPLEX]**

16 LAURA CIAVARELLA, an individual, and as a
17 proxy for the State of California,

18 Plaintiff,

19 vs.

20 S90 TECHNOLOGY, LLC, a limited liability
21 company; SEAN CROWLEY, an individual;
22 MATTHEW RIGGIO, an individual; and DOES 1
23 through 5, inclusive,

24 Defendants.

Case No.: 30-2022-01285790-CU-OE-CXC

**DECLARATION OF SEAN CROWLEY OF
S90 TECHNOLOGY, LLC IN SUPPORT OF
REQUEST FOR DISMISSAL OF PAGA
CLAIMS WITHOUT PREJUDICE**

Complaint Filed: October 11, 2022
Trial Date: N/A

25 I, Sean Crowley, declare as follows:

26 1. I am a principal of S90 Technology LLC (the “Company”), which is a party to this
27 action. I am also individually named as a party to this action.

28 2. I have personal knowledge of the facts contained herein, and if called upon to testify, I
could and would competently do so. Where I do not have personal knowledge, the information

1 described and referenced below is found in the Company's business records. The entries in those
2 records are made at the time of the events and conditions that they describe and are made either by
3 people with first-hand knowledge of those events and conditions or from information provided by
4 people with first-hand knowledge. Recording such information is the Company's regular practice in
5 the course of its regularly conducted business activities. I have reviewed those records, have access to
6 those records, and have personal knowledge of how they are maintained. Based upon those records, I
7 have gained personal knowledge of the facts set forth below and if called upon as a witness to testify, I
8 could and would competently testify as to those facts under the penalty of perjury.

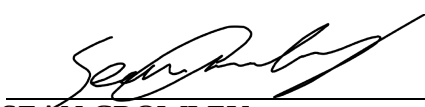
9 3. I submit this Declaration as a representative of the Company in support of the Request
10 for Dismissal of the PAGA Claims Without Prejudice filed by Plaintiff Laura Ciavarella ("Plaintiff").

11 4. The Company makes no admission that it has engaged, or is now engaging, in any
12 unlawful conduct as alleged in Plaintiff's Complaint, filed October 11, 2022, in Orange County
13 Superior Court, Case No. 30-2022-01285790-CU-OE-CXC.

14 5. The Company is currently experiencing severe economic hardship and struggling to
15 stay in business. The Company was forced to reduce its workforce due to continual revenue loss, and it
16 has not rebounded. In addition, the Company has had to reduce two full-time positions to part-time
17 positions. The Company also relocated to a different office to lower lease expenses, and other
18 operating costs. Should there be a judgment assessing PAGA penalties against the Company, the
19 Company most likely will be unable to pay monies to satisfy said judgment in this case.

20 6. The Company entered into a settlement agreement with Plaintiff that was fully executed
21 on August 17, 2023, for dismissal of Plaintiff's individual claims with prejudice. Plaintiff has agreed to
22 the dismissal of the PAGA claim without prejudice in conjunction with the overall settlement.

23 I declare under penalty of perjury under the laws of the State of California and the United
24 States of America that the foregoing is true and correct. Executed this 29th day of September 2023 at
25 Lake Forest, California.

26 By: 

27 SEAN CROWLEY
28

EXHIBIT E

1 KIRK C. PEARSON (State Bar No. 267135)
JIM Q. TRAN (State Bar No. 274880)
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7 Attorneys for Defendants, S90 Technology, LLC, Sean Crowley, and Matthew Riggio

8
9
10 **THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF ORANGE**
12 **[UNLIMITED CIVIL—COMPLEX]**

13 LAURA CIAVARELLA, an individual, and as a
proxy for the State of California,

14 Plaintiff,

15 vs.
16

17 S90 TECHNOLOGY, LLC, a limited liability
company; SEAN CROWLEY, an individual;
18 MATTHEW RIGGIO, an individual; and DOES 1
through 5, inclusive,

19 Defendants.
20
21
22

Case No.: 30-2022-01285790-CU-OE-CXC

**DEFENDANT S90 TECHNOLOGY, LLC'S
RESPONSES TO PLAINTIFF LAURA
CIAVARELLA'S SPECIAL
INTERROGATORIES, SET ONE**

Complaint Filed: October 11, 2022
Trial Date: N/A

23
24 **PROPOUNDING PARTY: LAURA CIAVARELLA ("PROPOUNDING PARTY")**

25 **RESPONDING PARTY: S90 TECHNOLOGY, LLC ("RESPONDING PARTY")**

26 **SET NO.: ONE**

27 RESPONDING PARTY serves the following responses to PROPOUNDING PARTY'S first
28 set of Special Interrogatories served in the above-captioned action:

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Except for facts explicitly admitted in these responses, no admission of any nature whatsoever is intended by RESPONDING PARTY. The fact that any document referenced in these responses exists shall not be taken as an admission or a concession of the existence of any facts set forth or assumed by such a document. Likewise, the fact that RESPONDING PARTY responds to all or part of any of these Special Interrogatories is not intended to, and shall not be construed to be, a waiver by RESPONDING PARTY of any applicable objections to any such Special Interrogatories.

The following responses are also given without prejudice to the right to produce subsequently discovered facts, documents, and evidence at the time of trial. These responses are further provided without prejudice to the use of additional information and/or documents that may become known or discovered at a later time, or which was inadvertently omitted from these responses as a result of a

1 good faith oversight.

2 RESPONDING PARTY relies upon well-established California authority to the effect that
3 written interrogatories cannot unilaterally be denominated as continuing in nature, and RESPONDING
4 PARTY serves notice that it will not voluntarily provide further responses to these written
5 interrogatories if additional interrogatories are acquired after these responses are served. (*Smith v.*
6 *Superior Court* (1961) 189 Cal.App.2d 6, 11.)

7 To the extent that PROPOUNDING PARTY attempts in these Special Interrogatories to extend
8 RESPONDING PARTY'S responsibilities beyond the scope of discovery established by the Code of
9 Civil Procedure, RESPONDING PARTY rejects such an attempt. RESPONDING PARTY will not
10 accept any specialized meanings or definitions ascribed by PROPOUNDING PARTY in these Special
11 Interrogatories and will instead interpret all words in their ordinary and customary meanings.

12 RESPONDING PARTY'S inadvertent reference to a fact or document that is privileged,
13 constitutes work-product, or is otherwise protected from disclosure by any applicable doctrine or rule
14 of law, shall not be deemed to waive the applicable privilege, doctrine, or rule of law with respect to
15 that fact or document.

16 Finally, in addition to the General Objections below, the entirety of this Preliminary Statement
17 is incorporated by reference into the responses below.

18 **GENERAL OBJECTIONS**

19 The following general objections are also incorporated by this reference into each response
20 below:

21 1. RESPONDING PARTY objects to each Special Interrogatory to the extent that it seeks
22 the disclosure of information protected by the attorney-client privilege.

23 2. RESPONDING PARTY objects to each Special Interrogatory to the extent that it seeks
24 the discovery of documents protected by the attorney work-product doctrine.

25 3. RESPONDING PARTY objects to each Special Interrogatory to the extent that it seeks
26 information or facts that are equally available to PROPOUNDING PARTY. (*Bunnell v. Superior*
27 *Court* (1967) 254 Cal.App.2d 720, 723-24 [Responding party has no duty to research matters equally
28 available to both parties in response to discovery, including matters of public record]; *Holguin v.*

1 *Superior Court* (1972) 22 Cal.App.3d 812, 821 [Responding party has no duty to make any affirmative
2 inquiries with independent witnesses].)

3 4. RESPONDING PARTY objects to each Special Interrogatory to the extent that it seeks
4 information about documents that contain proprietary information, trade secrets, or other confidential
5 information.

6 5. RESPONDING PARTY objects to each Special Interrogatory to the extent that it
7 exceeds the scope of necessary and appropriate discovery (e.g., are not reasonably calculated to lead to
8 the discovery of admissible evidence).

9 6. RESPONDING PARTY construes each Special Interrogatory as not seeking
10 information related to any documents created by RESPONDING PARTY as a result of the above-
11 captioned action, including, without limitation, legal memoranda, pleadings, drafts of pleadings,
12 attorney notes, letters, communications, or other documents created during, and as a direct result of,
13 this action. Based on that construction, no privilege log of such documents and communications
14 protected against disclosure by the attorney-client privilege, work-product doctrine, or other applicable
15 privileges is required. (*People ex rel. Lockyer v. Superior Court* (2004) 122 Cal.App.4th 1060, 1074-
16 75.)

17 7. To the extent that any Special Interrogatory might be construed to seek the
18 identification of, or information about, such documents (e.g., a privilege log or cataloging of such
19 documents), in addition to the privilege-related objections set forth above, RESPONDING PARTY
20 objects to the Special Interrogatory on the grounds that it is overbroad, unduly burdensome,
21 oppressive, and not reasonably calculated to lead to the discovery of admissible evidence.

22 Without waiving any of these objections, RESPONDING PARTY responds to the Special
23 Interrogatories as follows:

24 **RESPONSES TO SPECIAL INTERROGATORIES**

25 **SPECIAL INTERROGATORY NO. 1.**

26 Provide the CONTACT INFORMATION (“CONTACT INFORMATION” is defined here to
27 mean the full name, last known residential address, email address, and phone number) of all current
28 and former exempt employees who worked for you at any point in time from July 29, 2021, to present.

1 **RESPONSE TO SPECIAL INTERROGATORY NO. 1.**

2 RESPONDING PARTY objects that this Interrogatory is vague and ambiguous, particularly as
3 to the terms “CONTACT INFORMATION” “exempt employees,” and “you.” RESPONDING PARTY
4 objects on the grounds that this Special Interrogatory is irrelevant and not reasonably calculated to lead
5 to the discovery of admissible evidence. RESPONDING PARTY objects on the grounds that this
6 Special Interrogatory seeks private and confidential information protected from discovery by a
7 constitutionally protected right of privacy as to RESPONDING PARTY and third-persons guaranteed
8 by the California Constitution. RESPONDING PARTY objects on the grounds that this Special
9 Interrogatory is compound in violation of Code of Civil Procedure section 2030.060, subdivision (f).
10 RESPONDING PARTY objects on the grounds that this Interrogatory is not reasonably calculated to
11 lead to the discovery of admissible evidence.

12 Subject to and without waiving these objections, and based upon RESPONDING PARTY’S
13 understanding of this interrogatory, RESPONDING PARTY responds as follows: Laura Ciavarella, 36
14 Fortuna E, Irvine, CA 92620, lauraciavarella737@gmail.com, 949-397-1818.

15 **SPECIAL INTERROGATORY NO. 2.**

16 Identify (“IDENTIFY” means provide sufficient description for the document to be requested,
17 identified and produced in discovery) the number of wage statements you issued to all current or
18 former exempt issued to all of Defendant’s California exempt employees from July 29, 2021 to
19 present.

20 **RESPONSE TO SPECIAL INTERROGATORY NO. 2.**

21 RESPONDING PARTY objects that this Interrogatory is vague and ambiguous, particularly as
22 to the terms “Identify,” “IDENTIFY,” “wage statements,” “exempt,” and “exempt employees.”
23 RESPONDING PARTY objects on the grounds that this Special Interrogatory is irrelevant and not
24 reasonably calculated to lead to the discovery of admissible evidence. RESPONDING PARTY objects
25 on the grounds that this Special Interrogatory necessitates the undue burden of preparing a
26 compilation, abstract, audit, or summary of documents. RESPONDING PARTY objects on the
27 grounds that this Special Interrogatory seeks private/confidential information protected from discovery
28 by a constitutionally protected right of privacy as to RESPONDING PARTY and third-persons

1 guaranteed by the California Constitution. RESPONDING PARTY objects on the grounds that this
2 Special Interrogatory is compound in violation of Code of Civil Procedure section 2030.060,
3 subdivision (f).

4 Subject to and without waiving these objections, and based upon RESPONDING PARTY'S
5 understanding of this interrogatory, RESPONDING PARTY responds as follows: Approximately
6 twenty-six (26) were issued to PROPOUNDING PARTY.

7 **SPECIAL INTERROGATORY NO. 3.**

8 IDENTIFY ("IDENTIFY" means provide sufficient description for the document to be
9 requested, identified and produced in discovery) the number of employees that requested their
10 personnel files from you from July 29, 2021 to present.

11 **RESPONSE TO SPECIAL INTERROGATORY NO. 3.**

12 RESPONDING PARTY objects that this Interrogatory is vague and ambiguous, particularly as
13 to the terms "IDENTIFY," "you," and "personnel files." RESPONDING PARTY objects on the
14 grounds that this Special Interrogatory is irrelevant and not reasonably calculated to lead to the
15 discovery of admissible evidence. RESPONDING PARTY objects on the grounds that this Special
16 Interrogatory necessitates the undue burden of preparing a compilation, abstract, audit, or summary of
17 documents. RESPONDING PARTY objects on the grounds that this Special Interrogatory seeks
18 private/confidential information protected from discovery by a constitutionally protected right of
19 privacy as to RESPONDING PARTY and third-persons guaranteed by the California Constitution.
20 RESPONDING PARTY objects on the grounds that this Special Interrogatory is compound in
21 violation of Code of Civil Procedure section 2030.060, subdivision (f).

22 Subject to and without waiving these objections, and based upon RESPONDING PARTY'S
23 understanding of this interrogatory, RESPONDING PARTY responds as follows: One (1).

24 **SPECIAL INTERROGATORY NO. 4.**

25 IDENTIFY ("IDENTIFY" means provide sufficient description for the document to be
26 requested, identified and produced in discovery) the number of exempt employees that separated from
27 employment with you from July 29, 2021 to present.

28 //

1 **RESPONSE TO SPECIAL INTERROGATORY NO. 4.**

2 RESPONDING PARTY objects that this Interrogatory is vague and ambiguous, particularly as
3 to the terms “IDENTIFY,” “exempt employees,” “separated from employment,” and “you.”
4 RESPONDING PARTY objects on the grounds that this Special Interrogatory is irrelevant and not
5 reasonably calculated to lead to the discovery of admissible evidence. RESPONDING PARTY objects
6 on the grounds that this Special Interrogatory necessitates the undue burden of preparing a
7 compilation, abstract, audit, or summary of documents. RESPONDING PARTY objects on the
8 grounds that this Special Interrogatory seeks private/confidential information protected from discovery
9 by a constitutionally protected right of privacy as to RESPONDING PARTY and third-persons
10 guaranteed by the California Constitution. RESPONDING PARTY objects on the grounds that this
11 Special Interrogatory is compound in violation of Code of Civil Procedure section 2030.060,
12 subdivision (f).

13 Subject to and without waiving these objections, and based upon RESPONDING PARTY’S
14 understanding of this interrogatory, RESPONDING PARTY responds as follows: One (1).

15 **SPECIAL INTERROGATORY NO. 5.**

16 IDENTIFY (“IDENTIFY” means provide sufficient description for the document to be
17 requested, identified and produced in discovery) the number of employees that requested their payroll
18 records from you from July 29, 2021 to present.

19 **RESPONSE TO SPECIAL INTERROGATORY NO. 5.**

20 RESPONDING PARTY objects that this Interrogatory is vague and ambiguous, particularly as
21 to the terms “IDENTIFY,” “you,” and “payroll records.” RESPONDING PARTY objects on the
22 grounds that this Special Interrogatory is irrelevant and not reasonably calculated to lead to the
23 discovery of admissible evidence. RESPONDING PARTY objects on the grounds that this Special
24 Interrogatory necessitates the undue burden of preparing a compilation, abstract, audit, or summary of
25 documents. RESPONDING PARTY objects on the grounds that this Special Interrogatory seeks
26 private/confidential information protected from discovery by a constitutionally protected right of
27 privacy as to RESPONDING PARTY and third-persons guaranteed by the California Constitution.
28 RESPONDING PARTY objects on the grounds that this Special Interrogatory is compound in

violation of Code of Civil Procedure section 2030.060, subdivision (f).

Subject to and without waiving these objections, and based upon RESPONDING PARTY'S understanding of this interrogatory, RESPONDING PARTY responds as follows: None.

SPECIAL INTERROGATORY NO. 6.

What is the total number of your California based employees who worked REMOTELY ("REMOTELY" is defined here to mean not at any physical location provided for them by Defendant S90 TECHNOLOGY, LLC) at any point of time from July 29, 2021, to present?

RESPONSE TO SPECIAL INTERROGATORY NO. 6.

RESPONDING PARTY objects that this Interrogatory is vague and ambiguous, particularly as to the terms "California based employees," "REMOTELY," and "your." RESPONDING PARTY objects on the grounds that this Special Interrogatory is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. RESPONDING PARTY objects on the grounds that this Special Interrogatory is overbroad, unduly burdensome, and oppressive as to time and scope with use of the phrase, "any point of time," and is therefore calculated to annoy and harass RESPONDING PARTY. RESPONDING PARTY objects on the grounds that this Special Interrogatory necessitates the undue burden of preparing a compilation, abstract, audit, or summary of documents. RESPONDING PARTY objects on the grounds that this Special Interrogatory seeks private/confidential information protected from discovery by a constitutionally protected right of privacy as to RESPONDING PARTY and third persons guaranteed by the California Constitution.

Subject to and without waiving these objections, and based upon RESPONDING PARTY'S understanding of this interrogatory, RESPONDING PARTY responds as follows: One (1).

SPECIAL INTERROGATORY NO. 7.

What is the total number of your California based employees who worked REMOTELY ("REMOTELY" is defined here to mean not at any physical location provided for them by Defendant S90 TECHNOLOGY, LLC) at any point of time from July 29, 2021, to present, that you provided payment to for using for using their home internet for work purposes while working REMOTELY?

RESPONSE TO SPECIAL INTERROGATORY NO. 7.

RESPONDING PARTY objects that this Interrogatory is vague and ambiguous, particularly as

1 to the terms “California based employees,” “REMOTELY,” and “you.” RESPONDING PARTY
2 objects on the grounds that this Special Interrogatory is irrelevant and not reasonably calculated to lead
3 to the discovery of admissible evidence. RESPONDING PARTY objects on the grounds that this
4 Special Interrogatory is overbroad, unduly burdensome, and oppressive as to time and scope with use
5 of the phrase, “any point of time,” and is therefore calculated to annoy and harass RESPONDING
6 PARTY. RESPONDING PARTY objects on the grounds that this Special Interrogatory necessitates
7 the undue burden of preparing a compilation, abstract, audit, or summary of documents.
8 RESPONDING PARTY objects on the grounds that this Special Interrogatory seeks
9 private/confidential information protected from discovery by a constitutionally protected right of
10 privacy as to RESPONDING PARTY and third persons guaranteed by the California Constitution.

11 Subject to and without waiving these objections, and based upon RESPONDING PARTY’S
12 understanding of this interrogatory, RESPONDING PARTY responds as follows: None.

13 **SPECIAL INTERROGATORY NO. 8.**

14 Provide the CONTACT INFORMATION (“CONTACT INFORMATION” means the full
15 name, last known residential address, last known personal phone number, and last known personal
16 email address) of your California based employees who worked REMOTELY (“REMOTELY” is
17 defined here to mean not at any physical location provided for them by Defendant S90
18 TECHNOLOGY, LLC) at any point of time from July 29, 2021, to present.

19 **RESPONSE TO SPECIAL INTERROGATORY NO. 8.**

20 RESPONDING PARTY objects that this Interrogatory is vague and ambiguous, particularly as
21 to the terms “CONTACT INFORMATION,” “California based employees,” “REMOTELY,” and
22 “your.” RESPONDING PARTY objects on the grounds that this Special Interrogatory is irrelevant and
23 not reasonably calculated to lead to the discovery of admissible evidence. RESPONDING PARTY
24 objects on the grounds that this Special Interrogatory is overbroad, unduly burdensome, and oppressive
25 as to time and scope with use of the phrase, “any point of time,” and is therefore calculated to annoy
26 and harass RESPONDING PARTY. RESPONDING PARTY objects on the grounds that this Special
27 Interrogatory necessitates the undue burden of preparing a compilation, abstract, audit, or summary of
28 documents. RESPONDING PARTY objects on the grounds that this Special Interrogatory seeks

private/confidential information protected from discovery by a constitutionally protected right of privacy as to RESPONDING PARTY and third persons guaranteed by the California Constitution.

Subject to and without waiving these objections, and based upon RESPONDING PARTY’S understanding of this interrogatory, RESPONDING PARTY responds as follows: Sophia Carr, who can be reached through counsel for RESPONDING PARTY.

SPECIAL INTERROGATORY NO. 9.

What is the total number of your California based employees who used their personal cell phones for business purposes at any point of time from July 29, 2021, to present?

RESPONSE TO SPECIAL INTERROGATORY NO. 9.

RESPONDING PARTY objects that this Interrogatory is vague and ambiguous, particularly as to the terms “California based employees,” “business purposes,” and “your.” RESPONDING PARTY objects on the grounds that this Special Interrogatory is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. RESPONDING PARTY objects on the grounds that this Special Interrogatory is overbroad, unduly burdensome, and oppressive as to time and scope with use of the phrase, “any point of time,” and is therefore calculated to annoy and harass RESPONDING PARTY. RESPONDING PARTY objects on the grounds that this Special Interrogatory necessitates the undue burden of preparing a compilation, abstract, audit, or summary of documents.

RESPONDING PARTY objects on the grounds that this Special Interrogatory seeks private/confidential information protected from discovery by a constitutionally protected right of privacy as to RESPONDING PARTY and third persons guaranteed by the California Constitution.

Subject to and without waiving these objections, RESPONDING PARTY responds as follows: None known by RESPONDING PARTY.

SPECIAL INTERROGATORY NO. 10.

What is the total number of your California based employees who worked used their personal cell phones for business purposes at any point of time from July 29, 2021, to present, that you provided payment to for using for using [sic] their personal cell phones for work purposes?

RESPONSE TO SPECIAL INTERROGATORY NO. 10

RESPONDING PARTY objects that this Interrogatory is vague and ambiguous, particularly as

1 to the terms “California based employees,” “who worked used,” “business purposes,” “for using for
2 using,” and “you.” RESPONDING PARTY objects on the grounds that this Special Interrogatory is
3 irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.
4 RESPONDING PARTY objects on the grounds that this Special Interrogatory is overbroad, unduly
5 burdensome, and oppressive as to time and scope with use of the phrase, “any point of time,” and is
6 therefore calculated to annoy and harass RESPONDING PARTY. RESPONDING PARTY objects on
7 the grounds that this Special Interrogatory necessitates the undue burden of preparing a compilation,
8 abstract, audit, or summary of documents. RESPONDING PARTY objects on the grounds that this
9 Special Interrogatory seeks private/confidential information protected from discovery by a
10 constitutionally protected right of privacy as to RESPONDING PARTY and third persons guaranteed
11 by the California Constitution.

12 Subject to and without waiving these objections, and based on REPSONDING PARTY’S
13 understanding of this Interrogatory, RESPONDING PARTY responds as follows: RESPONDING
14 PARTY does not know of any employee who used their personal cell phones for business purposes.

15 **SPECIAL INTERROGATORY NO. 11.**

16 Provide the CONTACT INFORMATION (“CONTACT INFORMATION” means the full
17 name, last known residential address, last known personal phone number, and last known personal
18 email address) of your California based employees who used their personal cell phones for work
19 purposes at any point of time from July 29, 2021, to present.

20 **RESPONSE TO SPECIAL INTERROGATORY NO. 11.**

21 RESPONDING PARTY objects that this Interrogatory is vague and ambiguous, particularly as
22 to the terms “CONTACT INFORMATION,” “California based employees,” “work purposes,” and
23 “your.” RESPONDING PARTY objects on the grounds that this Special Interrogatory is irrelevant and
24 not reasonably calculated to lead to the discovery of admissible evidence. RESPONDING PARTY
25 objects on the grounds that this Special Interrogatory is overbroad, unduly burdensome, and oppressive
26 as to time and scope with use of the phrase, “any point of time,” and is therefore calculated to annoy
27 and harass RESPONDING PARTY. RESPONDING PARTY objects on the grounds that this Special
28 Interrogatory necessitates the undue burden of preparing a compilation, abstract, audit, or summary of

documents. RESPONDING PARTY objects on the grounds that this Special Interrogatory seeks private/confidential information protected from discovery by a constitutionally protected right of privacy as to RESPONDING PARTY and third persons guaranteed by the California Constitution.

Subject to and without waiving these objections, and based upon RESPONDING PARTY'S understanding of this interrogatory, RESPONDING PARTY responds as follows: RESPONDING PARTY does not know of any employee who used their personal cell phones for business purposes.

Dated: May 30, 2023

LS CARLSON LAW, PC

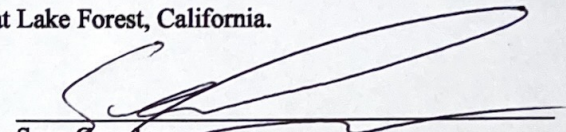
By: /s/ Jim Tran
KIRK C. PEARSON
JIM Q. TRAN
Attorneys for Defendants, S90 Technology, LLC,
Sean Crowley, and Matthew Riggio

VERIFICATION

I, Sean Crowley, am a member of S90 Technology LLC and do hereby certify and declare that I have read the foregoing responses to the attached Special Interrogatories, and know its contents. The information contained in those responses are true and correct to the best of my knowledge.

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

Executed on this 26 day of May 2023, at Lake Forest, California.


Sean Crowley

[illegible]

On May 30, 2023, I served the following document(s) described as follows:

On the following interested parties in this action:

☒ **VIA MAIL -- CCP §1013(a).** I caused a true copy of said document(s) to be placed in a sealed envelope, addressed as above and placed for collection and processing under the firm's ordinary course of business. I am readily familiar with LS Carlson Law, PC's practice of collecting, processing and depositing correspondence for mailing. Under this practice, envelopes would be deposited with the United States Postal Service at Aliso Viejo, California the same day with postage thereon fully prepaid.


Diane D. Acuna

PROOF OF SERVICE - 30-2022-01285790-CU-OE-CXC

I, the undersigned, am over the age of eighteen years and not a party to this action.

On the date set forth below, I served the foregoing document(s) described as:

DECLARATION OF AMBER B. DERHAM IN SUPPORT OF PAGA DISMISSAL

I served the foregoing document(s) on the interested parties in this action, as follows:

Paul Deese

pdeese@lscarlsonlaw.com

Shane Micheil

smicheil@lscarlsonlaw.com

Service

service@lscarlsonlaw.com

LS Carlson Law, PC

85 Enterprise, Suite 310

Aliso Viejo, CA 92656

Attorneys for Defendants, S90 TECHNOLOGY, LLC, SEAN CROWLEY, AND MATTHEW RIGGIO

____ BY MAIL: I served the documents from within California by enclosing them in an envelope and depositing the sealed envelope at a post office, mailbox, subpost office, substation, or mail chute, or other like facility regularly maintained by the United States Postal Service, with postage fully prepaid.

____ BY OVERNIGHT DELIVERY: I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses indicated above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

X BY ELECTRONIC SERVICE: Pursuant to Code of Civil Procedure section 1010.6, or a court order, or an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service addressed indicated above. The documents to be sent to the persons at the electronic service addressed indicated above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on September 29, 2023.

Emily Page