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Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

JOSE ESTRADA, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

TOP-SHELF FIXTURES, LLC, a California
limited liability company; and DOES 1
through 100,

Defendants.

Case No. CIVSB2214983

*[Assigned for all purposes to the Hon. Jessica
Morgan, Courtroom S26]*

**DECLARATION OF SEAN M. BLAKELY
IN SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: December 18, 2023

Time: 8:30 a.m.

Dept.: S-26

Complaint Filed: July 14, 2022

Trial Date: None Set

1 I, SEAN M. BLAKELY, declare as follows:

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

7 2. I am a 2008 graduate of Southwestern Law School. I was admitted to the California
8 State Bar in September 2009. From December 2010 to September 2011, I worked as a Law Clerk
9 for Rose, Klein & Marias, a civil litigation firm in Long Beach, California. At Rose, Klein &
10 Marias I assisted trial attorneys in employment and personal injury cases. From September 2011
11 to May 2016, I worked as an associate at the employment law firm of Mahoney Law Group, APC
12 in Long Beach, California. The vast majority of my work at Mahoney Law Group, APC focused
13 on representing employees in wage and hour class actions. My work at Mahoney Law Group,
14 APC also included representing employees in individual claims for wrongful termination,
15 harassment, discrimination, and retaliation. Although non-exhaustive, the types of work I
16 performed at Mahoney Law Group, APC included: conducting client intakes performing pre-
17 filing research and analysis, drafting complaints, attending court hearings, corresponding with
18 opposing counsel, drafting and responding to written discovery, preparing for and taking and
19 defending depositions, analyzing payroll and timekeeping records and employee handbooks,
20 opposing motions for summary judgment, as well as a variety of other motions such as motions
21 for remand, demurrers and motions to dismiss, motions to strike, motions to compel, motions to
22 quash, and motions for class certification, drafting mediation briefs, attending mediations,
23 drafting long-form settlement agreements, drafting motions for preliminary and final settlement
24 approval, and overseeing the notice process.

25 3. Since November 8, 2016, I have worked at my current firm, Haines Law Group,
26 APC, where, in 2020, I became a Partner. I am currently responsible for managing over forty
27 (40) active wage and hour class and representative actions in both state and federal court.

28 4. The following is a non-exhaustive list of wage and hour class actions in which I

1 have been appointed as class counsel and/or played a significant role in prosecuting the litigation,
2 and which have received final approval: *Santimateo v. Sun Healthcare Group, Inc., et al*, Case
3 No. BC471884, California Superior Court, Los Angeles County, Judge Jane L. Johnson presiding
4 (granted final approval of settlement on behalf of employees at rehabilitation facility involving
5 claims for unpaid wages and meal and rest period violations, and other claims, in which I was
6 approved at an hourly rate of \$325 for work performed in 2012-2013); *Teyuca v. Pacific Alliance*
7 *Medical Center, Inc.*, California Superior Court, Los Angeles County, Judge William F.
8 Highberger presiding (granting final approval of settlement on behalf of healthcare workers for
9 unpaid wages, meal and rest period violations, and other claims, in which I was approved at an
10 hourly rate of \$325 for work performed in 2012-2013); *Arteaga v. Command Center Security,*
11 *Inc.*, Case No. BC480496, California Superior Court, Los Angeles County, Judge John Shepard
12 Wiley, Jr. presiding (granting final approval of settlement on behalf of security guards involving
13 claims for unpaid overtime, meal and rest period violations, and other claims, in which I was
14 approved at an hourly rate of \$425 for work performed in 2012-2015); *Casadine v. Maxim*
15 *Healthcare Services, Inc.*, Case No. CV 12-10078-DMG (CWx), United States District Court,
16 Central District of California, Judge Dolly M. Gee presiding (granting final approval of settlement
17 on behalf of home health care employees involving claims for unpaid wages and other claims, in
18 which I was approved at an hourly rate of \$425 for work performed in 2012-2015); *Guzman v.*
19 *Andrew Lauren Interiors, Inc., et al.*, Case No. BC567757, California Superior Court, Los
20 Angeles County, Judge Elihu M. Berle presiding (granting final approval of settlement on behalf
21 of construction workers involving claims for unpaid wages, meal and rest period violation, and
22 other claims, in which I was approved at an hourly rate of \$425 for work performed in 2014-
23 2016); *Booker v. The Goodyear Tire and Rubber Company*, Case No. BC498399, California
24 Superior Court, Los Angeles County, Judge Amy Hogue presiding (granting final approval of
25 settlement on behalf of tire mechanics involving claims for unpaid wages, meal and rest period
26 violations, and other claims, in which I was approved at an hourly rate of \$425 for work performed
27 in 2013-2015); *Nunez v. CompuCom Systems, Inc.*, Case No. BC618385, California Superior
28 Court, Los Angeles County, Judge John Shepard Wiley, Jr. presiding (granting final approval of

1 settlement on behalf of IT support workers for overtime, meal and period, reimbursement, and
2 related violations, approved at hourly rate of \$475 for work performed in 2016 and 2017); *Galvan*
3 *v. AMVAC Chemical Corporation*, Case No. 30-2014-00716103-CU-OE-CXC, California
4 Superior Court, Orange County, Judge William D. Claster presiding (granting final approval of
5 settlement on behalf of non-exempt employees of a chemical manufacturing company involving
6 claims for unpaid overtime and waiting time penalties); *Razon v. TTM Technologies, Inc., et al.*,
7 Case No. 37-2016-00038326-CU-OE-CTL, California Superior Court, San Diego County, Judge
8 Gregory W. Pollack presiding (granting final approval of settlement involving claims for unpaid
9 overtime wages, wage statement violations, and meal period violations); *Blank v. Coty, Inc., et*
10 *al.*, Case No. BC624850, California Superior Court, Los Angeles County, Judge Williams F.
11 Highberger presiding (granting final approval of settlement involving claims for wage statement
12 violations, meal period violations, and other claims); *Morales v. Caremeridian, LLC, et al.*, Case
13 No. BC593191, California Superior Court, Los Angeles County, Judge William F. Highberger
14 presiding (granting final approval of settlement on behalf of direct support professionals
15 involving claims for unpaid wages, meal and rest period violations, wage statement violations,
16 and other claims); *Aguilar v. Act Fulfillment, Inc.*, Case No. RIC1616643, California Superior
17 Court, Riverside County, Judge Sharon J. Waters presiding (granting final approval of settlement
18 on behalf of non-exempt factory workers involving claims for meal period violations); *Sandoval*
19 *v. AMCOR Flexibles Inc.*, Case No. BC617499, California Superior Court, Los Angeles County,
20 Judge Kenneth R. Freeman presiding (granting final approval of settlement on behalf of
21 manufacturing employees involving claims for unpaid wages, meal period violations, rest period
22 violations, and waiting time penalties); *Le v. GBW Railcar Services, L.L.C.*, Case No.
23 RIC1612209, California Superior Court, Riverside County, Judge Sharon J. Waters presiding
24 (granting final approval of settlement on behalf of non-exempt employees of a freight railcar
25 manufacturer involving claims for unpaid overtime and minimum wages, meal period violations,
26 and rest period violations); *Silva v. ADJ Products, LLC*, Case No. BC618581, California Superior
27 Court, Los Angeles County, Judge William F. Highberger presiding (granting final approval of
28 settlement involving claims for unpaid overtime and minimum wages, rest period violations,

wage statement violations, and waiting time penalties); *Lira v. Discus Dental, LLC, et al.*, Case No. CIVDS1620402, California Superior Court, San Bernardino County, Judge David Cohn presiding (granting final approval of settlement on behalf of non-exempt manufacturing employees involving claims for unpaid minimum and overtime wages, meal and rest period violations, and other claims); *Gonzales v. PathPoint*, Case No. BC657147, California Superior Court, Los Angeles County, Judge Carolyn B. Kuhl presiding (granting final approval of settlement on behalf of non-exempt direct support professionals involving claims for meal and rest period violations and other claims); *Duran v. PRADA USA CORP.*, Case No. BC644319, California Superior Court, Los Angeles County, Judge Maren E. Nelson presiding (granting final approval of settlement on behalf of non-exempt commissioned salespersons involving claims for unpaid overtime wages, meal and rest period violations, failure to reimburse for necessary expenditures, and other claims); *Banegas v. UPM, Inc.*, Case No. BC644438, California Superior Court, Los Angeles County, Judge Carolyn B. Kuhl presiding (granting final approval of settlement on behalf of non-exempt manufacturing employees involving claims for unpaid wages, meal and rest period violations, and other claims); *Palafox v. Pacific Line Clean-Up, Inc.*, Case No. 30-2017-00921632-CU-OE-CXC, California Superior Court, Orange County, Judge William D. Claster presiding (granting final approval of settlement on behalf of non-exempt employees involving claims for unpaid overtime wages, meal and rest period violations, and other claims); *Janet Arroyo v. AST Sportswear, Inc., dba Bayside Apparel Manufacturing, Inc.*, Case No. 30-2017-00909663-CU-OE-CXC, California Superior Court, Orange County, Judge Glenda Sanders presiding (granting final approval of settlement on behalf of non-exempt garment employees involving claims for unpaid minimum wages, meal and rest period violations, and other claims); *Carlos Garcia v. Fabrica International, Inc.*, Case No. 30-2017-00949461-CU-OE-CXC, California Superior Court, Orange County, Judge William D. Claster presiding (granting final approval of settlement on behalf of non-exempt manufacturing employees involving claims for unpaid minimum and overtime wages, meal and rest period violations, and statutory penalties); *Jonathan Leon v. Piercey West, Inc.*, Case No. BC656874, California Superior Court, Los Angeles County, Judge Amy D. Hogue presiding (granting final approval of settlement on behalf

1 of non-exempt commissioned salespersons and other employees involving claims for unpaid
2 wages, meal and rest period violations, unreimbursed business expenses, and other claims); and
3 *Matthew Tovar, et al. v. Rentokil North America, Inc.*, Case No. BC676386, California Superior
4 Court, Los Angeles County, Judge Daniel J. Buckley presiding (granting final approval of
5 settlement on behalf of non-exempt employees involving claims for unpaid overtime, meal and
6 rest break violations, and other claims); *Seungmin Samantha Lee v. Infor (US) Inc.*, Case No.
7 CGC-18-566393, California Superior Court, San Francisco County, Judge Ethan P. Schulman
8 presiding (granting final approval of settlement on behalf of sales development representatives
9 involving claims for unpaid overtime, meal and rest period violations, and penalty claims); *Tracy*
10 *Aguilar, et al. v. Aero Port Services, Inc.*, Case No. BC659234, California Superior Court, Los
11 Angeles County, Judge Carolyn B. Kuhl presiding (granting final approval of settlement on behalf
12 of non-exempt employees involving claims for meal and rest period violations, and other claims);
13 *Carlos Perez, et al. v. Moss Bros. Auto Group, Inc., et al.*, Case No. RIC1709905, California
14 Superior Court, Riverside County, Judge Sunshine S. Sykes presiding (granting final approval of
15 settlement on behalf of non-exempt commissioned salespersons involving claims for unpaid
16 wages, meal and rest period violations, other claims); and *Julio Alfaro v. Orange Automotive*
17 *d/b/a Kia of Orange*, Case No. 30-2017-00945105-CU-OE-CXC, California Superior Court,
18 Orange County, Judge Randall J. Sherman presiding (granting final approval settlement on behalf
19 of non-exempt commissioned employees involving claims for unpaid wages, meal and rest period
20 violations, unreimbursed business expenses, and penalty claims).

21 5. I have also moved to certify and have received an order certifying a class action in
22 *Ontiveros v. Safelite Fulfillment, Inc., et al.*, Case No. CV 15-7118-DMG (RAOx), United States
23 District Court, Central District of California, Honorable Dolly M. Gee presiding (certifying six
24 classes of employees for rest period violations, wage statement violations, meal period violations,
25 and overtime and double-time violations); and *Vazquez v. Kraft Heinz Foods Company*, Case No.
26 16-CV-02749-WQH (BLM), United States District Court, Southern District of California,
27 Honorable William Q. Hayes, presiding (certifying unpaid wages classes, meal period classes,
28 wage statement class, and waiting time penalty class).

1 6. In 2018, 2019, 2020, 2021, and 2022, Thomson Reuters recognized me as a Top
2 Young Attorney in Southern California in the annual Rising Star Edition of Super Lawyers. This
3 is an honor awarded to no more than two-and-a-half percent (2.5%) of attorneys under the age of
4 forty in Southern California each year.

5 7. As counsel for Plaintiff and the proposed Settlement Class, I have been intimately
6 involved in this case since its inception and I believe that the proposed Settlement is an excellent
7 result for the Settlement Class.

8 8. Defendant Top-Shelf Fixtures, LLC (“Top-Shelf”) designs and manufactures
9 various shelving products, including wire shelving, retail fixtures, and front-end merchandisers.
10 Top-Shelf manufactures most components inside its Chino, California facility.

11 9. On July 14, 2022, Plaintiff filed his Class Action Complaint in San Bernardino
12 Superior Court, alleging causes of actions for: (1) minimum wage violations; (2) failure to pay all
13 overtime wages; (3) meal period violations; (4) rest period violations; (5) wage statement
14 violations; (6) waiting time penalties; and (7) unfair competition in violation of California
15 Business & Professions Code § 17200 *et seq.* On July 14, 2022, Plaintiff sent his PAGA notice
16 letter to the LWDA. Attached hereto as **Exhibit B** is a true and correct copy of Plaintiff’s PAGA
17 notice. Subsequently, on September 19, 2022, Plaintiff filed the operative First Amended Class
18 and Representative Action Complaint (“FAC”) adding a cause of action for civil penalties under
19 the Private Attorneys’ General Act of 2004, Labor Code Section 2698, *et seq.*

20 10. In connection with mediation, the Parties engaged in extensive informal discovery.
21 Top-Shelf produced timekeeping and payroll records for *all* putative class members, including
22 time-punches, which enabled Plaintiff to conduct a timekeeping analysis. Top-Shelf also provided
23 a detailed Class List, which included putative class members’ date of hire, date of termination (if
24 applicable), and hourly rate of pay, as well as its written wage and hour policies. Plaintiff
25 conducted a comprehensive analysis of the data produced by Top-Shelf to calculate class-wide
26 damages for each of Plaintiff’s claims. This discovery allowed the Parties to assess the merits and
27 value of Plaintiff’s claims, the chances of certification of Plaintiff’s claims, and Top-Shelf’s
28 potential defenses.

11. On March 21, 2023, the Parties participated in a full-day mediation with Steven G. Mehta, Esq., a highly experienced wage and hour class action mediator. During mediation, the Parties vigorously debated their opposing legal positions, the likelihood of certification of Plaintiff's claims, and the legal basis for the claims and defenses. The Parties were not able to reach a settlement at mediation, however, the Parties continued negotiations through Mr. Mehta over the following months. Mr. Mehta ultimately issued a mediator's proposal for a class-wide settlement, which was accepted by all Parties. During the months that followed, the Parties finalized the terms of the Settlement and executed the long-form Settlement Agreement now before the court. Attached hereto as **Exhibit A** is a true and correct copy of the Stipulation of Settlement. The proposed Class Notice and Notice of Estimated Settlement Award are attached to the Settlement as **Exhibits 1** and **2**, respectively.

12. The monetary terms of the Settlement are summarized below:

• Gross Settlement Amount:	\$595,000.00
• Minus Court-approved attorneys' fees:	\$198,333.33
• Minus Court-approved verified costs (up to):	\$20,000.00
• Minus Court-approved Class Representative Award:	\$10,000.00
• Minus amount set aside as PAGA penalties:	\$40,000.00
• <u>Minus estimated Settlement Administration costs:</u>	<u>\$8,000.00</u>
• Net Settlement Amount ("NSA"):	\$318,666.67
• PLUS 25% "PAGA Amount" to Settlement Class:	\$10,000.00
Total Amount Paid to Settlement Class members:	\$328,666.67

13. Based on information from Top-Shelf, there are approximately 252 Settlement Class members. Therefore, the average Individual Settlement Amount from the NSA is projected to be approximately \$1,264.55. There are approximately 162 PAGA Aggrieved Employees who worked during the PAGA Period. Therefore, the average payment from the PAGA Amount is estimated to be approximately \$61.73.

14. Plaintiff alleges that Top-Shelf utilized a timekeeping system that systematically underpaid wages to Settlement Class members. Plaintiff alleges that Top-Shelf required Plaintiff and other non-exempt employees to clock in and out using a system that recorded hours worked to the minute; however, Plaintiff alleges that Top-Shelf only compensated Settlement Class members for their scheduled hours of work, as opposed to all hours on the clock. Plaintiff alleges that although Settlement Class members clocked in and performed compensable work prior to

1 their scheduled start of shift, Settlement Class members were not compensated for this time as
2 Top-Shelf only compensated Settlement Class members based on their scheduled start of shift.
3 Based on Plaintiff's review of employee timekeeping and payroll records, Plaintiff estimates that
4 Top-Shelf's timekeeping practices have resulted in approximately 12,116 hours of unpaid wages.
5 Because employees generally worked shifts of at least 8.0 hours, Plaintiff contends that these
6 unpaid wages should be paid at an overtime rate of pay, calculating maximum potential exposure
7 for this claim at approximately \$286,786 (12,116 hours underpaid * \$23.67 average overtime
8 rate). Top-Shelf counters that its timekeeping policies/practices complied with California law and
9 that it has always properly compensated Settlement Class members for all hours worked
10 throughout the Class Period. Top-Shelf contends that it utilized an even-handed timekeeping
11 system that, on balance, resulted in employees being paid for all hours actually worked. Top-
12 Shelf contends that although Settlement Class members may have clocked-in prior to their
13 scheduled start time, it was not possible for Settlement Class members to perform any
14 compensable work prior to the scheduled start of shift. Top-Shelf further argues that it changed
15 its timekeeping policies in April 2022 and began to compensate Settlement Class members to the
16 minute. Finally, Top-Shelf asserts that Plaintiff would be unable to certify this claim since its
17 timekeeping policies/practices are facially neutral and individualized inquiries would be
18 necessary as to whether employees were in fact underpaid for each workday in question (including
19 whether they were actually working when they were clocked in), resulting in an unmanageable
20 series of mini-trials. Given Top-Shelf's defenses, Plaintiff discounted this maximum amount by
21 40% for risk of non-certification and an additional 50% for a risk of being unsuccessful on the
22 merits or of failing to recover the full amount sought, to arrive at an estimated realistic exposure
23 of approximately \$86,036.

24 15. Plaintiff alleges that Top-Shelf automatically deducted 30-minutes for a purported
25 meal period each workday whether a compliant first meal period was provided or not, and that
26 this was done even though all operations do not cease for meal periods, which is the only condition
27 upon which an employer is permitted to not keep records of the beginning and ending of employee
28 meal periods. Plaintiff further alleges that Top-Shelf failed to provide for second meal periods

1 during shifts in excess of 10.0 hours during the Class Period. Based on Plaintiff's review of Top-
2 Shelf's timekeeping records, there were approximately 84,530 meal period eligible shifts worked
3 during the Class Period. Due to Top-Shelf's auto-deduct practices, Plaintiff assumed a meal
4 period violation for each meal period eligible shift. Plaintiff further calculated that the average
5 hourly rate of pay for Settlement Class members during the Class Period at approximately \$15.78.
6 Therefore, Plaintiff estimated total maximum damages for meal period violations at
7 approximately \$1,333,883 (84,530 non-compliant meal periods * \$15.78 average meal period
8 premium). Top-Shelf contends that under *Brinker*, it is only required to "provide" the opportunity
9 to take meal periods, not "ensure" meal periods are taken. Top-Shelf also maintains that any short,
10 missed, or late first meal periods were the result of lawful employee waiver or choice, thereby
11 precluding liability. With respect to second meal periods, Top-Shelf argues that employees may
12 waive second meal periods on shifts of more than 10.0 hours but less than 12.0 hours, under Labor
13 Code § 512(a), so that they do not need to stay at work for an extra unpaid 30 minutes, and that
14 employees regularly did so. Lastly, Top-Shelf argues that individualized inquiries will be required
15 to determine why each meal period was taken late or short or missed by each employee, and
16 whether there was a valid waiver, thereby making class certification of this claim unlikely. Based
17 on Top-Shelf's defenses, Plaintiff discounted the maximum amount by 60% for risk of non-
18 certification and an additional 65% for risk of losing on the merits or failing to recover the full
19 amount sought, to arrive at an estimated exposure of approximately \$186,743.

20 16. Plaintiff alleges that Top-Shelf failed to provide all legally-required off-duty rest
21 periods. Plaintiff alleges that Top-Shelf failed to provide employees with a 10-minute rest period
22 for every four hours of work, but instead provided employees with a single combined 30-minute
23 rest period two or three hours after their meal period. Based on Plaintiff's analysis of Top-Shelf's
24 timekeeping records, Plaintiff estimates there were approximately 84,530 shifts in excess of 6.0
25 hours during the Class Period. Therefore, Plaintiff estimates Top-Shelf's maximum potential
26 exposure for rest period violations at approximately \$1,333,883 (84,530 shifts in excess of 3.5
27 hours * \$15.78 average rest period premium). Top-Shelf argues that it has always maintained and
28 enforced lawful rest period practices during the Class Period, and has, in fact, authorized and

permitted all required rest periods to Settlement Class members. Top-Shelf further argues that its departure from the preferred rest period schedule was lawful because Settlement Class members overwhelming preferred to take a longer 30-minute rest period in the afternoon and this was necessary to alleviate a material burden which would be imposed on Top-Shelf if it implemented the preferred rest period scheduled for 8-hour shifts. Top-Shelf also asserts this claim is not amenable to class treatment as individualized inquiries would be required to determine which employees failed to take a rest period, and the reasons why. These manageability concerns are especially present with respect to rest period claims, Top-Shelf argues, given that rest periods are not recorded. Given Top-Shelf's defenses, Plaintiff discounted this maximum amount by 65% for risk of non-certification and an additional 65% for a risk of being unsuccessful on the merits or of failing to recover the full amount sought, to arrive at an estimated realistic exposure of approximately \$163,401.

17. Plaintiff alleges that as a result of the unpaid minimum and overtime wages, as well as the unpaid meal and rest period premium wages described above, Top-Shelf is liable for wage statement penalties. Plaintiff calculated penalties as \$50 for each "initial" violation and \$100 for each "subsequent" violation, with a maximum of \$4,000 per employee. *See* Labor Code § 226(e). In calculating potential exposure for this claim, utilizing the "initial" and "subsequent" violation rates resulted in a number greater than the \$4,000 cap per employee. Plaintiff, therefore, calculated potential wage statement exposure at approximately \$648,000 (162 employees * \$4,000 max. penalty). Top-Shelf argues that any alleged wage statement violations were not "knowing and intentional," and Plaintiff cannot show that he or other employees "suffer[ed] injury" due to the alleged wage statement violations, as required by Labor Code § 226(e) for the imposition of penalties. Further, Top-Shelf contends its wage statements always accurately reflected hours worked and amounts paid as well as all other required information, precluding liability for wage statement penalties. In light of Top-Shelf's defenses, as well as risks associated with Plaintiff's underlying claims discussed above, Plaintiff discounted the maximum exposure by 60% for risk of non-certification, and by an additional 65% for risk of being unsuccessful on the merits, for an estimated realistic exposure of approximately \$90,720.

1 18. Plaintiff alleges that as a further result of its failure to pay all wages earned, as
2 well as its failure to pay all meal and rest period premiums, Top-Shelf is liable for waiting time
3 penalties pursuant to Labor Code §§ 201-203. Top-Shelf's records reflected approximately 130
4 former Settlement Class members separated from their employment and are therefore eligible for
5 waiting time penalties. Based on an hourly rate of \$15.78, Plaintiff estimated the average waiting
6 time penalty per former employee to be \$3,787 ($\$15.78 \times 8 \text{ hours per day} \times 30 \text{ days}$). Therefore,
7 Plaintiff calculated Top-Shelf's maximum exposure for potential waiting time penalties to be
8 approximately \$492,310 (130 separated employees * \$3,787 average waiting time penalty). Top-
9 Shelf argues that it possesses strong, good-faith defenses to Plaintiff's underlying claims, thus
10 precluding recovery of waiting time penalties, which are only available for the "willful" failure
11 to pay wages. Top-Shelf further asserts that Plaintiff's waiting time penalty exposure was grossly
12 inflated as not every former employee experienced the alleged Labor Code violations. Moreover,
13 because the waiting time claim is derivative of Plaintiff's underlying wage claims, Plaintiff would
14 need to overcome these defenses, both as to class certification and on the merits, as to his
15 underlying claims. To account for Top-Shelf's defenses, Plaintiff discounted the maximum
16 exposure by 60% for the risk of non-certification, and an additional 65% for risk of losing on the
17 merits, and/or not receiving the maximum penalties sought, to arrive at an estimated exposure of
18 approximately \$68,923.

19 19. As a result of the foregoing Labor Code violations, Plaintiff alleges that Top-Shelf
20 is liable for civil penalties under the PAGA. Plaintiff estimated a maximum total PAGA exposure
21 at approximately \$636,100 (6,361 violations * \$100 "initial" penalty). Since Plaintiff's PAGA
22 claim is derivative of Plaintiff's underlying wage claims, Top-Shelf asserts the PAGA claim
23 would fail with those claims. Top-Shelf further maintains that, given its good-faith defenses, this
24 Court would exercise its discretion to substantially reduce any PAGA penalties if it were to find
25 Top-Shelf liable for any of Plaintiff's claims. Given Top-Shelf's defenses, Plaintiff discounted
26 the maximum figure by 65% for risk of losing on the merits and/or not recovering a PAGA penalty
27 for each and every pay period, and an additional 75% to account for the possibility of this Court
28 reducing penalties, to arrive at an estimated exposure of approximately \$55,659.

1 20. Using these estimated figures for each of the claims described above, Plaintiff
2 predicted that the potential recovery for the Settlement Class would be approximately \$651,482.
3 The proposed Settlement of \$595,000.00 therefore represents approximately 91.3% of the
4 reasonably forecasted recovery for the Settlement Class.

5 21. Although the Parties engaged in significant informal discovery prior to mediation,
6 the Parties still had significant formal discovery to complete had the matter not settled. This would
7 have required expenditure of substantial time and resources by both Parties that would have very
8 likely spanned several years. Even if Plaintiff was to certify the classes, the Parties would incur
9 considerably more attorneys' fees and costs through a possible decertification motion, trial, and
10 possible appeal. This Settlement avoids those risks and the accompanying expense.

11 22. Class Counsel will apply for an attorneys' fees award of one-third of the Gross
12 Settlement Amount, which is currently estimated to be \$198,333.33, and up to \$20,000.00 in
13 verified costs reimbursement. Plaintiff submits the requested fee is fair compensation for
14 undertaking complex, risky, expensive, and time-consuming litigation on a purely contingent fee
15 basis. Class Counsel has incurred substantial attorneys' fees conducting pre-filing investigation,
16 analyzing Plaintiff's claims, conducting legal research, conducting extensive informal discovery,
17 interviewing Settlement Class members regarding their work experiences with Top-Shelf,
18 analyzing Settlement Class members' timekeeping and payroll records and other data and
19 documents, creating a comprehensive damages model, preparing for and attending mediation,
20 negotiating and preparing the long-form Settlement Agreement, preparing this Motion, and
21 otherwise litigating the case. Class Counsel expect to expend additional attorney time in attending
22 the hearing on this Motion, overseeing the Notice process and fielding questions from Settlement
23 Class members, preparing the final approval papers, and attending the Final Approval hearing.

24 23. Plaintiff will apply for Class Representative Service Award at the time of seeking
25 final approval of the proposed class action settlement in the amount of \$10,000.00 for his service
26 to the Settlement Class. As will be fully briefed at the time of final approval, Plaintiff's requested
27 Service Award is intended to recognize the time and effort Plaintiff expended on behalf of the
28 Settlement Class, including providing substantial factual information and documents to Class

1 Counsel, discussing the claims and theories at issue in the litigation, actively participating in the
2 prosecution of his claims, as well as the significant risks Plaintiff undertook by agreeing to serve
3 as the named plaintiff in this case, and the fact that Plaintiff agreed to a general release of all
4 claims subject to a waiver of Civil Code § 1542.

5 I declare under penalty of perjury under the laws of the State of California that the
6 foregoing is true and correct. Executed on October 20, 2023, at El Segundo, California.

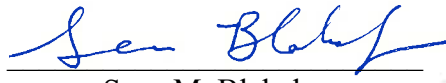
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EXHIBIT A

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiff Jose Estrada (“Plaintiff”), as an individual and on behalf of the Settlement Class (as defined below), on one hand, and Defendant Top-Shelf Fixtures, LLC (hereinafter “Defendant”), on the other hand. Plaintiff and Defendant are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Paul K. Haines and Sean M. Blakely of Haines Law Group, APC (“Class Counsel”). Defendant is represented by Marissa Alguire and Mojan Anari of Akerman LLP.

On July 14, 2022, Plaintiff filed a Class Action Complaint against Defendant in San Bernardino Superior Court, in the matter entitled *Jose Estrada v. Top-Shelf Fixtures, LLC*, Case No. CIVSB2214983 (“Complaint”). On September 19, 2022, Plaintiff filed the operative First Amended Class and Representative Action Complaint (“FAC”). The FAC alleges the following causes of action: (i) minimum wage violations; (ii) failure to pay all overtime wages; (iii) meal period violations; (iv) rest period violations; (v) wage statement violations; (vi) waiting time penalties; (vii) unfair competition; and (viii) civil penalties under the Private Attorneys General Act (“PAGA”). The Complaint and the FAC, and all claims alleged therein, are referred to as the “Action.”

Given the uncertainty of litigation, Plaintiff and Defendant wish to settle both individually and on behalf of the Settlement Class. Accordingly, Plaintiff and Defendant agree as follows:

1. **Settlement Class.** For the purposes of this Settlement Agreement only, Plaintiff and Defendant stipulate to the certification of the following Settlement Class:

All current and former non-exempt employees employed by Defendant Top-Shelf Fixtures, LLC in the State of California at any time from July 14, 2018 through the date of preliminary approval (the “Class Period”).

The Parties agree that certification for purposes of this Settlement Agreement is not an admission that class certification is proper under Section 382 of the Code of Civil. If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

2. **Release by Settlement Class Members and Plaintiff.** Plaintiff and every member of the Settlement Class (except those who opt out and except as specified in section 2(B) below) will fully release and discharge Defendant, and all of its past and present officers, directors, shareholders, managers, direct and/or indirect owners, members, parents, trustees, fiduciaries, beneficiaries, subrogees, executors, partners, joint employers, joint venturers, clients, vendors, employees, predecessors, successors, assigns, affiliates, brother and sister corporations, agents, principals, heirs, representatives, attorneys, insurers, accountants, administrators, auditors, consultants, divisions, related companies, related entities, and all of their respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys, and any individual or entity

which could be liable for any of the Class Released Claims and/or PAGA Released Claims (the “Released Parties”), as follows:

- A. Upon the Effective Date and the complete funding of the Gross Settlement Amount, Settlement Class members on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, will release all claims, demands, rights, liabilities and causes of action that were pled in the FAC and the PAGA Notice that arose during the Class Period, including claims for: (a) minimum wage violations; (b) failure to pay all overtime wages; (c) failure to provide all meal periods in accordance with California law; (d) failure to authorize and permit all rest periods in accordance with California law; (e) failure to furnish accurate and itemized wage statements; (f) failure to pay all wages owed upon separation of employment; (g) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories of relief pled in the FAC; and (h) all damages, penalties, interest, costs (including attorney’s fees), and other amounts recoverable under said claims or causes of action as to the facts and/or legal theories alleged or which could have been alleged in the FAC or PAGA Notice (collectively, the “Class Released Claims”). The period of the Class Released Claims shall extend to the limits of the Class Period.
- B. **Release of PAGA Claims.** In addition, all Settlement Class members (regardless of whether they opt out) who worked for Defendant at any time from July 14, 2021 through the date of preliminary approval (the “PAGA Period”) are deemed “Aggrieved Employees” and shall release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for civil penalties under PAGA arising during the PAGA Period as alleged, or reasonably could have been alleged, in Plaintiff’s July 14, 2022 Notification Letter to the Labor and Workforce Development Agency (“LWDA”), including: (a) minimum wage violations; (b) failure to pay all overtime wages; (c) failure to provide all meal periods in accordance with California law; (d) failure to authorize and permit all rest periods in accordance with California law; (e) failure to furnish accurate and itemized wage statements; (f) failure to pay all wages owed upon separation of employment; and (g) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories of relief pled in the FAC; and (h) all damages, penalties, interest, costs (including attorney’s fees), and other amounts recoverable under said claims or causes of action as to the facts and/or legal theories alleged or which could have been alleged in the FAC or PAGA Notice (“the PAGA Released Claims.”)
- C. **Release by Plaintiff.** As a condition of receiving the Class Representative Service Award, and upon Defendant’s complete funding of the Gross Settlement Amount, Plaintiff has agreed to release, individually and in addition to the Class Released Claims described above, all claims, whether known or unknown, without exception, against the Released Parties. The Parties understand and agree that Plaintiff is not, by way of this release, releasing any workers’ compensation claims, unemployment

insurance claims, nor any other claims which cannot be released as a matter of law. Notwithstanding the foregoing, Plaintiff understands that this release includes unknown claims and that Plaintiff is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Specifically excluded from Plaintiff's Released Claims are any claims that cannot be released as a matter of law, such as claims for workers' compensation benefits or unemployment benefits. No workers' compensation claims are being resolved under this Settlement.

3. **Gross Settlement Amount.** As consideration, Defendant agrees to pay a non-reversionary "Gross Settlement Fund" of Five Hundred Ninety-Five Thousand Dollars and Zero Cents (\$595,000.00) in full and complete settlement of the Action, as follows:

- A. The Parties have agreed to engage ILYM Group, Inc. as the "Settlement Administrator" to administer this Settlement.
- B. The Gross Settlement Amount shall be deposited with the Settlement Administrator within thirty (30) calendar days of the Effective Date (which, for this purpose, shall be defined as the later of (1) date on which the Court enters an Order granting Final Approval of the Settlement Agreement or, (2) solely in the event that there are any objections to the Settlement Agreement (the filing of an objection being a prerequisite to the filing of an appeal), the later of: (i) the last date on which any appeal might be filed or (ii) the successful resolution of any appeal(s) – including expiration of any time to seek reconsideration or further review.
- C. This is a non-reversionary settlement. The Gross Settlement Fund includes:
 - (1) All payments (including interest) to the Settlement Class;
 - (2) All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater than Eight Thousand Dollars and Zero Cents (\$8,000.00);
 - (3) Up to Ten Thousand Dollars and Zero Cents (\$10,000.00) for Plaintiff's Class Representative Service Award in recognition of his contributions to the Action and his service to the Settlement Class. In the event that the Court reduces or does not approve the requested Class Representative Service Award, Plaintiff shall not have the right to revoke this Settlement Agreement, and it will remain binding;

- (4) Up to one-third of the Gross Settlement Amount as Class Counsel's attorneys' fees, plus actual costs and expenses incurred by Class Counsel in relation to the Action as supported by declaration, which are currently estimated to be no greater than Twenty Thousand Dollars and Zero Cents (\$20,000.00). In the event that the Court reduces or does not approve the requested Class Counsel attorneys' fees or costs, Class Counsel shall not have the right to revoke this settlement, and it will remain binding;
- (5) Forty Thousand Dollars and Zero Cents (\$40,000.00) of the Gross Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Thirty Thousand Dollars and Zero Cents (\$30,000.00) will be payable to the LWDA, and the remaining twenty-five percent (25%), or Ten Thousand Dollars and Zero Cents (\$10,000.00), will be payable to certain Settlement Class members as the "PAGA Amount," which PAGA Amount will be distributed as described below.
- (6) Any difference between these requested amounts and the amounts approved by the Court will revert to the Net Settlement Amount for the benefit of the Settlement Class members who do not opt out.

D. **Escalator Clause.** The Gross Settlement Amount is based on Defendant's representations that there are approximately 21,273 workweeks during the Class Period. If, at the time of preliminary approval, the number of workweeks has increased by 10% or more (i.e., if there are 23,400 or more workweeks), the Class Period will either, at Defendant's option: (i) end on the date on which total number of workweeks is equal to or close to without exceeding the 23,400 workweeks; or (ii) Defendant agrees to increase the Gross Settlement Amount on a proportional basis equal to the percentage increase in the number of workweeks worked by Settlement Class members during the Class Period (i.e., if there was an 18% increase in the number of workweeks during the Class Period, Defendant would increase the Gross Settlement Amount by 18%). If the Escalator Clause is triggered, Defendant shall notify Plaintiff in writing of their selection within 10 business days of being notified by the third-party administrator that the Escalator Clause has been triggered.

E. Defendant's share of payroll taxes shall be paid by Defendant separately from, and in addition to, the Gross Settlement Amount.

4. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment ("Individual Settlement Award") from the Settlement. Individual Settlement Awards will be determined and paid as follows:

- A. The Settlement Administrator shall first deduct from the Gross Settlement Amount the amounts approved by the Court for Class Counsel's attorneys' fees, Class Counsel's costs and expenses, Plaintiff's Class Representative Service Award, the Settlement Administrator's fees and expenses for administration, and the total

amount designated as PAGA civil penalties. The remaining amount shall be known as the “Net Settlement Amount.”

- B. From the Net Settlement Amount, the Settlement Administrator will calculate each Settlement Class member’s Individual Settlement Award based on the following formula:
- i. Payments to all participating Settlement Class members: The Net Settlement Amount will be distributed to all participating Settlement Class members based on each participating Settlement Class member’s proportionate Workweeks worked during the Class Period, and will be calculated by multiplying the Net Settlement Amount by a fraction, the numerator of which is the participating Settlement Class member’s number of Workweeks worked during the Class Period, and the denominator of which is the total Workweeks worked by all participating Settlement Class members during the Class Period.
 - ii. In addition to the Net Settlement Amount, the PAGA Amount will be allocated as follows: Each Settlement Class member who was employed by Defendant at any time during the PAGA Period (including those who submit a valid and timely Request for Exclusion from the class action settlement), shall receive a portion of the PAGA Amount proportionate to the number of Workweeks worked during the PAGA Period, and which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the Settlement Class member’s gross number of Workweeks worked during the PAGA Period, and the denominator of which is the total number of Workweeks worked by all Settlement Class members (including those who submit a valid and timely Request for Exclusion from the class action settlement) during the PAGA Period.
- C. Within ten (10) calendar days following Defendant’s deposit of the Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator will calculate Individual Settlement Award amounts and provide the same to the Parties’ counsel for review and approval. Within seven (7) calendar days of approval by the Parties’ counsel, the Settlement Administrator will prepare and mail Individual Settlement Awards, less applicable taxes and withholdings, to participating Settlement Class members. The Settlement Administrator shall simultaneously pay the withholdings to the applicable authorities with the necessary reports, submitting copies to Defendant’s counsel. After the Settlement Administrator mails Individual Settlement Awards to Settlement Class members, the Settlement Administrator shall make the Court-approved payment for Class Counsel’s attorneys fees and costs, Class Representative Service Award, LWDA Payment, and settlement administration costs.
- D. For purposes of calculating applicable taxes and withholdings, each Settlement Award shall be allocated as follows: Any payment from the NSA shall be allocated as two-thirds (2/3) as penalties and interest (allocated as 75% interest and 25%

penalties); and one-third (1/3) as wages. Any payment from the PAGA Amount shall be allocated as 100% penalties. The Settlement Administrator will be responsible for issuing to participating Settlement Class members IRS Forms W-2 for amounts deemed “wages” and IRS Forms 1099 for the amounts allocated as penalties and interest. Notwithstanding the treatment of the payments to each Settlement Class member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.

- E. Each member of the Settlement Class who receives an Individual Settlement Award must cash that check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class members whose checks are not cashed within 180 days after mailing shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 *et seq.*, in the name of the Settlement Class member to whom the check was issued, until such time that they claim their property.
- F. Neither Plaintiff nor Defendant shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

5. **Attorneys’ Fees and Costs.** Defendant will not object to Class Counsel’s request for a total award of attorneys’ fees of up to one-third of the Gross Settlement Amount, which is currently estimated to be One Hundred Ninety-Eight Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$198,333.33). Additionally, Class Counsel will request an award of actual costs and expenses as supported by declaration, in an amount not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00), from the Gross Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court’s approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when the Settlement Administrator pays the fee award allowed by the Court.

6. **Class Representative Service Award.** Defendant will not object to a request for a Class Representative Service Award of up to Ten Thousand Dollars and Zero Cents (\$10,000.00) to Plaintiff for his time and risk in prosecuting this case, and his service to the Settlement Class. This award will be in addition to Plaintiff’s Settlement Award as a Settlement Class member and shall be reported on an IRS Form 1099 issued by the Settlement Administrator. In the event that the Court reduces or does not approve the requested Service Award, Plaintiff shall not have the right to revoke this Settlement, and it will remain binding.

7. **Settlement Administrator.** Defendant will not object to the appointment of ILYM Group, Inc. as Settlement Administrator. Defendant will not object to Plaintiff’s request to the Court to pay up to Eight Thousand Dollars and Zero Cents (\$8,000.00) for the Settlement Administrator’s

services from the Gross Settlement Amount. The Settlement Administrator shall be responsible for sending notices and for calculating Individual Settlement Awards and preparing all checks and mailings, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay itself from the Gross Settlement Amount by Class Counsel only after Individual Settlement Awards have been mailed to all participating Settlement Class members. The Settlement Administrator shall also be responsible for posting the Final Judgment to its website.

8. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiff shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
- B. Appointing Paul K. Haines and Sean M. Blakely of Haines Law Group, APC as Class Counsel;
- C. Appointing Plaintiff Jose Estrada as Class Representative for the Settlement Class;
- D. Approving Phoenix Settlement Administrators as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Notice Packet (which is comprised of the Class Notice and Notice of Estimated Settlement Award, drafts of which are attached hereto as **Exhibits A** and **B**, respectively), and directing the mailing of the same in English and Spanish; and
- G. Scheduling a Final Approval hearing.

9. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. No later than fifteen (15) business days after entry of an order preliminarily approving this Settlement, Defendant will provide the Settlement Administrator with the names, last known addresses, phone numbers, social security numbers, the dates of employment, and the number of workweeks worked by each Settlement Class member while employed during the Class Period (the “Class Data”). The Class Data shall be provided to the Settlement Administrator in an electronic format satisfactory to the Settlement Administrator. To protect Settlement 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.
- B. Within ten (10) business days from receipt of this information, the Settlement Administrator shall (i) run the names of all Settlement Class members through the

National Change of Address (“NCOA”) database to determine any updated addresses for Settlement Class members; (ii) update the address of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Individual Settlement Award for each Settlement Class member; and (iv) mail a Notice Packet to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.

- C. Requests for Exclusion. Any Settlement Class member who wishes to opt out of the Settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator within sixty (60) calendar days of the date of the initial mailing of the Notice Packets (the “Response Deadline”).
- i. The Notice Packet shall state that Settlement Class members who wish to exclude themselves from the Settlement must submit a Request for Exclusion by the Response Deadline. The Request for Exclusion must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the Settlement, except a Request for Exclusion not containing a Settlement Class member’s telephone number and/or last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the Settlement or have any right to object, appeal or comment thereon. Notwithstanding the foregoing, the PAGA settlement and release provisions will apply to all Settlement Class members whether or not they exclude themselves from the class action settlement. Settlement Class members who were employed by Defendant at any time during the PAGA Period and submit a valid and timely Request for Exclusion shall still be entitled to their portion of the PAGA Amount described above, and will release all PAGA Released Claims, whether they submit a valid and timely Request for Exclusion or not.
- D. Objections. Members of the Settlement Class who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by filing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant’s counsel, as well as file all such objections with the Court). Defendant’s counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval, unless the objections are filed within ten (10) days of the Motion for Final Approval filing deadline, in which case Defendant’s counsel and Class

Counsel shall have ten (10) days to file a response to the objections. To be valid, any written objection should: (1) contain the objecting Settlement Class member's full name and current address, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; and (4) be postmarked no later than the Response Deadline. Members of the Settlement Class who do not request exclusion may also object to the Settlement by appearing at the Final Approval Hearing. Members of the Settlement class who request exclusion *may not* object to the Settlement.

- E. Notice of Estimated Settlement Award / Disputes. Each Notice Packet mailed to a Settlement Class member shall disclose the amount of the Settlement Class member's estimated Individual Settlement Award as well as all of the information that was used from Defendant's records in order to calculate the Settlement Award. Settlement Class members will have the opportunity, should they disagree with Defendant's records regarding the information stated in the Notice of Estimated Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Awards under the terms of this Settlement Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Individual Settlement Award shall be binding upon the Settlement Class member and the Parties.
- F. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member immediately, and in any event within five (5) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. It will be conclusively presumed that, if an envelope so mailed has not been returned within thirty (30) days of the mailing, the Settlement Class member received the Notice Packet. Settlement Class members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have fourteen (14) calendar days from the date of re-mailing, or until the Response Deadline has expired, whichever is later, to submit a Request for Exclusion, Objection, or dispute. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline. If a Settlement Class member's Notice Packet is returned to the Settlement Administrator more than once as non-

deliverable, then an additional Notice Packet shall not be mailed. Nothing else shall be required of, or done by, the Parties, Class Counsel, or Defendant's Counsel to provide notice of the proposed settlement.

10. **Final Approval.** Following preliminary approval and the close of the period for filing requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:

- A. Granting final approval of the Settlement, adjudging the terms thereof to be fair, adequate, and reasonable, and directing consummation of its terms and provisions;
- B. Approving Plaintiff's and Class Counsel's request for attorneys' fees and reimbursement of costs, Class Representative Service Award, and settlement administration costs; and
- C. Entering Final Judgment pursuant to California Rule of Court 3.769. Said Judgment shall be posted on the Settlement Administrator's website.

11. **Non-Admission of Liability.** Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this Settlement. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected California Evidence Code Section 1152.

12. **Non-disclosure and Non-publication.** Plaintiff and Class Counsel agree that they have not and will not publish the Settlement Agreement, except to Settlement Class members and as shall be contractually required to effectuate the terms of the Settlement Agreement as set forth herein. Class Counsel shall not report the Settlement Agreement in any medium or in any publication, shall not post or report anything regarding the claims of Plaintiff, the Settlement Class, or the settlement on their website, and shall not contact any reporters or media regarding the settlement. However, for the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class Counsel may disclose the names of the Parties in this Action, the venue/case number of this Action, and a general description of the Action, to a court in a declaration by Class Counsel.

13. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by all the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

14. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Defendant: Marissa Alguire, Akerman LLP; 601 West Fifth Street, Suite 300,
Los Angeles, California 90071; marissa.alguire@akerman.com.

if to Plaintiff: Paul K. Haines, Haines Law Group, APC; 2155 Campus Drive,
Suite 180, El Segundo, California 90245;
phaines@haineslawgroup.com.

15. **Cooperation.** The Parties agree to work cooperatively, diligently and in good faith to ensure that all documents necessary to effectuate this Settlement are properly and timely filed.

16. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the Action contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof. Further, all terms of this Agreement and the exhibits hereto shall be governed by and interpreted according to the laws of the State of California.

17. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

18. **Enforcement Action.** Consistent with the class action procedure, the Parties agree that the San Bernardino County Superior Court shall have jurisdiction to enforce this Settlement pursuant to California Code of Civil Procedure section 664.6, and California Rule of Court 3.769. In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

DATED: DEFENDANT TOP-SHELF FIXTURES, LLC

By: _____
Al Munoz, President

DATED: PLAINTIFF JOSE ESTRADA

By: _____
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: _____, 2023

AKERMAN LLP

By: _____
Marissa Alguire
Attorney for Defendant

DATED: _____, 2023:

HAINES LAW GROUP, APC

By: _____
Paul K. Haines
Sean M. Blakely
Attorneys for Plaintiff

if to Defendant: Marissa Alguire, Akerman LLP; 601 West Fifth Street, Suite 300, Los Angeles, California 90071; marissa.alguire@akerman.com.

if to Plaintiff: Paul K. Haines, Haines Law Group, APC; 2155 Campus Drive, Suite 180, El Segundo, California 90245; phaines@haineslawgroup.com.

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DATED: 10/4/2023

DEFENDANT TOP-SHELF FIXTURES, LLC

DocuSigned by:

Al Munoz

By: 8DB27FF43763449

Al Munoz, President

DATED:

PLAINTIFF JOSE ESTRADA

By:

Plaintiff and Settlement Class Representative

if to Defendant: Marissa Alguire, Akerman LLP; 601 West Fifth Street, Suite 300,
Los Angeles, California 90071; marissa.alguire@akerman.com.

if to Plaintiff: Paul K. Haines, Haines Law Group, APC; 2155 Campus Drive,
Suite 180, El Segundo, California 90245;
phaines@haineslawgroup.com.

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DATED:

DEFENDANT TOP-SHELF FIXTURES, LLC

By: _____
Al Munoz, President

DATED:

PLAINTIFF JOSE ESTRADA

By: JOSE ESTRADA
Plaintiff and Settlement Class Representative

10/3/23

APPROVED AS TO FORM:

DATED: October 5, 2023

AKERMAN LLP



By: _____
Marissa Alguire
Attorney for Defendant

DATED: _____, 2023:

HAINES LAW GROUP, APC

By: _____
Paul K. Haines
Sean M. Blakely
Attorneys for Plaintiff

APPROVED AS TO FORM:

DATED: _____, 2023

AKERMAN LLP

By: _____
Marissa Alguire
Attorney for Defendant

DATED: 10/3, 2023:

HAINES LAW GROUP, APC

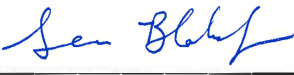
By:  _____
Paul K. Haines
Sean M. Blakely
Attorneys for Plaintiff

EXHIBIT 1

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

JOSE ESTRADA, as an individual and on behalf of all
others similarly situated,

Plaintiff,

vs.

TOP-SHELF FIXTURES, LLC, a California limited
liability company; and DOES 1 through 100,

Defendants.

Case No. CIVSB2214983

**NOTICE OF PENDENCY OF CLASS
ACTION AND PROPOSED SETTLEMENT**

To: All current and former non-exempt employees employed by Defendant Top-Shelf Fixtures, LLC in the State of California from July 14, 2018 through <<PRELIM APPROVAL DATE>>. Collectively, these employees will be referred to as "Settlement Class members."

**PLEASE READ THIS NOTICE CAREFULLY
THIS NOTICE IS BEING SENT IN ENGLISH AND SPANISH
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT**

Why should you read this notice?

The San Bernardino Superior Court has granted preliminary approval of a proposed class action settlement (the "Settlement") in the case of *Jose Estrada v. Top-Shelf Fixtures, LLC*, San Bernardino Superior Court Case No. CIVSB2214983 (the "Action"). Because your rights may be affected by the Settlement, it is important that you read this notice carefully.

You may be entitled to money from this Settlement. Defendant Top-Shelf Fixtures, LLC's ("Top-Shelf") records show that you were employed at Top-Shelf as a non-exempt employee in the State of California at any time from July 14, 2018 through <<PRELIM APPROVAL DATE>> (the "Class Period"). The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this notice is to provide you with a brief description of the Action, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment.

What is this case about?

Plaintiff Jose Estrada ("Plaintiff") brought this Action against Top-Shelf, seeking to assert claims on behalf of a class of current and former non-exempt employees who worked for Top-Shelf in California at any time during the Class Period. Plaintiff is known as the "Class Representative," and his attorneys, who also represent the interests of all Settlement Class members, are known as "Class Counsel."

Plaintiff alleges that Top-Shelf failed to provide Settlement Class members with all required meal and rest periods and that it failed to pay all minimum and overtime wages due to its timekeeping policies and practices. The Action also alleges that as a result of these alleged violations, Top-Shelf failed to provide Settlement Class members with accurate and complete wage statements and failed to timely pay all final wages at the time of separation of employment. As a further result of the foregoing alleged violations, Plaintiff alleges

that Top-Shelf engaged in unfair business practices and is liable for civil penalties under the Labor Code Private Attorneys General Act (“PAGA”).

Top-Shelf denies that it has done anything wrong. Top-Shelf denies that it owes Settlement Class members any wages, restitution, penalties, or other damages. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Top-Shelf, which expressly denies all liability.

The Court has not ruled on the merits of Plaintiff’s claims. However, to avoid additional expense, inconvenience, and interference with its business operations, Top-Shelf has concluded that it is in its best interests and the interests of Settlement Class members to settle the Action on the terms summarized in this Notice. After Top-Shelf provided relevant information to Class Counsel, the Settlement was reached following mediation and arm’s-length negotiations between the parties.

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to Top-Shelf, the risk of denial of class certification, the inherent risks of trial on the merits, and the delays and uncertainties associated with litigation.

If you are still employed by Top-Shelf, your decision about whether to participate in the Settlement will not affect your employment. California law and Top-Shelf’s policy strictly prohibit unlawful retaliation. Top-Shelf will not take any adverse employment action against or otherwise retaliate, or discriminate, against any Settlement Class member because of the Settlement Class member’s decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for the Plaintiff/Settlement Class members: HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com Sean M. Blakely sblakely@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 haineslawgroup.com	Attorney for Defendant Top-Shelf: AKERMAN LLP Marissa Alguire Marissa.alguire@akerman.com Mojan Anari mojan.anari@akerman.com 601 West Fifth Street, Suite 300 Los Angeles, CA 90071 Tel: (213) 533-5980 Fax: (213) 627-6342 akerman.com
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What are the terms of the Settlement?

On <<PRELIM APPROVAL DATE>>, the Court preliminarily certified a class, for settlement purposes only, of all current and former non-exempt employees who worked for Top-Shelf in California from July 14, 2018 until <<PRELIM APPROVAL DATE>>. Settlement Class members who do not opt out of the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Top-Shelf as described below.

Top-Shelf has agreed to pay \$595,000.00 (the “Gross Settlement Amount”) to fully resolve all claims in the Action, including payments to Settlement Class members, requested attorneys’ fees and expenses, settlement administration costs, the amount designated as PAGA civil penalties, and the Class Representative’s Service Award.

The following deductions from the Gross Settlement Amount will be requested by the parties:

Settlement Administration Costs. The Court has approved ILYM Group, Inc to act as the “Settlement Administrator,” who is sending this Notice to you and will perform many other duties relating to the

Settlement. The Court has approved setting aside up to \$8,000.00 from the Gross Settlement Amount to pay the settlement administration costs.

Attorneys' Fees and Expenses. Class Counsel have been prosecuting the Action on behalf of the Settlement Class members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys' fees, which will be paid from the Gross Settlement Amount. Settlement Class members are not personally responsible for any of Class Counsel's attorneys' fees or expenses. Class Counsel will ask for fees of up to one-third of the Gross Settlement Amount, which is currently estimated to be \$198,333.33, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Action through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$20,000.00 for verified costs Class Counsel incurred in connection with the Action.

Service Award to Class Representative. Class Counsel will ask the Court to award the Class Representative a service award in the amount of \$10,000.00 to compensate him for his service and extra work provided on behalf of the Settlement Class members.

PAGA Payment to State of California. \$30,000.00 will be paid to the California Labor & Workforce Development Agency ("LWDA"), representing 75% of the \$40,000.00 the parties have agreed to allocate to the settlement of Plaintiff's claims on behalf of the Settlement Class members under the PAGA. The remaining \$10,000.00 will be payable to certain Settlement Class members as the "PAGA Amount," as described below.

Calculation of Settlement Class Members' Individual Settlement Awards. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Amount ("NSA"), which will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion (described below). The NSA is estimated at approximately \$318,666.67 and will be divided as follows:

- (i) Payments to All Participating Settlement Class Members: The NSA will be distributed to all participating Settlement Class members based on each participating Settlement Class member's proportionate Workweeks worked during the Class Period, and will be calculated by multiplying the NSA by a fraction, the numerator of which is the participating Settlement Class member's number of Workweeks worked during the Class Period, and the denominator of which is the total Workweeks worked by all participating Settlement Class members during the Class Period.
- (ii) PAGA Amount: In addition to the NSA, the \$10,000 PAGA Amount will be allocated as follows: Each Settlement Class member who was employed by Top-Shelf at any time from July 14, 2021 through <<PRELIM APPROVAL DATE>> ("PAGA Period") (including those who submit a valid and timely Request for Exclusion from the class action settlement), shall receive a portion of the PAGA Amount proportionate to the number of workweeks worked during the PAGA Period, and which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the Settlement Class member's gross number of workweeks worked during the PAGA Period, and the denominator of which is the total number of workweeks worked by all participating Settlement Class members (including those who submit a valid and timely Request for Exclusion from the class action settlement) during the PAGA Period.

Payments to Settlement Class Members. If the Court grants final approval of the Settlement, Individual Settlement Awards will be mailed to all Settlement Class members who did not submit a valid and timely Request for Exclusion. Settlement checks will be valid for 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class members whose checks were not cashed within 180 days after mailing shall be distributed to the Controller of the State of California to be held pursuant to

the Unclaimed Property Law, California Civil Code § 1500 *et seq.*, in the name of the Settlement Class member to whom the check was issued, until such time that they claim their property.

Allocation and Taxes. For tax purposes, each Individual Settlement Award will be treated as follows: Any payment from the NSA shall be allocated as two-thirds (2/3) as penalties and interest (allocated as 75% interest and 25% penalties); and one-third (1/3) as wages. Any payment from the PAGA Amount shall be allocated as 100% penalties. The Settlement Administrator will be responsible for issuing to participating Settlement Class members IRS Forms W-2 for amounts deemed “wages” and IRS Forms 1099 for the amounts allocated as penalties and interest. Notwithstanding the treatment of the payments to each Settlement Class member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.

Release. If the Court approves the Settlement, and upon the complete funding of the Gross Settlement Amount, all Settlement Class members who did not submit a timely and valid Request for Exclusion, will on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, will release and discharge Top-Shelf, and all of its past and present officers, directors, shareholders, managers, direct and/or indirect owners, members, parents, trustees, fiduciaries, beneficiaries, subrogees, executors, partners, joint employers, joint venturers, clients, vendors, employees, predecessors, successors, assigns, affiliates, brother and sister corporations, agents, principals, heirs, representatives, attorneys, insurers, accountants, administrators, auditors, consultants, divisions, related companies, related entities, and all of their respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys, and any individual or entity which could be liable for any of the Class Released Claims and/or PAGA Released Claims (collectively, the “Released Parties”) from all claims, rights, demands, liabilities, and causes of actions that were pled in the First Amended Class and Representative Action Complaint (“FAC”) and the PAGA Notice that arose during the Class Period, including: claims for: (a) minimum wages violations; (b) failure to pay all overtime wages; (c) failure to provide all meal periods in accordance with California law; (d) failure to authorize and permit all rest periods in accordance with California law; (e) failure to provide accurate and itemized wage statements; (f) failure to pay all wages owed upon separation of employment; and (g) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories pled in the FAC; and (h) all damages, penalties, interest, costs (including attorney’s fees), and other amounts recoverable under said claims or causes of action as to the facts and/or legal theories alleged or which could have been alleged in the FAC or PAGA Notice (the “Class Released Claims”). The period of the Class Released Claims shall extend to the limits of the Class Period.

In addition, all Settlement Class members (regardless of whether they opt out) who worked for Top-Shelf at any time during the PAGA Period are “Aggrieved Employees” and shall release the Released Parties from all claims for civil penalties under PAGA arising during the PAGA Period as alleged, or reasonably could have been alleged, in Plaintiff’s July 14, 2022 Notification Letter to the Labor and Workforce Development Agency (“LWDA”), including: (a) minimum wage violations; (b) failure to pay all overtime wages; (c) failure to provide all meal periods in accordance with California law; (d) failure to authorize and permit all rest periods in accordance with California law; (e) failure to furnish accurate and itemized wage statements; (f) failure to pay all wages owed upon separation of employment; and (g) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories of relief pled in the FAC; and (h) all damages, penalties, interest, costs (including attorney’s fees), and other amounts recoverable under said claims or causes of action as to the facts and/or legal theories alleged or which could have been alleged in the FAC or PAGA Notice (“the PAGA Released Claims.”)

Conditions of Settlement. The Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate and in the best interests of the Settlement Class, and the entry of Judgment.

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your share of the Settlement based on the proportionate number of workweeks you worked during the Class Period, and the proportionate number of workweeks you worked during the PAGA Period, as stated in the accompanying Notice of Estimated Settlement Award. You also will be bound by the Settlement, including the release of claims stated above.

What other options do I have?

Dispute Information in Notice of Estimated Settlement Award. Your award is based on the proportionate number of workweeks you worked during the Class Period, and the proportionate number of workweeks you worked during the PAGA Period. The information contained in Top-Shelf's records regarding each of these factors, along with your estimated Individual Settlement Award, is listed on the accompanying Notice of Estimated Settlement Award. If you disagree with the information in your Notice of Estimated Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Estimated Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class members. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Awards under the terms of this Settlement Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Settlement Award will be binding on the Settlement Class member and the Parties.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator a written "Request for Exclusion" letter or card postmarked no later than <<RESPONSE DEADLINE>>, with your name, address, telephone number, last four digits of your social security number, and your signature.

Send the Request for Exclusion directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Any person who submits a timely Request for Exclusion from the Settlement shall, upon receipt by the Settlement Administrator, no longer be a Settlement Class member, shall be barred from participating in any portion of the class action Settlement, and shall receive no benefits from the class action Settlement. However, all Settlement Class members who worked for Top-Shelf during the PAGA Period, including those who opt out, will be bound by the PAGA portion of the Settlement and will receive a portion from the PAGA Amount. **Do not submit both a Dispute and a Request for Exclusion.** If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you should mail a written objection to the Settlement Administrator. To be valid, any written objection must: (1) contain the objecting Settlement Class member's full name and current address, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; and (4) be postmarked no later than <<RESPONSE DEADLINE>>.

You may also appear at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department S-26 of the San Bernardino County Superior Court, located at 247 West Third Street, San Bernardino, California 92415. You have the right to appear either in person or through your own attorney at this hearing. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before <<RESPONSE DEADLINE>>. All objections or other correspondence must state the name and number of the case, which

is *Jose Estrada v. Top-Shelf Fixtures, LLC*, San Bernardino Superior Court Case No. CIVSB2214983. You do not need to object in writing to be heard at the Final Approval Hearing.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class members who do not object.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department S-26 of the San Bernardino County Superior Court, located at 247 West Third Street, San Bernardino, California 92415. The Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses and the Service Award to the Class Representative. The Final Approval Hearing may be postponed without further notice to the Settlement Class. You may contact Class Counsel using the contact information provided above to confirm the address and time of the hearing. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing.**

How can I get additional information?

This Notice is only a summary of the Action and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the San Bernardino County Superior Court, located at 247 West Third Street, San Bernardino, California 92415, during regular court hours. You may also contact Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE THE COURT, TOP-SHELF, OR ITS ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS

REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is <<RESPONSE DEADLINE>>. These deadlines will be strictly enforced.

BY ORDER OF THE COURT ENTERED ON <<PRELIM APPROVAL DATE>>.

EXHIBIT 2

NOTICE OF ESTIMATED SETTLEMENT AWARD

Jose Estrada v. Top-Shelf Fixtures, LLC
SAN BERNARDINO COUNTY SUPERIOR COURT CASE NO. CIVSB2214983

Please complete, sign, date and return this Form to <<ADMINISTRATOR CONTACT INFO>> **ONLY IF** (1) your personal contact information has changed, and/or (2) you wish to dispute any of the items listed in Section (III), below. It is your responsibility to keep a current address on file with the Settlement Administrator.

(I) Please type or print your name:

(First, Middle, Last)

(II) Please type or print the following identifying information if your contact information has changed:

Former Names (if any)

New Street Address

City

State

Zip Code

(III) Information Used to Calculate Your Settlement Award:

According to Top-Shelf Fixtures, LLC's ("Top-Shelf") records:

- (a) you worked for Top-Shelf in California as a non-exempt employee from _____ until _____.
- (b) you worked _____ workweeks for Top-Shelf in California from July 14, 2018 through [PRELIM APPROVAL DATE]; and
- (c) you worked _____ workweeks for Top-Shelf in California between July 14, 2021 and [PRELIM APPROVAL DATE].

Based on the above, your Settlement Award is estimated at \$ _____.

(IV) If you disagree with items (a), (b), and/or (c) in Section (III) above, please explain why in the space provided below and include copies of any supporting evidence or documentation with this Form:

If you dispute the above information from Top-Shelf's records, Top-Shelf's records will control unless you are able to provide documentation that establishes otherwise, and that Top-Shelf's records are mistaken. If there is a dispute about whether Top-Shelf's information or yours is accurate, and the dispute cannot be resolved informally, the dispute will be resolved by the Parties and the Settlement Administrator as described in the "Notice of Pendency of Class Action and Proposed Settlement" that accompanies this Form.

**ANY DISPUTES, ALONG WITH ANY SUPPORTING DOCUMENTATION, MUST BE POSTMARKED
NO LATER THAN <<RESPONSE DEADLINE>>.**

Signature: _____

Date: _____

EXHIBIT B

HAINES LAW GROUP
EMPLOYMENT ATTORNEYS

July 14, 2022

VIA LWDA WEBSITE

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

Re: *Jose Estrada v. Top-Shelf Fixtures, LLC, et al.*

To Whom It May Concern:

Please be advised that this law firm represents Jose Estrada in claims arising from his employment with Top-Shelf Fixtures, LLC and Does 1 through 100 (collectively, “Defendants”). Mr. Estrada is an “aggrieved employee” as defined by Labor Code § 2698, *et seq.* due to Defendants’ numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code § 2699.3, which requires aggrieved employees to notify their employer and the Labor & Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated.

Mr. Estrada worked for Defendants as a non-exempt employee from approximately 2011 to April of 2022. Defendants are in the business of designing and manufacturing various shelving products, including wire shelving, retail fixtures, and front-end merchandisers. Mr. Estrada was typically scheduled to work a shift from 6:00 a.m. to 2:30 p.m., however, Mr. Estrada was occasionally scheduled to work a longer shift from 5:00 a.m. to 4:30 p.m. The “aggrieved employees” whom Mr. Estrada seeks to represent include all non-exempt employees who have worked for Defendants in California at any time from one year prior to the date of this letter through the present.

Throughout his employment, Defendants utilized a timekeeping system which resulted in Mr. Estrada and other aggrieved employees not being compensated for all hours actually worked, whether by rounding, time-shaving, or otherwise. Specifically, upon information and belief, Defendants’ daily practice was to ring a bell signaling the start of Mr. Estrada’s and other aggrieved employees’ shift at 6:00 a.m. Mr. Estrada and other aggrieved employees were expected to be at their assigned workstation at 6:00 a.m. when the bell rang signaling the start of the shift. To comply with this requirement, Mr. Estrada and other aggrieved employees regularly clocked in and began working prior to 6:00 a.m., to ensure they were at their assigned workstation when the bell rang at 6:00 a.m. Similarly, Defendants’ daily practice was to ring a bell at 2:30 p.m. to signal the end of the work shift. Mr. Estrada and other aggrieved employees were not allowed to leave their workstations prior the bell ringing at 2:30 p.m. Upon information and belief, Defendants’ timekeeping policies/practices did not compensate Mr. Estrada and other aggrieved employees for the time worked prior to the scheduled start time of 6:00 a.m., nor did Defendants compensate Mr. Estrada and other aggrieved employees for the time spent after the scheduled end time

of 2:30 p.m. Defendants' timekeeping policies/practices were not even handed and have resulted in Mr. Estrada and other aggrieved employees not being compensated for all hours worked. Further, on occasions when Mr. Estrada worked over eight hours in a workday and/or forty hours in a workweek, Defendants' timekeeping policies/practices deprived Mr. Estrada of additional overtime wages earned. Due to Defendants' timekeeping policies/practices that fail to compensate for all hours worked, Mr. Estrada and other aggrieved employees were not compensated for all required minimum and overtime wages.

Defendants also failed to provide Mr. Estrada and other aggrieved employees with all legally compliant meal periods due to Defendants' meal period policies/practices, which have resulted in late (commencing after the fifth hour of work), short (less than 30 minutes), and missed meal periods. In addition, Defendants failed to provide Mr. Estrada and other aggrieved employees with second meal periods on shifts over 10.0 hours. During at least a portion of the relevant time period, Defendants did not require Mr. Estrada and other aggrieved employees to record their meal periods. Instead, upon information and belief, Defendants automatically deducted 30 minutes from the total hours worked for each shift worked regardless of whether the employee took a full 30-minute compliant meal period. On those occasions when Mr. Estrada was not provided with all legally-required meal periods to which he was entitled, Defendants failed to compensate Mr. Estrada with the required meal period premium for each workday in which he experienced a meal period violation as mandated by Labor Code § 226.7. During at least a portion of the putative class period, Defendants maintained no payroll code or other mechanism for paying meal period premiums under Labor Code § 226.7 in the event a legally compliant meal period was not provided to Mr. Estrada and other aggrieved employees.

Defendants have also failed to authorize and permit all required rest periods for Mr. Estrada and other aggrieved employees. Specifically, Mr. Estrada was not authorized and permitted to take separate rest periods throughout the workday and was only authorized and permitted a single 30-minute combined rest period at approximately 1:00 p.m. during his shift, in violation of California law. *See Rodriguez v. E.M.E., Inc.* (2016) 246 Cal.App.4th 1027 (holding that in a shift with a single meal period, the preferred schedule requires the provision of a rest period in the middle of each "work period" before and after the meal break, and that "a departure from the preferred schedule is permissible only when the departure (1) will not unduly affect employee welfare and (2) is tailored to alleviate a material burden that would be imposed on the employer by implementing the preferred schedule."). Furthermore, despite working shifts in excess of 10.0 hours, Mr. Estrada was not authorized and permitted to take a third rest period, due to Defendants' rest period policies/practices, which fail to authorize and permit all legally-required rest periods. Despite failing to authorize and permit Mr. Estrada and other aggrieved employees to take all rest periods to which they are entitled, upon information and belief, during at least a portion of the relevant time period, Defendants maintained no mechanism for the payment of rest period premium payments as required by Labor Code § 226.7 and did not pay Mr. Estrada and other aggrieved employees any rest period premiums.

As a result of Defendants' failure to pay all minimum and overtime wages owed and all meal and rest period premium wages owed, Defendants maintained inaccurate

payroll records, issued inaccurate wage statements to Mr. Estrada and other aggrieved employees, and failed to pay all final wages owed to Mr. Estrada and other aggrieved employees upon their respective separations of employment.

Minimum Wage Violations

Defendants were, and are, required to pay Mr. Estrada and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour worked, including. *See* Labor Code §§ 1194, 1194.2, 1197, 1198, and Wage Order 1, § 4. As alleged above, Defendants maintained, and continue to maintain, timekeeping policies/practices and pay policies/practices that regularly, systematically, and impermissibly fail to compensate Mr. Estrada and other aggrieved employees at least the minimum wage for all hours worked. As a result of these policies/practices, Mr. Estrada and other aggrieved employees have been, and continue to be, deprived of all required minimum wages.

Overtime Violations

Defendants were, and are, required to pay Mr. Estrada and other aggrieved employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 510, 558, 1194(a) and 1198; Wage Order 1. Wage Order 1, § 3 requires an employer to pay an employee “one and one-half (1½) times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours” per workday and/or in excess of 40 hours of work in the workweek, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and “[d]ouble the employee’s regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.” As described herein, Defendants caused Mr. Estrada and other aggrieved employees to work overtime and/or double-time hours but did not compensate Mr. Estrada or other aggrieved employees at one and one-half times (or two times) their “regular rate” of pay for such hours.

Meal Period Violations

As alleged above, Defendants failed, and continue to fail, to provide Mr. Estrada and other aggrieved employees with all required and compliant meal periods, due to Defendants’ meal period policies/practices that fail to provide legally compliant meal periods, to Mr. Estrada and other aggrieved employees. *See* Labor Code §§ 226.7, 512, 558, 1198; Wage Order 1, § 11. As a result, Mr. Estrada and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal or rest or recovery period in accordance with...[an] order of the Industrial Welfare Commission...the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest period is not provided.”). As alleged above, Defendants have also failed to pay them the premium wages to which aggrieved employees are legally

entitled. In addition, as noted above, Defendants have failed to properly record meal periods due to their auto-deduct practices.

Rest Period Violations

Due to its unlawful rest period policies and/or practices, Defendants have failed to authorize and permit Mr. Estrada and other aggrieved employees to take all required rest periods to which they are legally entitled. Wage Order 1, § 12 and California Labor Code §§ 226.7, 516, 558. Despite Defendants' violations, Defendants have not paid an additional hour of premium pay to Mr. Estrada and other aggrieved employees at their respective regular rates of compensation for each violation in accordance with Labor Code section 226.7. See Labor Code § 226.7 ("If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.").

Wage Statement Violations

Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Mr. Estrada and other aggrieved employees with complete and accurate wage statements with respect to, among other things, their total gross wages earned, total net wages earned, total hours worked, and amount of paid sick leave time available, in violation of Labor Code §§ 226 *et seq.*, and 246; Wage Order 1, § 7. As a result of Defendants' failure to pay all minimum and overtime wages and failure to pay all required meal and rest period premium wages, Defendants maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Estrada and other aggrieved employees in violation of Labor Code § 226. Defendants' failure to comply with its wage statement obligations was knowing and intentional, and Mr. Estrada and other aggrieved employees have suffered injury as a result.

Failure to Timely Pay Final Wages

Defendants were, and are, also required to pay all wages earned immediately at the time of separation of employment in the event the employer discharges the employee, or if the employee provides at least 72 hours of notice of his/her intent to quit. In the event the employee provides less than 72 hours of notice of his/her intent to quit, said employee's wages become due and payable not later than 72 hours upon said employee's last date of employment, pursuant to Labor Code sections 201-202. Defendants failed to timely pay Mr. Estrada and other aggrieved employees all final wages due to them at the time of their separation including, among other things, all overtime and minimum wages owed, and all meal and rest period premium wages. Further, Mr. Estrada is informed and believes, and based thereon alleges, that as a matter of uniform policy and practice, Defendants continue to fail to pay aggrieved employees all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-202. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203.

Defendants' willful failure to timely pay Mr. Estrada and other aggrieved employees all earned wages upon separation from employment results in a continued payment of wages up to thirty (30) days from the time the wages were due. Therefore, Mr. Estrada and other aggrieved employees are entitled to compensation pursuant to Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

Mr. Estrada is informed and believes, and based thereon alleges, that the violations alleged herein are continuing to the present. As an "aggrieved employee," Mr. Estrada will initiate a civil action on behalf of himself, the State of California, and other aggrieved employees to recover civil penalties resulting from the wage and hour violations alleged herein. As alleged herein, and based on Mr. Estrada's own investigation and on information and belief, Defendants have committed the following Labor Code violations:

- a. Defendants have violated Labor Code §§ 1182.12, 1194, 1194.2, 1197, and 1198 by failing to pay Mr. Estrada and other aggrieved employees at least the statutory minimum wage for all hours worked;
- b. Defendants have violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Mr. Estrada and other aggrieved employees all overtime and/or double-time compensation earned;
- c. Defendants have violated Labor Code §§ 226.7, 512, 558, and 1198 by failing to provide all legally required meal periods and by failing to pay meal period premiums to Mr. Estrada and other aggrieved employees;
- d. Defendants have violated Labor Code §§ 226.7, 516, 558, and 1198 by failing to authorize and permit all legally required rest periods and by failing to pay rest period premiums to Mr. Estrada and other aggrieved employees;
- e. Defendants have violated Labor Code §§ 226 and 246 by failing to furnish Mr. Estrada and other aggrieved employees with accurate and complete itemized wage statements;
- f. Defendants have violated Labor Code §§ 201-203 by failing to pay Mr. Estrada and other aggrieved former employees all wages due at the end of their employment;
- g. Defendants violated Labor Code § 204 by failing to pay Mr. Estrada and other aggrieved employees all wages earned at least twice during each calendar month; and
- h. Defendants have violated Labor Code §§ 1174 and 1198 by failing to maintain accurate records on behalf of Mr. Estrada and other aggrieved employees.

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Pursuant to Labor Code Section 2699.3, please notify us and Defendants if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
HAINES LAW GROUP, APC



Paul K. Haines

cc: Top-Shelf Fixtures, LLC, c/o California Registered Corporate Agent (individual)
Alonzo Munoz (agent for service of process) (via certified mail)

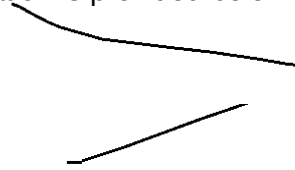
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Date Produced: 07/25/2022

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