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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **IN AND FOR THE COUNTY OF SANTA CLARA**

14 JENNIFER MONTOYA and JUAN
15 GONTEZ, individually, on behalf of
16 themselves and on behalf of all persons
17 similarly situated,

18 Plaintiffs,

19 vs.

20 FPR II, L.L.C., dba LEADPOINT
21 BUSINESS SERVICES, a Limited
22 Liability Company; and DOES 1 through
23 50, inclusive,

24 Defendants.

CASE No. **22CV404499**

**DECLARATION OF NORMAN
BLUMENTHAL IN SUPPORT OF MOTION
FOR FINAL APPROVAL OF CLASS
SETTLEMENT, ATTORNEYS' FEES, COSTS
AND SERVICE AWARDS**

Hearing Date: April 2, 2025

Hearing Time: 1:30 p.m.

*[Hearing scheduled by Order dated December 20,
2024]*

Judge: Hon. Theodore C. Zayner

Dept.: 19

Action Filed: October 13, 2022

Trial Date: Not set

1 I, NORMAN B. BLUMENTHAL, declare as follows:

2 1. I am the managing partner of the law firm of Blumenthal Nordrehaug Bhowmik De
3 Blouw LLP, counsel of record for Plaintiffs Jennifer Montoya and Juan Manso Gontez (“Plaintiffs”) in
4 this matter. As such, I am fully familiar with the facts, pleadings and history of this matter. The following
5 facts are within my own personal knowledge, and if called as a witness, I could testify competently to the
6 matters stated herein. This declaration is being submitted in support to the Plaintiffs’ motion for final
7 approval of the class settlement, including attorneys’ fees, costs and service award.

8 2. Over the course of the litigation, a number of attorneys in my firm have worked on this
9 matter. Their credentials are reflected in the Blumenthal Nordrehaug Bhowmik De Blouw LLP firm
10 resume, a true and correct copy of which is attached hereto as Exhibit #1. Some of the major cases our
11 firm has undertaken are also set forth in Exhibit #1. The bulk of the attorneys involved in this matter at
12 Blumenthal Nordrehaug Bhowmik De Blouw LLP have had substantial class litigation experience in the
13 areas of employment class actions, unfair business practices and other complex litigation. The attorneys
14 at my firm have extensive experience in cases involving labor code violations and overtime claims. Class
15 Counsel has litigated similar overtime cases against other employers on behalf of employees, including
16 cases against Sharp Healthcare, Walmart, Legoland, Cigna, HealthNet, See’s Candies, Securitas, Okta,
17 Advanced Home Health, El Pollo Loco, Total Renal, Panda Express, Walt Disney Resorts, Pharmaca,
18 Nortek Security, California Fine Wine, Solarcity, Walgreens, Space Exploration, Union Bank, Verizon,
19 Apple, Wells Fargo, Kaiser, Universal Protection Services, and California State Automobile Association.
20 Class Counsel have been approved as experienced class counsel during contested motions in state and
21 federal courts throughout California. It is this level of experience which enabled the firm to undertake the
22 instant matter and to successfully combat the resources of the defendants and their capable and
23 experienced counsel. Class Counsel have participated in every aspect of the settlement discussions and
24 have concluded the settlement is fair, adequate and reasonable and in the best interests of the Class.

25
26 3. Summary of the Proposed Settlement.

27 (a) A true and correct copy of the Joint Stipulation Re: Class Action and Representative
28 Action Settlement (“Settlement,” “Agreement” or “Settlement Agreement”) between the parties is

1 attached hereto as Exhibit #2. Plaintiffs and Defendant FPR II, LLC, dba Leadpoint Business
2 Services (“Defendant”) reached a full and final settlement of the above-captioned action, which is
3 embodied in the Agreement filed concurrently with the Court. As consideration for this Settlement, the
4 Gross Settlement Amount to be paid by Defendant is One Million Five Hundred Thousand Dollars
5 (\$1,500,000.00) (Agreement at ¶¶ 1(M).) Under the Settlement, the Gross Settlement Amount consists
6 of the following elements: (1) payment of the Individual Class Payments to the Participating Class
7 Members; (2) Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment; (3)
8 Administration Expenses Payment; (4) the Class Representative Service Payment to Plaintiff; and (5) the
9 PAGA Penalties. (Agreement at ¶ 1(M).) The following is a table of the key financial terms of the
10 Settlement and the proposed deductions:

11 \$1,500,000 (Gross Settlement Amount)
12 - \$12,500 (Plaintiffs' proposed service awards reduced to \$7,500 for Plaintiff Montoya
13 and \$5,000 to Plaintiff Gontez)
14 - \$50,000 (Class Counsel Litigation Expenses Payment - not to exceed amount)
15 - \$500,000 (Class Counsel Fees Payment - not to exceed one-third of settlement)
16 - \$75,000 (PAGA Penalties - 75% to LWDA / 25% to Aggrieved Employees)
17 - \$15,000 (Settlement Administration Costs - not to exceed amount)
18 \$847,500 (Net Settlement Amount)

19 (b) The Gross Settlement Amount does not include Defendant’s share of payroll taxes.
20 (Agreement at ¶ 1(M).) The Gross Settlement Amount shall be all-in with no reversion to Defendant. *Id.*

21 (c) Within fourteen (14) days of the Effective Date, Defendant shall deposit the Gross
22 Settlement Amount with the Settlement Administrator. (Agreement at ¶ 11(B).) The distribution of
23 Individual Settlement Payments to Participating Class Members along with the other Court-approved
24 distributions shall be made by the Settlement Administrator within seven (7) days after Defendant fully
25 funds the Gross Settlement Amount. (Agreement at ¶ 11(C).)

26 (d) The amount remaining in the Gross Settlement Amount after the deduction of
27 Court-approved amounts for Individual PAGA Payments, the LWDA Payment, the Service Awards, the
28 Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Settlement
Administration Costs (the “Net Settlement Amount”) shall be allocated to Participating Class Members
as their Individual Settlement Payments. (Agreement at ¶¶ 1(R) and 10.) From the Net Settlement
Amount, the Settlement Administrator will determine the aggregate number of Workweeks worked by

1 all Participating Class Members during the Class Period (“Participating Class Workweeks”) and use the
2 following formula: Individual Settlement Share = (Participating Class Member's Workweeks worked ÷
3 Participating Class Workweeks) × Net Settlement Amount. (Agreement at ¶ 10(B).) Workweeks will be
4 calculated based on Defendant’s records; however, Class Members will have the right to challenge their
5 number of Workweeks.

6 (e) Class Members were sent the Court approved Class Notice using the procedure approved
7 by the Court by mailing the notice packets after updating class members’ addresses using the National
8 Change of Address database and, for any notice packets returned as undeliverable, re-mailing such notices
9 to any forwarding address provided or updated address located. See Declaration of Cassandra Polites
10 (“Polites Decl.”), Exh. A. Class Members were provided with the opportunity to exclude themselves or
11 “opt out” if they did not want to participate in the settlement. (Agreement at ¶ 9(C), Ex. A.) To date, there
12 have been no objections and only two (2) requests to opt-out.¹ The Polites Decl. will document the final
13 administration results. All Aggrieved Employees, including those who submit an opt-out request, will
14 still be paid their allocation of the PAGA Penalties and will remain subject to the release of the PAGA
15 Released Claims regardless of their request for exclusion. (Agreement at ¶¶ 7(B) and 9(C)) Finally, the
16 Notice advised the Class Members of their right to object to the Settlement and/or dispute their
17 Workweeks. (Agreement at ¶¶ 9(B) and 9(D), Ex. A.)

18 (f) A Participating Class Member must cash the check for his or her Individual Settlement
19 Payment (and, if applicable, Individual PAGA Payment) within 180 days after it is mailed. (Agreement
20 at ¶ 5.2.) Any settlement checks not cashed within 180 days will be voided and any funds represented
21 by such checks sent to Child Advocates of Silicon Valley, the cy pres recipient, pursuant to California
22 Code of Civil Procedure Section 384, subd. (b). (Agreement at ¶ 11(A).)

23 (g) ILYM Group was appointed by the Court as the Administrator for the Settlement. (Agreement
24 at ¶ 8(A).) From the Gross Settlement Amount, the Administrator will be paid for settlement
25 administration in an amount not to exceed 15,000. *Id.* The forthcoming Polites Decl. will detail the

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27 ¹ The Response Deadline is March 7, 2025, which is after the filing deadline for Plaintiffs’ instant
28 Motion. Before the Final Approval Hearing, Plaintiffs will submit the administration final figures in
the Polites Decl.

1 Administration Expenses Payment, including fees and costs incurred to-date, as well as anticipated fees
2 and costs for completion of the settlement administration.

3 (h) Subject to Court approval, the Agreement provides for Class Counsel to be awarded a sum
4 not to exceed one-third of the Gross Settlement Amount for their attorneys' fees. (Agreement at ¶ 12.)
5 Class Counsel will also be allowed to apply for an award of litigation expenses in an amount not to
6 exceed \$50,000. (Agreement at ¶ 12.) Subject to Court approval, Plaintiffs seek \$12,500 in Service
7 Awards (\$7,500 for Plaintiff Montoya and \$5,000 for Plaintiff Gontez), which was reduced by the Court
8 from the requested amounts of \$12,500 each at preliminary approval (Agreement at ¶¶ 1(AA), 13;
9 Preliminary Approval Order at p.4.) In support of this separate motion for attorneys' fees, reimbursement
10 of expenses and service awards, Class Counsel is providing evidentiary support, for these requests,
11 including lodestar.

12 (i) Subject to Court approval, \$75,000 will be paid from the Gross Settlement Amount in
13 settlement of Plaintiffs' claim for civil penalties under the California Labor Code Private Attorneys
14 General Act ("PAGA"), Cal. Labor Code Section 2698, *et seq.* Pursuant to the express requirements of
15 Labor Code § 2699(i), seventy-five percent (75%) of the amount allocated toward PAGA penalties
16 (\$56,250.00) will be paid to the LWDA and twenty-five percent (25%) or \$18,750.00 will be distributed
17 to Aggrieved Employees on a *pro rata* basis based upon their respective Pay Periods worked as
18 Aggrieved Employees during the PAGA Period. (Agreement at ¶ 15) As set forth in the accompanying
19 proof of service, the LWDA has been served with this motion and the Agreement.

20 (j) The Settlement is fair, adequate and reasonable to the class and should be finally approved for
21 the same reasons the Court granted preliminary approval of the Settlement, agreeing that the settlement
22 is "fair, adequate, and reasonable." (Preliminary Approval Order at pp. 6-7.) In sum, the Settlement
23 valued at \$1,500,000 is an excellent result for the Class. This result is particularly favorable in light of
24 the fact that liability and class certification in this case were far from certain in light of the defenses
25 asserted by Defendant. Given the complexities of this case, the defenses asserted, the uncertainty of class
26 certification, along with the uncertainties of proof at trial and appeal, the proposed settlement is fair,
27 reasonable and adequate, and should be finally approved.

1 4. Procedural status of the settlement - In accordance with the Preliminary Approval Order
2 dated December 20, 2024 (“Preliminary Approval Order”), the approved Class Notice has been
3 disseminated to the Class. The reaction of the Class unequivocally supports approval of the Settlement.
4 On January 6, 2025, the Administrator mailed the Court-approved Class Notice to the Class Members,
5 which provided each class member with the terms of the Settlement, including notice of the claims at
6 issue and the financial terms of the settlement, including the attorneys' fees, costs, and service award that
7 were being sought, how individual settlement awards would be calculated, and the specific, estimated
8 payment amount to that individual. See Polites Decl., Exh. A. In disseminating the notice, the
9 Administrator followed the notice procedures authorized by the Court in its Preliminary Approval Order.
10 To date, there have been no objections and only two (2) requests to opt-out.² The Polites Decl. will
11 document the final administration results.

12
13 5. Description of Plaintiffs’ claims - The Action generally alleges that Plaintiffs and other
14 Class Members were not properly paid all overtime wages for hours worked and at the correct rate, were
15 not provided meal and rest periods, were not timely paid earned wages, were not provided reimbursement
16 for required expenses, were not provided accurate itemized wage statements, were not paid all gratuities
17 owed, and were not paid all wages at the time of termination. The Action seeks unpaid wages, penalties,
18 attorney fees, litigation costs, and any other equitable or legal relief allegedly due and owing to Plaintiffs
19 and the other Class Members by virtue of the foregoing claims.

20
21 6. Procedural History of the Litigation

22 (a) On July 13, 2022, Plaintiff Jennifer Montoya filed with the LWDA and served on
23 Defendant a notice under Labor Code section 2699.3 identifying the alleged Labor Code violations to
24 recover civil penalties on behalf of Aggrieved Employees for various Labor Code violations (the
25 “Montoya PAGA Notice”). On October 13, 2022, Plaintiff Jennifer Montoya filed a putative

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27 ² The Response Deadline is March 7, 2025, which is after the filing deadline for Plaintiffs’ instant
28 Motion. Before the Final Approval Hearing, Plaintiffs will submit the administration final figures in
the Polites Decl.

1 wage-and-hour class action, captioned Montoya v. FPR II, LLC, et al., in the Santa Clara County Superior
2 Court, Case Number 22CV404499, alleging causes of action against Defendant, for: (1) Violation of
3 California Business and Professions Code §§ 17200, et seq; (2) Violation of California Labor Code §§
4 1194, 1197, and 1197.1 (Unpaid Minimum Wages); (3) Violation of California Labor Code §§ 510 and
5 1198 (Unpaid Overtime Wages); (4) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid
6 Meal Period Premiums); (5) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Rest Period
7 Premiums); (6) Violation of California Labor Code § 226(a) (Failure to Issue Accurate Wage Statements);
8 (7) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses); (8) Failure
9 to Provide Wages When Due in Violation of California Labor Code §§ 201-203 (Waiting Time
10 Penalties); and (9) Failure to Pay Sick Wages In Violation of California Labor Code §§201-204, 233 and
11 246. (the "Montoya Class Action"). On December 16, 2022, after sixty-five (65) days had passed without
12 any action by the LWDA with respect to the alleged Labor Code violations, Plaintiff Jennifer Montoya
13 filed a separate representative action under PAGA, captioned Montoya v. FPR II, LLC, et al., in the Santa
14 Clara County Superior Court, Case Number 22CV408517, seeking civil penalties pursuant to Labor Code
15 § 2699, et seq. for Violations of Labor Code §§ 201, 202, 203, 204 et seq., 210, 221, 226(a), 226.7, 227.3,
16 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section
17 11040, Subdivision 5(A)-(B), and the applicable Wage Order(s).

18 (b) On October 18, 2022, Plaintiff Juan Manso Gontez filed with the LWDA and served on
19 MarBorg Industries and Leadpoint a notice under Labor Code section 2699.3, stating that he intended to
20 serve as a proxy of the LWDA to recover civil penalties on behalf of Aggrieved Employees for alleged
21 Labor Code violations (the "Gontez PAGA Notice"). On October 20, 2022, Plaintiff Juan Manso Gontez
22 filed a putative wage-and-hour class action, captioned Gontez v. Marborg Industries, et al., in the Santa
23 Barbara Superior Court, Case Number 22CV408517, alleging causes of action against MarBorg Industries
24 and Defendant for: (1) Failure to Pay Overtime Wages; (2) Failure to Pay Minimum Wages; (3) Failure
25 to Provide Meal Periods; (4) Failure to Provide Rest Periods; (5) Waiting Time Penalties; (6) Failure to
26 Timely Furnish Accurate Itemized Wage Statements; (7) Failure to Timely Pay Wages During
27 Employment; (7) Failure to Indemnify Business Expenses; and (8) Unfair Competition and Business
28 Practices. (the "Gontez Class Action"). On December 19, 2022, Plaintiff Juan Manso Gontez filed an

1 amended PAGA notice, adding MarBorg Recovery Management, LLC, as respondent (the "Gontez
2 Amended PAGA Notice," collectively with the Montoya PAGA Notice and the Gontez PAGA Notice,
3 the "PAGA Notices"). On December 25, 2023, after sixty-five (65) days had passed without any action
4 by the LWDA with respect to the alleged Labor Code violations, Plaintiff Juan Manso Gontez filed a
5 separate representative action under PAGA, captioned Gontez v. Marborg Industries, et al. in the Superior
6 Court of the State of California for the County of Santa Barbara, Case No. 23CV00298, seeking civil
7 penalties under California Labor Code sections 210, 226.3, 558, 1174.5, 1197.1 and 2699.

8 (c) As part of this Agreement, the Parties agree to stipulate to Plaintiff Jennifer Montoya's
9 filing of a First Amended Complaint in the Montoya Class Action, adding claims in the Montoya PAGA
10 Action, Gontez Class Action and Gontez PAGA Action as against Leadpoint, and Plaintiff Juan Manso
11 Gontez as a named plaintiff, and filing of requests for dismissal without prejudice as to Leadpoint of the
12 Montoya PAGA Action, Gontez Class Action and Gontez PAGA Action, and without prejudice as to
13 MarBorg of the Gontez Class Action and Gontez PAGA Action, within five (5) business days of filing
14 of the First Amended Complaint, thereby effectively consolidating these actions with the Montoya Class
15 Action, for purposes of this Settlement. The First Amended Complaint in the Montoya Class Action is
16 the "Operative Complaint" and was filed June 26, 2024. Defendant denies the allegations in the
17 Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint
18 and denies any and all liability for the causes of action alleged.

19 (d) Over the course of litigation, the Parties engaged in the investigation of the claims,
20 including production of documents, class data, and other information, allowing for the full and complete
21 analysis of liabilities and defenses to the claims in the Action. Plaintiffs obtained informal discovery,
22 which included the production and analysis of hundreds of pages of documents. The information for
23 mediation obtained by Plaintiffs included: (1) data concerning the composition of the Class; (2) payroll
24 data for the Class and time punch data for the Class which covered 543 class members, 66,095 shifts and
25 14,002 workweeks; (3) Defendant's wage and hour policies and job descriptions; (4) the employment file
26 for the Plaintiffs; and, (5) samples of wage statements provided by Defendant. As such, Class Counsel
27 received the data and information for the Class, which was sufficient for Plaintiffs' expert to prepare the
28 valuations of the claims for the Class.

1 (e) Class Counsel has extensive experience in litigating wage and hour class actions in
2 California. The Parties have vigorously litigated the Action since inception. During the course of
3 litigation, the Parties each performed analysis of the merits and value of the claims. Plaintiffs and
4 Defendant have engaged in substantial research and investigation in connection with the Action. Class
5 Counsel has thoroughly analyzed the value of the claims during the prosecution of this Action and utilized
6 an expert to perform an analysis of the data and valuation of the alleged class claims.

7 (f) Plaintiffs and Defendant agreed to discuss resolution of the Action through a mediation.
8 Prior to mediation, the Parties engaged in the above investigation and the exchange of documents and
9 information in connection with the Action. On January 25, 2024, the Parties participated in an all-day
10 mediation presided over by Mark Rudy, a respected and experienced mediator of wage and hour class
11 actions. Following the mediation, each side, represented by its respective counsel, were able to agree to
12 settle the Action based upon a mediator's proposal which was memorialized in a memorandum of
13 understanding. The Parties then negotiated the final terms of the settlement as set forth in the Agreement.
14 At all times, the negotiations were arm's length and contentious.

15 (g) Although a settlement has been reached, Defendant denies any liability or wrongdoing of
16 any kind associated with the claims alleged in the Action and further deny that, for any purpose other than
17 settlement, the Action is appropriate for class and/or representative treatment. Defendant contends,
18 among other things, that it has properly compensated the Class Members and complied at all times with
19 the California Labor Code, applicable Wage Order, and all other laws and regulations. Further,
20 Defendant contends that class certification is inappropriate for any reason other than for settlement.
21 Plaintiffs contend that Defendant violated California wage and hour laws. Plaintiffs further contend that
22 the Action is appropriate for class certification on the basis that the claims meet the requisites for class
23 certification. Without admitting that class certification is proper, Defendant has stipulated that the above
24 Class may be certified for settlement purposes only. (Agreement at ¶¶ 1(L) and 4.) The Parties agree that
25 certification for settlement purposes is not an admission that class certification is proper. Further, the
26 Agreement is not admissible in this or any other proceeding as evidence that the Class could be certified
27 absent a settlement. Solely for purposes of settling the Action, the Parties stipulate and agree that the
28 requisites for establishing class certification with respect to the Class are satisfied.

1 (h) Class Counsel has conducted a thorough investigation into the facts of the class action.
2 Over the course of more than two years, Class Counsel diligently evaluated the Class Members' claims
3 against Defendant. Prior to the settlement negotiations, counsel for Defendant provided Class Counsel
4 with access to necessary documents and information for the Class, including, but not limited to payroll
5 and timekeeping data for the Class. In addition, Class Counsel has previously negotiated settlements with
6 other employers in actions involving nearly identical issues and analogous defenses. Based on the
7 informal discovery and their own independent investigation, evaluation and experience, Class Counsel
8 believes that the settlement with Defendant on the terms set forth in the Agreement is fair, reasonable,
9 and adequate and is in the best interest of the Class in light of all known facts and circumstances,
10 including the risk of significant delay, the risk that the claims would not be allowed to proceed on a class
11 or representative basis, the defenses asserted by Defendant, and potential appellate issues.

12
13 7. History of Settlement Discussions

14 (a) This settlement is the result of extensive and hard-fought litigation as well as negotiations
15 before an experienced and well-respected mediator. Defendant has expressly denied and continue to deny
16 any wrongdoing or legal liability arising out of the conduct alleged in the Action. Plaintiffs and Class
17 Counsel have determined that it is desirable and beneficial to the Class to resolve the Released Class
18 Claims of the Class in accordance with this Settlement, based upon the experience of Class Counsel who
19 has previously litigated similar claims against other employers.

20 (b) The Parties attended an arms-length mediation session with Mark Rudy, Esq., a respected
21 and experienced mediator of wage and hour class actions, in order to reach this Settlement. In preparation
22 for the mediation, Defendant provided to Plaintiffs and Class Counsel payroll and employment data and
23 other information regarding the Class Members, various internal documents, and other compensation and
24 employment-related materials. Class Counsel analyzed the data with the assistance of damages expert
25 Berger Consulting and prepared and submitted a mediation brief to the mediator. Following this all-day
26 mediation, the Parties agreed to this Settlement based upon a mediator's proposal.

27 (c) From February 2024 to June 2024, the settlement agreement and exhibits thereto were
28 finalized and executed. On November 20, 2024, the Court granted the Motion for Preliminary Approval,

1 and on December 20, 2024 the Court entered the Order granting preliminary approval of the settlement
2 as fair and reasonable to the Class.

3 (d) Plaintiffs and Class Counsel believe that this settlement is fair, reasonable and adequate.
4 In my judgment as experienced Class Counsel, this Settlement should be finally approved.
5
6

7 8. The outcome of this case would have been uncertain and fraught with risks.

8 (a) Here, a number of defenses asserted by Defendant present serious threats to the claims of
9 the Plaintiffs and the other Class Members. Defendant maintains that its practices complied with all
10 applicable wage and hour laws. Defendant maintains that all Class Members' work time was properly
11 recorded and compensated and that there was no miscalculation of the regular rate. Defendant contends
12 that its meal and rest period policies and practices are facially lawful and provide Class Members with
13 meal and rest periods. As to expense reimbursement, Defendant maintains that it did not fail to provide
14 reimbursement for necessary business expenses because, among other things, employees are not required
15 to use their personal cell phones to perform their work. Defendant could argue that the decisions in
16 *Brinker v. Superior Court*, 53 Cal. 4th 1004 (2012), *Lockheed Martin Corp. v. Superior Ct.*, 29 Cal. 4th
17 1096, 1108 (2003), and *Salazar v. See's Candy Shops Inc.*, 64 Cal.App.5th 85 (2021), weakened
18 Plaintiffs' claims in terms of liability and value, and preclude claims from proceeding on a class or
19 representative basis. Defendant also maintains that a good faith dispute and absence of willfulness would
20 negate the claims for waiting time penalties and/or failure to provide accurate itemized wage statements.
21 See e.g. *Naranjo v. Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1065 (2024) ("if an employer reasonably
22 and in good faith believed it was providing a complete and accurate wage statement in compliance with
23 the requirements of section 226, then it has not knowingly and intentionally failed to comply with the
24 wage statement law.") If successful, Defendant's defenses could eliminate or substantially reduce any
25 recovery to the Class. While Plaintiffs believe that these defenses could be overcome, Defendant
26 maintains these defenses have merit and therefore present a serious risk to recovery by the Class.

27 (b) There was also a significant risk that, if the Action was not settled, Plaintiffs would be
28 unable to obtain class certification and thereby not recover on behalf of any employees other than

1 themselves. Defendant argued that the individual experience of each putative class member varied with
2 respect to the claims, as they have multiple locations through California, which would preclude the claims
3 from proceeding on a class basis. For instance, Plaintiffs' meal and rest period claims would require
4 individualized inquiries into whether each employee took a compliant meal or rest period on a given shift
5 and, if not, why. Plaintiffs are aware of other cases where class certification of similar claims was denied.
6 *See e.g. Cacho v. Eurostar, Inc.*, 43 Cal. App. 5th 885 (2019) (denying certification of rest break claims).
7 Finally, even if class certification was successful, as demonstrated by the California Supreme Court
8 decision in *Duran v. U.S. Bank National Association*, 59 Cal. 4th 1 (2014), there are significant hurdles
9 to overcome for a class-wide recovery even where a class has been certified. While other cases have
10 approved class certification of wage and hour claims, class certification in this Action would have been
11 hotly disputed and was by no means a foregone conclusion.

12 (c) As demonstrated by the decision in *Duran*, the complexities and duration of further
13 litigation cannot be overstated. There is little doubt that Defendant would post a bond and appeal in the
14 event of an adverse judgment. A post-judgment appeal by Defendant would have required many more
15 years to resolve, assuming the judgment was affirmed. If the judgment was not affirmed in total, then the
16 case could have dragged on for years after the appeal. The benefits of a guaranteed recovery today
17 outweigh an uncertain result three or more years in the future. Plaintiffs and Class Counsel recognize
18 the expense and length of a trial against Defendant through possible appeals which could take at least
19 another two or three years. Class Counsel also have taken into account the uncertain outcome, the risk
20 of litigation, especially in complex actions such as this one. Class Counsel are also mindful of and
21 recognize the inherent problems of proof under, and alleged defenses to, the claims asserted in the Action.
22 Moreover, post-trial motions and appeals would have been inevitable. Costs would have mounted and
23 recovery would have been delayed if not denied, thereby reducing the benefits of an ultimate victory. The
24 Settlement confers substantial benefits upon the Class. Based upon their evaluation, Plaintiffs and Class
25 Counsel have determined that the Settlement set forth in the Agreement is in the best interest of the Class.

26 (d) The Settlement in this case is fair, reasonable and adequate considering Defendant's
27 defenses to Plaintiffs' claims. As set forth in the Declaration of Nordrehaug in support of preliminary
28 approval which discussed the value of the class claims in detail, the Gross Settlement Amount compares

1 favorably to the value of the claims. Based upon the 1,483 Participating Class Members who collectively
2 worked 58,224 Workweeks, which were the estimated class figures at mediation, the Gross Settlement
3 Amount provides a value of \$1,011 per Class Member and \$25 per Workweek and after deductions, the
4 Net Settlement Amount provides an average recovery of \$571.47 per Class Member and a recovery of
5 \$14.55 per Workweek. The calculations to compensate for the amount due to the Class Members at the
6 time the Settlement was negotiated were calculated by Plaintiffs' expert, Berger Consulting, in advance
7 of mediation. Class Counsel analyzed the data for putative class members and determined the potential
8 maximum damages for the class claims. For the Class, the maximum value of the claim for unpaid wages
9 due to alleged rounding practices was \$145,718, the maximum value of the claim for unpaid wages due
10 to the alleged miscalculation of the regular rate applicable to overtime pay and sick pay was \$7,790, the
11 maximum value of the claim for unpaid wages due to alleged off-the-clock work was \$1,487,756, the
12 maximum potential damages for alleged meal period violations were estimated to be \$4,519,427 based
13 upon a potential 93.1% violation rate observed in the time records and after deduction of meal premiums
14 already paid by Defendant, the maximum potential damages for alleged rest period violations were
15 estimated to be \$4,478,470 based upon the same 93.1% potential violation rate observed for meal periods,
16 and the maximum potential damages for the alleged failure to reimburse business expenses were
17 calculated to be \$78,955 based upon \$5 per month. In total, the damages for the Class were calculated
18 to have a maximum potential total value of \$10,718,115. In addition, Plaintiffs calculated that the
19 maximum value of the potential waiting time penalties were between \$534,810 and \$5,549,831,
20 depending on the predicate violations, and the maximum value of the potential wage statement penalties
21 were \$2,959,800.³ Defendant vigorously disputed Plaintiffs' calculations and exposure theories
22 Consequently, the Gross Settlement Amount represents more than 29% of Plaintiffs' calculation of the
23 potential maximum damages at issue for the Class in this case, assuming these amounts could all be
24

25 ³ While Plaintiffs alleged claims for statutory penalties pursuant to Labor Code §§ 203 and 226,
26 these claims were subject to additional, separate defenses asserted by Defendant, including, a good faith
27 dispute defense as to whether any premium wages for meal or rest periods or other wages were owed
28 given Defendant's position that Class Members were properly compensated. *See Nordstrom*
Commission Cases, 186 Cal.App.4th 576, 584 (2010) ("There is no willful failure to pay wages if the
employer and employee have a good faith dispute as to whether and when the wages were due.").

1 proven in full at trial.⁴ Importantly, the recent decision that good faith belief of compliance by the
2 employer in *Naranjo v. Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1065 (2024), could completely
3 negate the claims for waiting time and wage statement penalties, even if wages were owed to the class.
4 The maximum calculations should then be realistically risk rated in consideration for both the risk of class
5 certification and the risk of establishing class-wide liability on all claims. Given the amount of the
6 Settlement as compared to the potential value of the claims, the Settlement is most certainly fair and
7 reasonable.⁵ Clearly, the goal of this litigation has been met.

8 (e) In sum, the Settlement is a fair and reasonable result, and provides the Class with a
9 significant recovery, particularly when viewed in light of the fact that the Defendant asserted serious and
10 substantial defenses both to liability and to class certification. The maximum and average Individual
11 Class Payments to Participating Class Members will be documented in the forthcoming Polites Decl.
12 Given the complexities of this case, the defenses, along with the uncertainties of proof and appeal, the
13 proposed Settlement is fair, reasonable and adequate, and should be finally approved.

14 (f) It is impossible to predict with certainty whether, under the facts of this case, Plaintiffs
15 would prevail against the Defendant's factual and legal defenses. While Plaintiffs and Class Counsel
16 believe in the merits of the claims, Defendant has asserted real and substantial defenses to these claims
17 and to class certification. Settlement in this case clearly benefits the Class when measuring the strengths
18 of Plaintiffs' case and the risk of establishing class wide liability and damages.

19 **ATTORNEYS' FEES, LITIGATION EXPENSES AND SERVICE AWARD**

20 9. The Agreement For The Payment of Fees and Expenses Should Is Appropriate And Should

21
22 ⁴ Because the PAGA claim does not provide a recovery to the Class, Plaintiffs did not included the
23 PAGA claim in this discussion of the class claim valuation. The PAGA claim was addressed in the
Declaration of Kyle Nordrehaug at ¶ 33 filed in support of the motion for preliminary approval.

24 ⁵ See *Dunleavy v. Nadler (In re Mego Fin. Corp. Sec. Litig.)*, 213 F.3d 454, 459 (9th Cir. 2000)
25 approving settlement which represented "roughly one-sixth of the potential recovery"); *Stovall-Gusman*
26 *v. W.W. Granger, Inc.*, 2015 U.S. Dist. LEXIS 78671, at *12 (N.D. Cal. 2015) (granting final approval
27 where "the proposed Total Settlement Amount represents approximately 10% of what class might have
28 been awarded had they succeeded at trial."); *Viceral v. Mistras Grp., Inc.*, 2016 WL 5907869 (N.D. Cal.
2016) (approving wage and hour class action settlement amounting to 8.1% of full verdict value); *Ma*
v. Covidien Holding, Inc., 2014 WL 2472316, (C.D. Cal. 2014) (approving wage and hour class action
settlement worth "somewhere between 9% and 18%" of full verdict value).

1 Be Enforced

2 (a) Class Counsel successfully negotiated a class action settlement which provides for a common
3 fund settlement to be paid by Defendant to the Class in the amount of One Million Five Hundred
4 Thousand Dollars (\$1,500,000.00) (Agreement at ¶¶ 1(M).) As part of the settlement, the parties agreed
5 to an award of attorneys' fees equal to one-third (1/3) of the Gross Settlement Amount as the Class
6 Counsel Fees Payment. (Agreement at ¶ 12.) By this motion, Class Counsel respectfully requests approval
7 of the Class Counsel Fees Payment in an amount equal to one-third of the Gross Settlement Amount.

8 (b) In the class action context, that means "attempting to award the fee that informed private
9 bargaining, if it were truly possible, might have reached." Here, informed arms-length bargaining between
10 experienced counsel and Defendant resulted in Defendant negotiating the fee award to one-third of the
11 Gross Settlement Amount. Such bargaining is obviously the best measure of the market for fees.
12 Moreover, fee awards in common fund settlements as this one have resulted in a percentage of fees in an
13 equivalent percentage to the sum sought by Class Counsel herein, further reflecting the accurate market
14 value of the award requested.

15 (c) The requested fee award, agreed to by the parties as part of the Settlement, should be
16 approved. The requested fee award was bargained for during arms' length adversarial bargaining by
17 counsel for each of the parties as part of the Settlement.

18
19 10. The Class Counsel Fee Award Is Properly Calculated as a Percentage of the Total Value
20 Created for the Benefit of the Class

21 (a) As part of the settlement, the Parties agreed to an award of attorneys' fees equal to one-
22 third of the Gross Settlement Amount of \$1,500,000, which equals \$500,000 for attorneys' fees. As part
23 of the Agreement, Defendant also agreed that Class Counsel will also be paid reasonable litigations
24 expenses incurred as per Class Counsel's billing statement in an amount not to exceed \$50,000. Finally,
25 Defendant also agreed that Plaintiffs can be awarded Class Representative Service Payments in the
26 amount of \$7,500 for Plaintiff Montoya and \$5,000 for Plaintiff Gontez (which are the reduced amounts
27 orders by the Court at preliminary approval), as their service awards under the Agreement.

28 (b) In defining a reasonable fee, the Court should mimic the marketplace for cases involving

1 a significant contingent risk such as this one. Our legal system places unique reliance on private litigants
2 to enforce substantive provisions of employment law through class actions. Therefore, attorneys providing
3 these substantial benefits should be paid an award equal to the amount negotiated in private bargaining
4 that takes place in the legal market place.

5 (c) There is a substantial difference between the risk assumed by attorneys being paid by the
6 hour and attorneys working on a contingent fee basis. The attorney being paid by the hour can go to the
7 bank with his fee. The attorney working on a contingent basis can only log hours while working without
8 pay towards a result that will hopefully entitle him to a marketplace contingent fee taking into account
9 the risk and other factors of the undertaking. Otherwise, the contingent fee attorney receives nothing. In
10 this case, the nature of the fee was wholly contingent. Class Counsel subjected themselves to this
11 contingent fee market risk in this all or nothing contingent fee case wherein the necessity and financial
12 burden of private enforcement makes the requested award appropriate. This case was litigated on a
13 contingent basis for over two years, with all of the risk factors inherent in such an uncertain undertaking.
14 Indeed, I am aware of other similar cases where the court dismissed the class allegations or denied class
15 certification. Under such circumstances, courts have held that a risk multiplier must be applied to the fee
16 award.

17 (d) Here, the contingent nature of the fee award, both from the point of view of eventual
18 settlement and the point of view of establishing eligibility for an award, also warrant the requested fee
19 award. A number of difficult issues, the adverse resolution of any one of which could have doomed the
20 successful prosecution of the action, were present here. Attorneys' fees in this case were not only
21 contingent but risky, with a very real chance that Class Counsel would receive nothing at all for their
22 efforts, having devoted time and advanced costs. Class Counsel has previously invested in cases which
23 resulted in no recovery, and here Class Counsel is recovering a fee award that comparable to the
24 multiplier approved in other cases.

25 (e) At the time this case was brought, the result was far from certain as discussed above at
26 paragraphs 8(a) and 8(b).

27 (f) The Settlement was possible only because Class Counsel was able to convince Defendant
28 that Plaintiffs could potentially prevail on the contested issues regarding liability, maintain class

1 certification, overcome difficulties in proof as to monetary relief and take the case to trial if need be. In
2 successfully navigating these hurdles Class Counsel displayed the necessary skills in both wage and hour
3 and class action litigation. The high quality of the Class Counsel's work in this case was mandated by
4 the vigorous defense presented by counsel for Defendant. Over the last years of litigation, Class Counsel
5 was required to invest substantial time and resources in investigation, litigation, the determination of
6 potential damages and communicating with and responding to opposing counsel's and class members'
7 requests and inquiries.

8 (g) To represent the Class on a contingent fee basis, Class Counsel also had to forego
9 compensable hourly work on other cases to devote the necessary time and resources to this contingent
10 case. In so doing, Class Counsel gave up the hourly work that a firm can bank on for the risky contingent
11 fee work in this case which could potentially have paid nothing.

12 (h) Class Counsel were required to advance all costs in this litigation. Especially in this type
13 of litigation where the corporate defendant and their attorneys are well funded, this can prove to be very
14 expensive and risky. Accordingly, because the risk of advancing costs in this type of litigation can be
15 significant, it is therefore cost prohibitive to many attorneys. The financial burdens undertaken by
16 Plaintiffs and Class Counsel in prosecuting this action on behalf of the Class were very substantial. Class
17 Counsel has previously litigated cases and advanced costs, but received no recovery. To date, Class
18 Counsel advanced more than \$29,000 in costs which could not have been recovered if this case had been
19 lost, and some of which will not be recovered due to the cap on costs in the Settlement. The Plaintiffs
20 also undertook the risk of liability for Defendant's costs had this case not succeeded, as well as other
21 potential negative financial ramifications from having sued Defendant on behalf of the Class.
22 Accordingly, the contingent nature of the fee and the financial burdens on Class Counsel and on Plaintiffs
23 also support the requested awards.

24 (i) In a common fund settlement "[t]he lodestar method is merely a cross-check on the
25 reasonableness of a percentage figure." *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1050, n.5 (9th Cir.
26 2002). In this case, the reasonableness of the requested attorneys' fee of one-third equal to \$500,000 is
27 also established by reference to Class Counsel's lodestar in this matter. **The contemporaneous billing**
28 **records for Class Counsel evidence that through March 6, 2025, Class Counsel's total lodestar is**

1 **\$456,941.25, with significant additional fees still to be incurred to complete final approval and the**
2 **settlement process. (Exhibit #3 [lodestar of \$202,416.25]; Declaration of David Bibiyan [“Bibiyan**
3 **Decl.”] at ¶¶ 15-18 [lodestar of \$254,525].) The requested fee award is therefore currently equivalent to**
4 **Class Counsel’s total lodestar with a reasonable multiplier of less than 1.1, and there will be additional**
5 **lodestar incurred by Class Counsel to complete the settlement process and manage the settlement**
6 **distribution and reports. Such a lodestar cross-check is well below the range of positive multipliers**
7 **approved in other cases such as *Laffitte* and *Vizcaino*.⁶ As evidenced by the billing, Class Counsel’s work**
8 **was efficiently performed and highly successful, and Class Counsel should not be punished for efficient**
9 **and successful litigation. As a result, this Court may conclude that the requested award is fair and**
10 **reasonable and is justified under California law.**

11 (j) Counsel retained on a contingency fee basis, whether in private matters or in representative
12 litigation of this sort, is entitled to a premium beyond his standard, hourly, non-contingent fee schedule
13 in order to compensate for both the risks and the delay in payment for the simple fact that despite the most
14 vigorous and competent of efforts, success is never guaranteed. This is particularly true here where Class
15 Counsel has prosecuted this case on a contingency basis for two years. Indeed, if counsel is not adequately
16 compensated for the risks inherent in difficult class actions, competent attorneys will be discouraged from
17 prosecuting similar cases.

18 11. On December 4, 2018, in *Panda Express Wage and Hour Cases* (Los Angeles Superior
19 Court, Case No. JCCP 4919) Judge Carolyn Kuhl awarded Class Counsel a one-third fee award in a wage
20 and hour class settlement. On January 31, 2020, in *El Pollo Loco Wage and Hour Cases* (Orange County
21 Superior Court Case No. JCCP 4957) Judge William Claster awarded Class Counsel a one-third award

23 ⁶ See *Laffitte v. Robert Half Int’l*, 1 Cal.5th 480, 487 (2016) (approving 1/3 fee award with
24 multiplier of 2.03 to 2.13); *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1051 (9th Cir. 2002)(3.65
25 multiplier approved because of substantial risk); *Pellegrino v. Robert Half Intern., Inc.*, 182
26 Cal.App.4th 278 (2010) (in class actions reasonable multipliers of 2.0 to 4.0 are often applied and
27 affirming 1.75 multiplier); *Wershba v. Apple Computer*, 91 Cal.App.4th 224, 255 (2001) ("multipliers
28 can range from 2 to 4 or even higher."); *In re Sutter Health Uninsured Pricing Cases*, 171 Cal.App.4th
495, 512 (2009) (affirming multiplier of 2.52 as “fair and reasonable); *Chavez v. Netflix, Inc.*, 162
Cal.App.4th 43, 66 (2008) (affirming multiplier of 2.53 as well within the approved range of 2 to 4);
Taylor v. Fedex Freight, Inc., 2016 U.S. Dist. LEXIS 142202 (E.D. Cal. 2016) (30% fee justified by
2.26 multiplier).

1 in a wage and hour class settlement. On February 11, 2020, in *Singh v. Total Renal Care* (San Francisco
2 Superior Court Case No. CGC-16-550847) Judge Ethan Schulman awarded Class Counsel a one-third
3 award in a wage and hour class settlement. On April 15, 2021, in *Walker v. Brink's Global Services USA*
4 (Los Angeles County Superior Court Case No. BC564369) Judge Amy Hogue awarded Class Counsel
5 a one-third award in a wage and hour class settlement. On June 2, 2021, in *Pacia v. CIM Group, L.P.* (Los
6 Angeles Superior Court Case No. BC709666), Judge Amy D. Hogue awarded Class Counsel a one-third
7 fee award in a wage and hour class settlement. On November 8, 2021, in *Securitas Wage and Hour Cases*
8 (Los Angeles Superior Court Case No. JCCP4837) Judge David Cunningham awarded a one-third fee
9 award in a wage and hour class settlement. On November 17, 2021, in *Leon v. Sierra Aluminum Company*
10 (San Bernardino Superior Court Case No. CIVDS2010856) Judge David Cohn awarded a one-third fee
11 award in a wage and hour class settlement. On March 17, 2022, in *See's Candies Wage and Hour Cases*
12 (Los Angeles Superior Court Case No. JCCP5004) Judge Maren Nelson awarded a one-third fee award
13 in a wage and hour class action settlement. On April 12, 2022, in *O'Donnell v. Okta, Inc.*, (San Francisco
14 Superior Court Case No. CGC-20-587665) Judge Richard Ulmer awarded a one-third fee award in a wage
15 and hour class action settlement. On June 30, 2022, in *Armstrong, et al. v. Prometric LLC* (Los Angeles
16 Superior Court Case No. 20STCV29967), Judge Maren E. Nelson awarded a one-third fee award in a
17 wage and hour class action. On July 13, 2022, in *Crum v. S&D Carwash Management LLC*, (Sacramento
18 Superior Court Case No. 2019-00251338), Judge Christopher E. Krueger awarded a one-third fee award
19 in a wage and hour class action settlement. On August 10, 2022, in *Spears, et al. v. Health Net of*
20 *California, Inc.*, (Sacramento Superior Court Case No. 34-2017-00210560-CU-OE-GDS), Judge
21 Christopher E. Krueger awarded a one-third fee award in a wage and hour class action settlement. On
22 September 7, 2022, in *Lucchese, et al. v. Kone, Inc.*, (San Francisco Superior Court Case No. CGC-20-
23 588225), Judge Richard B. Ulmer, Jr. awarded a one-third fee award in a wage and hour class action
24 settlement. On November 4, 2022, in *Infinity Energy Wage and Hour Cases* (San Diego Superior Court,
25 Case No. JCCP5139), Judge Keri Katz awarded a one-third fee award in a wage and hour class action
26 settlement. On February 1, 2023, in *Hogan v. AECOM Technical Services, Inc.* (Los Angeles Superior
27 Court Case No. 19STCV40072), Judge Stuart Rice awarded a one-third fee award in a wage and hour
28

1 class settlement. On February 28, 2023, in *Farthing v. Milestone Technologies* (San Francisco Superior
2 Court Case No. CGC-21-591251), Judge Richard B. Ulmer, Jr. awarded a one-third fee award in a wage
3 and hour class action settlement. On March 2, 2023, in *Leon v. Calaveras Materials* (Kings County
4 Superior Court Case No. 21C-0105), Judge Melissa D'Morias awarded a one-third fee award in a wage
5 and hour class settlement. On June 20, 2023, in *Gonzalez v. Pacific Western Bank* (San Bernardino
6 County Superior Court Case No. CIVSB2127657) Judge David Cohn awarded a one-third fee award in
7 a wage and hour class settlement, On June 30, 2023, in *Aguirre v. Headlands Ventures* (Sacramento
8 County Superior Court Case No. 34-2021-00297290), Judge Jill Talley approved a one-third fee award
9 in a wage and hour class settlement. On October 16, 2023, in *Flores v. Walmart*, (San Bernardino County
10 Superior Court Case No. CIVDS2023061) Judge Joseph T. Ortiz awarded a one-third fee award in a wage
11 and hour class settlement. On November 17, 2023, in *Silva v. Woodward HRT* (Los Angeles County
12 Superior Court Case No. 21STCV42692), Judge Maren Nelson awarded a one-third fee award in a wage
13 and hour class settlement. On November 29, 2023, in *Ochoa-Andrade v. See's Candies* (San Mateo
14 County Superior Court Case no. 22-CIV-02481), Judge Marie Weiner approved a one-third fee award in
15 a wage and hour class settlement.

16 12. **The contemporaneous billing records for Class Counsel evidence that through March**
17 **6, 2025, Class Counsel's total lodestar is \$456,941.25, with significant additional fees still to be**
18 **incurred to complete final approval and the settlement process. (Exhibit #3 [lodestar of \$202,416.25];**
19 **Bibyan Decl. at ¶¶ 15-18 [lodestar of \$254,525].)** From May 22, 2022 to March 6, 2025, my firm
20 worked on this matter for over 275 hours, with hourly rates for attorneys ranging from \$450 to \$995,
21 resulting in a total incurred lodestar for my firm in the amount of \$202,416.25. The requested fee award
22 is therefore currently equivalent to Class Counsel's total lodestar with a reasonable multiplier of less than
23 1.1, and there will be additional lodestar incurred by Class Counsel to complete the settlement process
24 and manage the settlement distribution and reports. A detailed breakdown of the total fees and the
25 services performed by the firm on this case is set forth in my firm's billing statement for this matter, a
26 true and correct of which is attached hereto as Exhibit #3. In addition, Class Counsel will be performing
27 significant additional work that is not included in this lodestar amount, including finalizing the final
28

1 approval motion, attending the hearing on final approval, and monitoring completion of the settlement
2 process. I expect this additional work will result in \$20,000 in additional lodestar for my firm. The rates
3 charged by my firm are in line with the prevailing rates of attorneys in the local legal community for
4 similar work and, if this were a commercial matter, these are the charges that would be made and
5 presented to the client. My firm's hourly rates are based upon the Laffey Matrix with the appropriate 2%
6 increase adjustment for Southern California. A true and correct copy of the current Laffey Matrix is
7 attached hereto as Exhibit #4. These hourly rates have been approved by Court's throughout California,
8 including the Courts in the Superior Court of California. In fact, on August 1, 2018, District Judge Andre
9 Birotte Jr. explicitly found that Class Counsel's "rates generally appear reasonable and 'in line with those
10 prevailing in the [relevant] community'—the Central District of California". Finally, the reasonableness
11 of Class Counsel's hourly rates is further confirmed by comparing such rates with the rates of comparable
12 counsel practicing complex and class litigation as detailed in the National Law Journal Billing Survey.
13 See e.g. *Zest IP Holdings, LLC v. Implant Direct MFG., LLC*, 2014 U.S. Dist. LEXIS 167563 (S.D. Cal.
14 2014) (finding that "Mayer Brown's \$775 average billing rate for partners" and "Mayer Brown's \$543
15 average associate billing rate" are reasonable rates when compared within 21 other firms practicing in
16 the Southern District of California.) This survey is useful to show that Class Counsel's rates are in line
17 with the comparable rates of the defense counsel that opposes these types of class claims, such as Mayer
18 Brown noted above who is defense counsel in cases currently being prosecuted by Class Counsel. In
19 another example, Sheppard Mullin Richter & Hampton, who is opposing counsel in many cases
20 prosecuted by Class Counsel, in years past charged rates as high as \$875 for partners and \$535 for
21 associates. Similarly, Paul Hastings, another opposing counsel in these types of cases, historically charged
22 between \$900 and \$750 for partners and \$755 and \$335 for associates. Thus, the rates charged by Class
23 Counsel for comparable work are less than these examples, and are therefore undoubtedly reasonable.
24 Therefore, the requested fee award as a percentage of the fund is supported by the currently lodestar
25 incurred, and will be a lower multiplier by the completion of the settlement. The requested award is
26 therefore reasonable viewed by the Lodestar/Multiplier cross-check.

1 Litigation Expenses

2 13. As part of the Agreement at paragraph 12, that Class Counsel may seek a “Class Counsel
3 Litigation Expenses Payment of not more than \$50,000.” Class Counsel have incurred \$29,043.57 based
4 upon counsel’s billing records, which is less than the “not to exceed amount” of \$50,000. Class Counsel,
5 therefore, requests reimbursement for litigation expenses in the capped amount of \$29,043.57. My firm
6 has incurred expenses of \$19,998.95 on this matter based upon our billing records. The litigation
7 expenses incurred by my firm include the expenses incurred for filing fees, postage, photocopies,
8 mediation expenses, expert expenses (Berger Consulting), and attorney service charges (Knox,
9 OneLegal), and research charges and (LexisNexis), all of which are costs normally billed to and paid by
10 the client.⁷ The details of the litigation expenses incurred by my firm are set forth in Exhibit #3. These
11 costs were reasonably incurred in the prosecution of the Action.

12
13 Service Award

14 14. For their service as the class representatives, Plaintiffs should be awarded the service
15 awards of \$7,500 for Plaintiff Montoya and \$5,000 for Plaintiff Gontez (which are the reduced amounts
16 ordered by the Court at preliminary approval) in accordance with the Agreement for their time, risk and
17 effort expended on behalf of the Class as the class representatives. (Agreement at ¶¶ 1(AA), 13;
18 Preliminary Approval Order at p.4.) Defendant has agreed to these payments and there have been no
19 objections to the requested service award. Plaintiffs’ declarations in support of these requests are attached
20 hereto as Exhibits #5 and #6. As the only representatives of the Class, Plaintiffs performed their duties
21 to the Class admirably and without exception. Plaintiffs worked extensively with Class Counsel during
22 the course of the litigation, responding to numerous requests, searching for documents, working with
23 counsel, and reviewing the settlement documentation. As set forth in the Agreement, Plaintiffs are also

24
25
26 ⁷ Nontaxable costs are properly awarded where authorized by the parties’ agreement. *Stetson*, 821
27 F.3d at 1165. Accordingly, “[e]xpenses such as reimbursement for travel, meals, lodging, photocopying,
28 long-distance telephone calls, computer legal research, postage, courier service, mediation, exhibits,
documents scanning, and visual equipment are typically recoverable.” *Rutti v. Lojack Corp., Inc.*, 2012
WL 3151077, at *12 (C.D. Cal. 2012).

1 providing a comprehensive release as part of the Settlement, far beyond the class release. Plaintiffs'
2 declarations detail the involvement, stress and risks they undertook as a result of this Action. Plaintiffs
3 also assumed the serious risk that they might possibly be liable for costs and fees to Defendant, as well
4 as the reputational risk of being "blacklisted" by other future employers for having filed a class action on
5 behalf of fellow former employees. Without Plaintiffs' participation, cooperation and information, no
6 other employees would be receiving any benefit. The payment of service awards to successful class
7 representatives is appropriate and the amounts of \$7,500 for Plaintiff Montoya and \$5,000 for Plaintiff
8 Gontez are well within the currently awarded range for similar settlements. The requested awards are also
9 reasonable by reference to the amounts that other California courts have found to be reasonable in wage
10 and hour class action settlements: *Andrews v. Plains All Am. Pipeline L.P.*, 2022 U.S. Dist. LEXIS
11 172183, at *11 (C.D. Cal. 2022) (finding that the requested service awards of \$15,000 each are
12 appropriate); *Reynolds v. Direct Flow Med., Inc.*, 2019 U.S. Dist. LEXIS 149865, at *19 (N.D. Cal. 2019)
13 (granting request for \$12,500 service award); *Mathein v. Pier 1 Imps.*, 2018 U.S. Dist. LEXIS 71386, 168
14 (E.D. Cal. 2018) (approving two service awards of \$12,500 each); *Louie v. Kaiser Foundation Health*
15 *Plan, Inc.*, 2008 WL 4473183, *7 (S.D. Cal. Oct. 06, 2008) (awarding \$25,000 service award to each of
16 six plaintiffs in overtime class action); *Holman v. Experian Info. Solutions, Inc.*, 2014 U.S. Dist. LEXIS
17 173698 (approving \$10,000 service award where class member recovery was \$375); *Ontiveros v. Zamora*,
18 303 F.R.D. 356, 366 (E.D. Cal. 2014) (reducing \$20,000 award to \$15,000 where the plaintiff brought
19 a class claim in lieu of bringing an individual action); *Glass v. UBS Fin. Servs.*, 2007 U.S. Dist. LEXIS
20 8476 at *51-*52 (N.D. Cal. 2007) (awarding \$25,000 service award in overtime wage class action);
21 *Zamora v. Balboa Life & Casualty, LLC*, Case No. BC360036, Los Angeles County Superior Court (Mar.
22 7, 2013) (awarding \$25,000 service award); *Aguilar v. Cingular Wireless, LLC*, Case No. CV 06-8197
23 DDP (AJWx) (C.D. Cal. Mar. 17, 2011) (awarding \$14,767 service award); *Magee v. American*
24 *Residential Services, LLC*, Case No. BC423798, Los Angeles County Superior Court (Apr. 21,
25 2011) (awarding \$15,000 service award); *Mares v. BFS Retail & Commercial Operations, LLC*, Case No.
26 BC375967, Los Angeles County Superior Court (June 24, 2010) (awarding \$15,000 service award); *Baker*
27 *v. L.A. Fitness Int'l, LLC*, Case No. BC438654, L.A. County Superior Court (Dec. 12, 2012) (awarding
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1 \$10,000 service awards to three named plaintiffs); *Blue v. Coldwell banker Residential Brokerage Co.*,
2 Case No. BC417335, Los Angeles County Superior Court (Mar. 21, 2011)(awarding \$10,000 service
3 award); *Buckmire v. Jo-Ann Stores, Inc.*, Case No. BC394795, Los Angeles County Superior Court (June,
4 11, 2010)(awarding \$10,000 service awards); *Coleman v. Estes Express Lines, Inc.*, Case No. BC429042,
5 Los Angeles County Superior Court (Oct. 3, 2013)(awarding \$10,000 service award); *Ethridge v.*
6 *Universal Health Services, Inc.*, Case No. BC391958, Los Angeles County Superior Court (May 27,
7 2011)(awarding \$10,000 service award); *Hickson v. South Coast Auto Ins. Marketing, Inc.*, Case No.
8 BC390395, Los Angeles County Superior Court (Mar. 27, 2012)(awarding \$10,000 service award); *Hill*
9 *v. sunglass Hut Int'l, Inc.*, Case No. BC422934, Los Angeles County Superior Court (July 2,
10 2012)(awarding \$10,000 service award); *Kambamba v. Victoria's Secret Stores, LLC*, Case No.
11 BC368528, Los Angeles County Superior Court, (Aug. 19, 2011)(awarding \$10,000 service award
12 together with additional compensation for their general release); *Nevarez v. Trader Joe's Co.*, Case No.
13 BC373910, Los Angeles County Superior Court (Jan. 29, 2010)(awarding \$10,000 service award); *Ordaz*
14 *v. Rose Hills Mortuary, L.P.*, Case No. BC386500, Los Angeles County Superior Court, (Mar. 19,
15 2010)(awarding \$10,000 service award); *Sheldon v. AHMC Monterey Park Hosp. LP*, Case No.
16 BC440282, Los Angeles County Superior Court (Feb. 22, 2013)(awarding \$10,000 service award); *Silva*
17 *v. Catholic Mortuary Services, Inc.*, Case No. BC408054, Los Angeles County Superior Court (Feb. 8,
18 2011)(awarding \$10,000 enhancement award); *Weisbarth v. Banc West Investment Services, Inc.*, Case
19 No. BC422202, Los Angeles County Superior Court (May 24, 2013)(awarding \$10,000 service award);
20 *Lazar v. Kaiser Foundation Health Plan*, Case No. 14-cv-273289, Santa Clara County Superior Court
21 (Dec. 28, 2015) (awarding \$10,000 service award); *Acheson v. Express, LLC*, Case No. 109CV135335,
22 Santa Clara County Superior Court (Sept. 13, 2011)(awarding \$10,000 service award); *Bejarano v.*
23 *Amerisave Mortgage Corp.*, Case No. EDCV 08-00599 SGL (Opx)(C.D. Cal. June 22, 2010)(awarding
24 \$10,000 service award); *Carbajal v. Sally Beauty Supply LLC*, Case No. CIVVS 1004307, San
25 Bernardino County Superior Court (Aug. 6, 2012)(awarding \$10,000 service award); *Contreras v. Serco*
26 *Inc.*, Case No. 10-cv-04526-CAS-JEMx (C.D. Cal. Sep. 10, 2012)(awarding \$10,000 service award);
27 *Guerro v. R.R. Donnelley & Sons Co.*, Case No. RIC 10005196, Riverside County Superior Court (July
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1 16, 2013)(awarding \$10,000 service award); *Kisliuk v. ADT Security Services Inc.*, Case No. CV08-03241
2 DSF (RZx)(C.D. Cal. Jan. 10, 2011)(awarding \$10,000 service award); *Morales v. BCBG Maxazria Int'l*
3 *Holdings, Inc.*, Case No. JCCP 4582, Orange County Superior Court (Jan. 24, 2013)(awarding \$10,000
4 service award); *Barrett v. Doyon Security Services, LLC*, Case No. BS900199, BS900517, San
5 Bernardino County Superior Court (Apr. 23, 2010)(awarding \$10,000 service award); *Zirpolo v. UAG*
6 *Stevens Creek II*, Santa Clara Superior Court Case no. 17CV313457 (July 10, 2018) (awarding \$10,000
7 service award); *Taylor v. TIC - The Industrial Company*, U.S.D.C. Central District of California Case No.
8 EDCV 16-186-VAP (Aug. 1, 2018) (awarding \$10,000 service award).

9 15. The requested service awards are also reasonable in light of the reputational risk that
10 Plaintiffs assumed in bringing this action against their former employer. Plaintiffs put their future
11 employment prospects at risk by becoming class representatives as the fact that they filed a lawsuit "is
12 searchable on the internet and may become known to prospective employers when evaluating" them for
13 employment. *Guippone v. BHS&B Holdings, LLC*, 2011 U.S., Dist. LEXIS 126026, *20 (S.D.N.Y. Oct.
14 28, 2011). Employers routinely screen employee candidates to determine whether they have ever filed
15 a suit against other employers, allowing them to screen out the litigious candidates. An entire industry
16 exists that allows employers to run extensive background searches on potential employees. Companies
17 who provide these services specifically highlight the fact that their services allows employers to weed out
18 litigious employment candidates. Reliable Plant outlines ways that employers can "get a sense of whether
19 a prospective employee is likely to sue" the employer, through background checks and other means, to
20 screen out these employees.⁸ Onicra Credit Rating Agency states: "Background screening has become
21 a necessity in today's litigious society." Back Track Screening also represents: "In today's litigious culture,
22 employers simply cannot afford to hire employees who will put their company at risk."⁹ PreciseHire also
23 offers employment screening and similarly warns: "with today's business climate being extremely
24 competitive and highly litigious, conducting pre employment background checks has become a

26
27 ⁸ www.reliableplant.com/Read/6959/a-solution-to-fear-of-hiring-litigious-employees.

28 ⁹ <http://www.btscreening.com/wp-content/uploads/2012/09/Screening-101.pdf>.

necessity.”¹⁰

16. As a result, Class Counsel respectfully requests approval of the application for award of the Class Counsel Fees Payment equal to one-third (1/3) of the common fund, an award of litigation expenses in the amount of \$29,043.25 and approval of the service awards to Plaintiffs.

17. In accordance with California Rules of Court, rule 3.769, I make the following disclosure. The Class Counsel Fees Payment awarded shall be allocated among class counsel as follows: 60% to Blumenthal Nordrehaug Bhowmik De Blouw LLP and 40% to Bibiyan Law Group, P.C. (Agreement at ¶ 12.)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 6th day of March, 2025, at San Diego, California.

/s/ Norman Blumenthal
NORMAN B. BLUMENTHAL

¹⁰ <https://precisehireblog.wordpress.com/2013/11/21/pre-employment-background-checks-have-become-a-business-necessity/>.

EXHIBIT #1

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FIRM RESUME

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ATTORNEY BIOGRAPHIES

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Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Consumer and Securities Class Action, Civil Litigation, Wage and Hour Class Actions, Transactional Law

Admitted: 1973, Illinois; 1976, California

Biography: Law Clerk to Justice Thomas J. Moran, Illinois Supreme Court, 1973-1975, while on Illinois Court of Appeals. Instructor, Oil and Gas Law: California Western School of Law, 1981; University of San Diego School of Law, 1983. Sole Practitioner 1976-1987. Partner, Blumenthal & Ostroff, 1988-1995. Partner, Blumenthal, Ostroff & Markham, 1995-2001. Partner, Blumenthal & Markham, 2001-2007. Partner, Blumenthal & Nordrehaug, 2007. Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2018. Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP, 2018 - present.

Member: San Diego County, Illinois State and American Bar Associations; State Bar of California.

Educated: University of Wisconsin (B.A., 1970); Loyola University of Chicago (J.D., 1973);

Summer Intern (1971) with Harvard Voluntary Defenders

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Member: State Bar of California, Ninth Circuit Court of Appeals, Third Circuit Court of Appeals

Educated: University of California at Berkeley (B.A., 1994); University of San Diego School of Law (J.D. 1999)

Awards: Top Labor & Employment Attorney 2016; Top Appellate Reversal - Daily Journal 2015; Super Lawyer 2015-2018

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Awards: Rising Star 2015

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Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

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Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2016, California

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Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2012, California

Educated: University of California, Irvine; California Western School of Law

Andrew Ronan

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Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2016, California

Educated: Arizona State University; University of San Diego School of Law

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Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2020, New Mexico

Educated: University of Southern California; California Western School of Law

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Admitted: 2013, California

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Educated: University of Rhode Island; California Western School of Law

Adolfo Sanchez Contreras

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2024, California; 2014, Mexico

Educated: The Juarez University

REPORTED CASES

Sakkab v. Luxottica Retail N. Am., Inc., 803 F.3d 425 (9th Cir. 2015) (The panel reversed the district court's order granting Luxottica Retail North America, Inc.'s motion to compel arbitration of claims and dismissing plaintiff's first amended complaint, in a putative class action raising class employment-related claims and a non-class representative claim for civil penalties under the Private Attorney General Act.);

Securitas Security Services USA, Inc. v. Superior Court, 234 Cal. App. 4th 1109 (Cal. Feb. 27, 2015) (Court of Appeal concluded the trial court correctly ruled that *Iskanian* rendered the PAGA waiver within the parties' dispute resolution agreement unenforceable. However, the Court of Appeal then ruled the trial court erred by failing to invalidate the non-severable class action waiver from the agreement and remanded the entire complaint, including class action and PAGA claims, be litigated in the Superior Court);

Sussex v. United States Dist. Court for the Dist. of Nev., 781 F.3d 1065 (9th Cir. 2015) (The panel determined that the district court clearly erred in holding that its decision to intervene mid-arbitration was justified under *Aerojet-General*. Specifically, the panel held that the district court erred in predicting that an award issued by the arbitrator would likely be vacated because of his "evident partiality" under 9 U.S.C. § 10(a)(2).);

Provost v. YourMechanic, Inc., 2020 Cal. App. Lexis 955 (Oct. 15, 2020) (Court of Appeals affirmed denial of arbitration of PAGA claim, and held in a case of first impression, that there was no additional standing rules for PAGA claim brought by independent contractor);

In re Tobacco Cases II, 41 Cal. 4th 1257 (2007); Washington Mutual Bank v. Superior Court, 24 Cal. 4th 906 (2001); Rocker v. KPMG LLP, 148 P.3d 703; 122 Nev. 1185 (2006); PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP, 150 Cal. App. 4th 384 (2007); Hall v. County of Los Angeles, 148 Cal. App. 4th 318 (2007); Coshov v. City of Escondido, 132 Cal. App. 4th 687 (2005); Daniels v. Philip Morris, 18 F.Supp 2d 1110 (S.D. Cal.1998); Gibson v. World Savings & Loan Asso., 103 Cal. App. 4th 1291 (2003); Jordan v. Department of Motor Vehicles,

75 Cal. App. 4th 445 (1999); Jordan v. Department of Motor Vehicles, 100 Cal.App. 4th 431 (2002); Norwest Mortgage, Inc. v. Superior Court, 72 Cal.App.4th 214 (1999); Hildago v. Diversified Transp. Sya, 1998 U.S. App. LEXIS 3207 (9th Cir. 1998); Kensington Capital Mgal. v. Oakley, Inc., 1999 U.S. Dist LEXIS 385; Fed.Sec.L.Rep. (CCH) P90, 411 (1999 C.D. Cal.); Lister v. Oakley, Inc., 1999 U.S. Dist. LEXIS 384; Fed. Sec. L. Rep. (CCH) P90,409 (C.D. Cal. 1999); Olszewski v. Scripps Health, 30 Cal. 4th 798 (2003); Steroid Hormone Product Cases, 181 Cal. App. 4th 145 (2010); Owen v. Macy's, Inc., 175 Cal. App. 4th 462 (2009); Taiheiyo Cement Corp. v. Superior Court, 117 Cal. App. 4th 380 (2004); Taiheiyo Cement Corp. v. Superior Court, 105 Cal.App. 4th 398 (2003); McMeans v. Scripps Health, Inc., 100 Cal. App. 4th 507 (2002); Ramos v. Countrywide Home Loans, 82 Cal.App. 4th 615 (2000); Tevssier v. City of San Diego, 81 Cal.App. 4th 685 (2000); Washington Mutual Bank v. Superior Court, 70 Cal. App. 4th 299 (1999); Silvas v. E*Trade Mortg. Corp., 514 F.3d 1001 (9th Cir. 2008); Silvas v. E*Trade Mortg. Corp., 421 F. Supp. 2d 1315 (S.D. Cal. 2006); McPhail v. First Command Fin. Planning, Inc., 2009 U.S. Dist. LEXIS 26544 (S.D. Cal. 2009); McPhail v. First Command Fin. Planning, Inc., 251 F.R.D. 514 (S.D. Cal. 2008); McPhail v. First Command Fin. Planning, Inc., 247 F.R.D. 598 (S.D. Cal. 2007); Barcia v. Contain-A-Way, Inc., 2009 U.S. Dist. LEXIS 17118 (S.D. Cal. 2009); Barcia v. Contain-A-Way, Inc., 2008 U.S. Dist. LEXIS 27365 (S.D. Cal. 2008); Wise v. Cubic Def. Applications, Inc., 2009 U.S. Dist. LEXIS 11225 (S.D. Cal. 2009); Gabisan v. Pelican Prods., 2009 U.S. Dist. LEXIS 1391 (S.D. Cal. 2009); La Jolla Friends of the Seals v. Nat'l Oceanic & Atmospheric Admin. Nat'l Marine Fisheries Serv., 630 F. Supp. 2d 1222 (S.D. Cal. 2009); La Jolla Friends of the Seals v. Nat'l Oceanic & Atmospheric Admin. Nat'l Marine Fisheries Serv., 2008 U.S. Dist. LEXIS 102380 (S.D. Cal. 2008); Louie v. Kaiser Found. Health Plan, Inc., 2008 U.S. Dist. LEXIS 78314 (S.D. Cal. 2008); Weltman v. Ortho Mattress, Inc., 2010 U.S. Dist. LEXIS 20521 (S.D. Cal. 2010); Weltman v. Ortho Mattress, Inc., 2008 U.S. Dist. LEXIS 60344 (S.D. Cal. 2008); Curry v. CTB McGraw-Hill, LLC, 2006 U.S. Dist. LEXIS 5920; 97 A.F.T.R.2d (RIA) 1888; 37 Employee Benefits Cas. (BNA) 2390 (N.D. Cal. 2006); Reynov v. ADP Claims Servs. Group, 2006 U.S. Dist. LEXIS 94332 (N.D. Cal. 2006); Kennedy v. Natural Balance Pet Foods, Inc., 2010 U.S. App. LEXIS 248 (9th Cir. 2010); Kennedy v. Natural Balance Pet Foods, Inc., 2008 U.S. Dist. LEXIS 38889 (S.D. Cal. 2008); Kennedy v. Natural Balance Pet Foods, Inc., 2007 U.S. Dist. LEXIS 57766 (S.D. Cal. 2007); Sussex v. Turnberry/MGM Grand Towers, LLC, 2009 U.S. Dist. LEXIS 29503 (D. Nev. 2009); Picus v. Wal-Mart Stores, Inc., 256 F.R.D. 651 (D. Nev. 2009); Tull v. Stewart Title of Cal., Inc., 2009 U.S. Dist. LEXIS 14171 (S.D. Cal. 2009); Keshishzadeh v. Gallagher, 2010 U.S. Dist. LEXIS 46805 (S.D. Cal. 2010); Keshishzadeh v. Arthur J. Gallagher Serv. Co., 2010 U.S. Dist. Lexis 116380 (S.D. Cal. 2010); In re Pet Food Prods. Liab. Litig., MDL Docket No. 1850 (All Cases), 2008 U.S. Dist. LEXIS 94603 (D.N.J. 2008); In re Pet Food Prods. Liab. Litig., 629 F.3d 333 (3rd Cir. 2010); Puentes v. Wells Fargo Home Mortgage, Inc., 160 Cal. App. 4th 638 (2008); Rezec v. Sony Pictures Entertainment, Inc., 116 Cal. App. 4th 135 (2004); Badillo v. Am. Tobacco Co., 202 F.R.D. 261 (D. Nev. 2001); La Jolla Friends of the Seals v. Nat'l Oceanic & Atmospheric Admin., 2010 U.S. App. Lexis 23025 (9th Cir. 2010); Dirienzo v. Dunbar Armored, Inc., 2011 U.S. Dist. Lexis 36650 (S.D. Cal. 2011); Rix v. Lockheed Martin Corp., 2011 U.S. Dist Lexis 25422 (S.D. Cal. 2011); Weitzke v. Costar Realty Info., Inc., 2011 U.S. Dist Lexis 20605 (S.D. Cal. 2011); Goodman v. Platinum Condo. Dev., LLC, 2011 U.S. Dist. LEXIS 36044 (D. Nev. 2011); Sussex v. Turnberry/MGM Grand Towers, LLC, 2011 U.S. Dist. LEXIS 14502 (D. Nev. 2011); Smith v. Kaiser Foundation Hospitals, Inc., 2010 U.S. Dist. Lexis 117869 (S.D. Cal. 2010); Dobrosky v. Arthur J. Gallagher Serv. Co., LLC, No. EDCV 13-0646 JGB (SPx), 2014 U.S. Dist. LEXIS 106345 (C.D. Cal. July 30, 2014); Metrow v. Liberty Mut. Managed Care LLC - Class Certification Granted, Metrow v. Liberty Mut. Managed Care LLC, No. EDCV 16-1133 JGB (KKx), 2017 U.S. Dist. LEXIS 73656 (C.D. Cal. May 1, 2017); Nelson v. Avon Products, Inc., Class Certification Granted, U.S. District Court for The Northern District of California, Case No. 13-cv-02276-BLF, 2015 U.S. Dist. LEXIS 51104 (N.D. Cal. Apr. 17, 2015); Orozco v. Illinois Tool Works Inc., Class Certification Granted, 2017 U.S. Dist. LEXIS 23179 (E.D. Cal. Feb. 16, 2017); Rieve v. Coventry Health Care, Summary Judgment *Sua*

Sponte Granted for Plaintiff, Rieve v. Coventry Health Care, Inc., 870 F. Supp. 2d 856 (C.D. Cal. 2012)

CLASS ACTION & REPRESENTATIVE CASES

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Holdings Inc., Santa Clara County Superior Court, Case No. 1-13-cv-240830; Davis v. Clear Connection, LLC, San Diego County Superior Court, Case No. 37-2014-00035173-CU-OE-CTL; Day v. WDC Exploration, Orange County Superior Court, Case No. 30-2010-00433770; Dedrick v. Hollandia Dairy, San Diego County Superior Court, Case No. 37-2014-00004311-Cu-OE-CTL; Delmare v. Sungard Higher Education - Settled U.S. District Court, Southern District of California, Case No. 07-cv-1801; Del Rio v. Tumi Stores, Inc., San Diego County Superior Court, Case No. 37-2015-00022008-CU-OE-CTL; Dewane v. Prudential, U.S. District Court, Central District of California, Case No. SA CV 05-1031; Diesel v. Wells Fargo Bank, Orange County Superior Court, Case No. 30-2011-00441368; Dirienzo v. Dunbar Armored, U.S. District Court, Southern District of California, Case No. 09-cv-2745; Dobrosky v. Arthur J. Gallagher Service Company, LLC, Class certification Granted, No. EDCV 13-0646 JGB (Spx); Dodds v. Zaven Tootikian, Los Angeles County Superior Court, Case No. BC494402; Drumheller v. Radioshack Corporation, United States District Court, Central District of California, Case No. SACV11-355; Enger v. Kaiser Foundation Health Plan, U.S. District Court, Southern District of California, Case No. 09-cv-1670; Escobar v. Silicon Valley Security & Patrol, Inc., Santa Clara County Superior Court, Case No. 1-14-cv272514; Fierro v. Chase Manhattan - Class Certification Granted, Settled San Diego Superior Court, Case No. GIN033490; Figueroa v. Circle K Stores, Inc., San Diego County Superior Court, Case No. 37-2012-00101193-CU-OE-CTL; Finch v. Lamps Plus, (Lamps Plus Credit Transaction Cases), San Diego Superior Court, Case No. JCCP 4532; Fletcher v. Verizon, U.S. District Court, Southern District of California, Case No. 09-cv-1736; Francisco v. Diebold, U.S. District Court, Southern District of California, Case No. 09-cv-1889; Friend v. Wellpoint, Los Angeles Superior Court, Case No. BC345147; Frudakis v. Merck Sharp & Dohme, U.S. District Court, Central District California, Case No. SACV 11-00146; Fulcher v. Olan Mills, Inc., U.S. District Court, Northern District of California, Case No. 11-cv-1821; Gabisan v. Pelican Products, U.S. District Court, Southern District California, Case No. 08 cv 1361; Galindo v. Sunrun Installation Services Inc., San Diego County Superior Court, Case No. 37-2015-00008350-CU-OE-CTL; Gallagher v. Legacy Partners Commercial, Santa Clara County Superior Court, Case No. 112-cv-221688; Ghattas v. Footlocker Retail, Inc., U.S. District Court Central District of California, Case No. CV 13-0001678 PA; Gibson v. World Savings, Orange County Superior Court, Case No. 762321; Goerzen v. Interstate Realty Management, Co., Stanislaus County Superior Court, Case No. 679545; Gomez v. Enterprise Rent-A-Car, U.S. District Court, Southern District of California, Case No. 3:10-cv-02373; Gordon v. Wells Fargo Bank, U.S. District Court, Southern District of California, Case No. 3:11-cv-00090; Grabowski v. CH Robinson, U.S. District Court, Southern District of California, Case No. 10-cv-1658; Gross v. ACS Compiq Corporation, Orange County Superior Court, Case No. 30-2012-00587846-CU-OE-CXC; Gripenstraw v. Buffalo Wild Wings, U.S. District Court, Eastern District of California, Case No. 12-CV-00233; Gruender v. First American Title, Orange County Superior Court, Case No. 06 CC 00197; Guillen v. Univision Television Group, Inc. & Univision Management Co., San Francisco County Superior Court, Case No. CGC-12-526445; Gujjar v. Consultancy Services Limited, Orange County Superior Court, Case No. 30-2010-00365905; Gutierrez v. Five Guys Operations, LLC, San Diego County Superior Court, Case No. 37-2012-00086185-CU-OE-CTL; Handler v. Oppenheimer, Los Angeles Superior Court, Civil Action No. BC343542; Harley v. Tavistock Freebirds, LLC, Sacramento County Superior Court, Case No. 34-2014-00173010; Harrington v. Corinthian Colleges – Class Certification Granted, Orange Superior Court; United States Bankruptcy Court District of Delaware; Harvey v. PQ Operations, Inc., Los Angeles County Superior Court, Case No. BC497964; Henshaw v. Home Depot U.S.A., United States District Court, Central District of California, Case No. SACV10-01392; Heithold v. United Education Institute, Orange County Superior Court, Case No. 30-2013-00623416-CU-OE-CXC; Hibler v. Coca Cola Bottling, Settled U.S. District Court, Southern District of California, Case No. 11cv0298; Hildebrandt v. TWC Administration LLC & Time Warner NY Cable, LLC, U.S. District Court, Central District of California, Case No. ED-cv-13-02276-JGB; Hopkins v. BCI Coca-Cola Bottling Company of Los Angeles, United states District Court, Central District of California; U.S. Court of Appeals 9th Circuit; Howard v. Southern California Permanente

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Case No. 37-2018-00058254-CU-OE-CTL; Tarkington v. Freetime, Inc. – San Diego County Superior Court, Case No. 37-2019-00011473-CU-OE-CTL; McIntyre v. J.J.R. Enterprises, Inc. – Sacramento County Superior Court, Case No. 34-2019-00251220; Bucur v. Pharmaca Integrative Pharmacy, Inc. – San Diego County Superior Court, Case No. 37-2019-00009409-CU-OE-CTL; Batin v. McGee Air Services, Inc. – Santa Clara County Superior Court, Case No. 19CV347733; Terry v. McGee Air Services, Inc. – King County Superior Court of Washington, Case No. 19-2-3321-5 KNT; Weiss v. Niznik Behavioral Health Resources, Inc. – San Diego County Superior Court, Case No. 37-2019-00039441-CU-OE-CTL; Cavada v. Inter-Continental Hotels Group, Inc. – U.S. District Court, Southern District of California, Case No. 3:19-cv-01675-GPC-AHG; Lešević v. Spectraforce Technologies, Inc. – U.S. District Court, Northern District of California, Case No. 5:19-cv-03126-LHK; Mutchler v. Circle K Stores, Inc. – San Diego County Superior Court, Case No. 37-2020-00016331-CU-OE-CTL, Azima v. CSI Medical Group, – Santa Clara County Superior Court, Case No. 19CV345450; Porrás v. Baypointe Enterprises, LLC – Los Angeles County Superior Court, Case No. 19STCV31015; Mitchell v. Mack Trucking, Inc. – San Bernardino County Superior Court, Case No. CIVDS1928334; Watts v. T.R.L. Systems, Incorporated – Orange County Superior Court, Case No. 30-2019-01102457-CU-OE-CXC; Price v. DMSD Restaurants Inc. – San Diego County Superior Court, Case No. 37-2019-00024062-CU-OE-CTL; Jacobs v. Nortek Security & Control LLC – San Diego County Superior Court, Case No. 37-2019-0019735-CU-OE-CTL; Gonzalez v. Hub International Midwest – San Bernardino County Superior Court, Case No. CIVDS1900463; Cisneros v. Bluepearl California, Inc. – San Mateo Superior Court, Case No. 19-CIV-05707; Garcia v. Gallagher Basset Services – San Bernardino Superior Court, Case No. CIVDS2004140; Callow v. Adventist Health System/West – Placer County Superior Court, Case No. SCV0043607; Dominguez v. Kimco Facility Services, LLC – Los Angeles County Superior Court, Case No. 19STCV37592; Searles v. Robert Heath Trucking, Inc. – Los Angeles County Superior Court, Case No. 19STCY30808; Rangel v. Pioneer Hi-Bred international, Inc. – Yolo County Superior Court, Case No. CV-19-1797; Ivon v. Sinclair Television of California, Humboldt County Superior Court, Case No. DR190699; Williams v. Henkels & McCoy, Inc. – San Bernardino County Superior Court, Case No. CIVDS2003888; Cano v. Larry Green Chrysler Jeep Dodge, Inc. – Riverside County Superior Court, Case No. BLC1900184; Lopez v. Cepheid – Santa Clara County Superior Court, Case No. 19CV358827; Hernandez v. Quick Dispense, Inc. – Los Angeles County Superior Court, Case No. 19STCV29405; Lopez v. Lacoste USA, Inc. – San Bernardino County Superior Court, Case No. CIVDS1914626; Duhe v. Hospital Couriers Nevada, LLC – Contra Costa County Superior Court, Case No. MSC19-01377; Law v. Sequoia Equities, Incorporated – Contra Costa Superior Court, Case No. C19-01925; Dvorak v. Rockwell Collins, Inc. – San Diego County Superior Court, Case No. 37-2019-00064397-CU-OE-CTL; Noguera v. Metal Container Corporation – Riverside County Superior Court, Case No. RIC2003235; Leon v. Miller Event Management, Inc. – San Luis Obispo Superior Court, Case No. 19CV-0435; Leon v. Miller Event Management, Inc. – San Luis Obispo County Superior Court, Case No. 19CV-0435, Camacho-Bias v. Serve U Brands Inc. – Butte County Superior Court, Case No. 20CV00603; La Pietra v. Entertainment Partners Services, LLC – Los Angeles County Superior Court, Case No. 19STCV39529; Celis v. Theatre Box - San Diego, LLC – San Diego County Superior Court, Case No. ____; Ignacio v. Laboratory Corporation of America – U.S. District Court, California Central District, Case No. 2:19-cv-06079-AB-RAO; Kovnas v. Cahill Contractors LLC – Alameda County Superior Court, Case No. RG19037852; Hersh v. Mrs. Gooch's Natural Food – Los Angeles County Superior Court, Case No. 19STCV10444; Miller v. The Permanente Medical Group – Alameda County Superior Court, Case No. RG19045904; Vasquez v. Autoalert, LLC – Orange County Superior Court, Case No. 30-2019-01114549-CU-OE-CXC; Cavanaugh v. Morton Golf, LLC – Sacramento County Superior Court, Case No. 34-2019-00270176; Coley v. Monroe Operations, LLC – Alameda County Superior Court, Case No. RG20063188; Ramirez v. Sierra Aluminum Company – U.S. District Court, California Central District Court, Case No. 5:20-cv-00417-JGB-KK; Marrero v. Stat Med, P.C. – Alameda County Superior Court, Case No. HG19043214; Enriquez v. Solari Enterprises, Inc. – Los Angeles County Superior Court, Case No. 20STCV11129; Craig v.

Hometown Heart – San Francisco County Superior Court, Case No. CGC-20-582454; Lopez v. Hy0Lang Electric California, Inc. – San Diego County Superior Court, Case No. 37-2020-00012543-CU-OE-CTL; Heuklom v. Clara Medical Group, P.C. – San Francisco County Superior Court, Case No. CGC-20-585918; Dominguez v. Lifesafer of Northern California – Monterey County Superior Court, Case No. 20CV002586; Kiseleva v. Totalmed Staffing Inc. – U.S. District Court, California Northern District, Case No. 5:19-cv-06480; Vires v. Sweetgreen, Inc. – Santa Clara County Superior Court, Case No. 20CV365918; Kim v. Wireless Vision, LLC – San Bernardino County Superior Court, Case No. CIVDS2000074; Senoren v. Air Canada Corporation – Los Angeles County Superior Court, Case No. 20STCV13942; Clark v. Quest Diagnostics Incorporated – San Bernardino County Superior Court, Case No. CIVDS2018707; Green v. Shipt, Inc. – Los Angeles County Superior Court, Case No. 20STCV01001; Respass v. The Scion Group LLC – Sacramento County Superior County, Case No. 34-2020-00285265; Jackson v. Decathlon USA LLC – Alameda County Superior Court, Case No. RG2003024; Avacena v. FTG Aerospace Inc. – Los Angeles County Superior Court, Case No. 20STCV28767; Perez v. Butler America, LLC – Los Angeles County Superior Court, Case No. 20STCV20218; Christensen v. Carter’s Retail, Inc. – Orange County Superior Court, Case No. 30-2020-01138792-CU-OE-CXC; Astudillo v. Torrance Health Association, Inc. – Los Angeles County Superior Court, Case No. 20STCV18424; Hansen v. Holiday AI Management Sub LLC – Contra Costa County Superior Court, Case No. CIVMSC20-00779; Almahdi v. Vitamin Shoppe Industries Inc – Santa Clara County Superior Court, Case No. 20CV365150; Krisinda v. Loyal Source Government Services LLC – U.S. District Court, California Southern District, Case No. 3:20-cv-879-LAB-NLS; Ettedgui v. WB Studio Enterprises Inc – U.S. District Court, California Central District, Case No. 2:20-CV-08053-MCS (MAAx); Fernandez v. Nuvision Federal Credit Union – Orange County Superior Court, Case No. 30-2020-01161691-CU-OE-CJC; Aviles v. UPS Supply Chain Solutions, Inc. – Riverside County Superior Court, Case No. RIC2000727; Alcocer v. DSV Solutions, LLC – San Bernardino Superior Court, Case No. CIVDS2010345; Wilson v. Wholesome Harvest Baking, LLC – U.S. District Court, California Northern District, Case No. 4:20-cv-05186-YGR; Gregory v. Verio Healthcare, Inc. – Los Angeles County Superior Court, Case No. 20STCV37254; Rose v. Impact Group, LLC – Orange County Superior Court, Case No. 30-2020-01141107-CU-OE-CXC; Monasterio v. Citibank, N.A. – San Mateo County Superior Court, Case No. 20-CIV-03650; Martinez-Lopez v. Medamerica, Inc. – San Diego County Superior Court, Case No. 37-2020-00034393-CU-OE-CTL; Cox v. PRB Management, LLC – Solano County Superior Court, Case No. FCS055514; Nash v. K. Hovnanian Companies, LLC – Riverside County Superior Court, Case No. RIC2003319; Kyler v. Harbor Freight Tools USA, Inc. – San Diego County Superior Court, Case No. 37-2020-00015828-CU-OE-CTL; Roberts v. Solantic Corporation – Los Angeles County Superior Court, Case No. 20STCV41117; Price v. Mistras Group, Inc. – Los Angeles County Superior Court, Case No. 20STCV22485; Macias v. ABM Electrical & Lighting Solutions, Inc. – San Diego County Superior Court, Case No. 37-2020-00024997-CU-OE-CTL; Basu-Kesselman v. Garuda Labs, Inc. – San Francisco County Superior Court, Case No. CGC-20-585229; Armstrong v. Prometric LLC – Los Angeles County Superior Court, Case No. 20STCV29967; Ashlock v. Advantis Medical Staffing, LLC – San Diego County Superior Court, Case No. 37-2020-00022305-CU-OE-CTL; Wilson v. WXI Global Solutions, LLC – Los Angeles County Superior Court, Case No. 20STCV25007; Gandhale v. Select Rehabilitation, LLC – Monterey County Superior Court, Case No. 20CV002240; Starvoice v. G4S Secure Solutions (USA) Inc. – San Diego County Superior Court, Case No. 37-2020-00029421-CU-OE-CTL; Mbise v. Axlehire, Inc. – Alameda County Superior Court, Case No. RG20067350; Points v. C&J Services, Inc. – Kern County Superior Court, Case No. BCV-20-102483; Marshall v. PHI Air Medical, LLC – Lassen County Superior Court, Case No. 62973; Jauregui v. Cyctec Engineered Materials, Inc. – Orange County Superior Court, Case No. 30-2020-01164932-CU-OE-CXC

EXHIBIT #2

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And JUAN MANZO GONTEZ, on behalf of themselves
and all others similarly situated

[Additional Counsel listed on the next page]

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

JENNIFER MONTOYA and JUAN MANZO
GONTEZ, individuals, on behalf of
themselves and on behalf of all persons
similarly situated,

Plaintiffs,

v.

FPR II, L.L.C., dba LEADPOINT
BUSINESS SERVICES, an Oregon limited
liability company; MARBORG
INDUSTRIES, a California corporation;
MARBORG RECOVERY MANAGEMENT,
LLC, a California limited liability company;
and DOES 1 through 50, inclusive,

Defendants.

Case No.: 22CV404499

[Assigned for all purposes to the Hon.
Theodore C. Zayner in Dept. 19]

**JOINT STIPULATION RE: CLASS
ACTION AND REPRESENTATIVE
ACTION SETTLEMENT**

ACTION FILED: October 13, 2022
TRIAL DATE: None set

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1 This Joint Stipulation Re: Class Action and Representative Action Settlement
2 (“Settlement,” “Agreement” or “Settlement Agreement”) is made by and between plaintiffs
3 JENNIFER MONTOYA and JUAN MANSO GONTEZ (“Plaintiffs”), on behalf of themselves
4 and all others similarly situated and aggrieved, on one hand; and defendant FPR II, LLC, dba
5 LEADPOINT BUSINESS SERVICES (“Leadpoint” or “Defendant”), on the other hand, in the
6 lawsuits entitled *Montoya v. FPR II, LLC, et al.*, filed in Santa Clara County Superior Court, Case
7 Number 22CV404499; *Montoya v. FPR II, LLC, et al.*, filed in Santa Clara County Superior
8 Court, Case Number 22CV408517; *Gontez v. Marborg Industries, et al.*, filed in Santa Barbara
9 Superior Court, Case Number 22CV408517; and *Gontez v. Marborg Industries, et al.*, filed in
10 Santa Barbara, Superior Court, Case Number 23CV00298. Plaintiffs and Defendant shall be, at
11 times, collectively referred to as the “Parties.” This Agreement is intended by the Parties to fully,
12 finally and forever resolve the claims as set forth herein, based upon and subject to the terms and
13 conditions of this Agreement.

14 **1. DEFINITIONS**

15 **A. “Actions”** means the actions entitled *Montoya v. FPR II, LLC, et al.*, filed in Santa
16 Clara County Superior Court, Case Number 22CV404499 (the “Montoya Class Action”); and
17 *Montoya v. FPR II, LLC, et al.*, filed in Santa Clara County Superior Court, Case Number
18 22CV408517 (the “Montoya PAGA Action”); *Gontez v. Marborg Industries, et al.*, filed in Santa
19 Barbara Superior Court, Case Number 22CV408517 (the “Gontez Class Action”); and *Gontez v.*
20 *Marborg Industries, et al.*, filed in Santa Barbara, Superior Court, Case Number 23CV00298 (the
21 “Gontez PAGA Action), to be consolidated by a first amended complaint to be filed in the
22 Montoya Class Action.

23 **B. “Aggrieved Employees”** means all persons currently or formerly employed by
24 Leadpoint, as non-exempt, hourly-paid employees during the PAGA Period in the State of
25 California. The definition for “Aggrieved Employees” does not include any current or former
26 employees directly hired and employed by MarBorg Industries, Inc. and/or MarBorg Recovery
27 Management, LLC (collectively, “MarBorg”) during the PAGA Period, except to the extent
28

claims by the “Aggrieved Employees” are released as against Leadpoint and/or MarBorg as set forth herein.

C. “Class Counsel” means David D. Bibiyan, Jeffrey D. Klein and Vedang J. Patel of Bibiyan Law Group, P.C. (“BLG”), and Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik and Nicholas J. De Blouw of Blumenthal Nordrehaug Bhowmik De Blouw LLP (“BNBD”). The term “Class Counsel” shall be used synonymously with the term “Plaintiff’s Counsel.”

D. “Class Members,” “Settlement Class” or “Settlement Class Members” means all persons currently or formerly employed by Leadpoint as nonexempt, hourly-paid employees during the Class Period in the State of California. The definition for “Class Members,” “Settlement Class” or “Settlement Class Members” does not include any current or former employees directly hired or employed by MarBorg during the Class Period, except to the extent claims by the “Class Members,” “Settlement Class” or “Settlement Class Members” are released as against Leadpoint and/or MarBorg as set forth herein.

E. “Class Period” means the period from October 13, 2018, through January 25, 2024.

F. “Class Notice” means and refers to the notice sent to Class Members after preliminary approval of the Settlement in the manner described in Paragraph 9(A) of this Agreement.

G. “Court” means the Superior Court of the State of California for the County of Santa Clara.

H. “Defendant” means defendant FPR II, LLC, dba Leadpoint Business Services.

I. “Effective Date” means the later of the following events: (a) five (5) calendar days after the period for filing any appeal, writ, or other appellate proceeding opposing Final Approval and judgment has elapsed without any appeal, writ, or other appellate proceeding having been filed, i.e., 65 days from the date the court grants final approval and enters judgment; or (b) if any appeal, writ, or other appellate proceeding opposing Final Approval has been filed

1 within that timeframe, five (5) business days after any appeal, writ, or other appellate proceedings
2 opposing the Settlement has finally and conclusively dismissed with no right to pursue further
3 remedies or relief.

4 **J. “Employer Taxes”** means employer-funded taxes and contributions imposed on
5 the wage portions of the Individual Settlement Payments under the Federal Insurance
6 Contributions Act, the Federal Unemployment Tax Act, and any similar state and federal taxes
7 and contributions required of employers, such as for unemployment insurance.

8 **K. “Final Approval Date”** means the later of: (1) the date the Court signs an Order
9 granting final approval of this Settlement (“Final Approval”) and Judgment; (2) if there is an
10 objector, 60 days from the date of the Final Approval and Judgment; or (3) to the extent any
11 appeals have been filed, the date on which they have been resolved or exhausted.

12 **L. “General Release”** means the broader release of claims by Plaintiffs, which is in
13 addition to Plaintiff’s limited release of claims as a Participating Class Member.

14 **M. “Gross Settlement Amount”** means a non-reversionary fund in the sum of One
15 Million Five Hundred Thousand Dollars and Zero Cents (\$1,500,000.00),¹ which shall be paid
16 by Leadpoint, from which all payments for the Individual Settlement Payments to Participating
17 Class Members, the Court-approved amounts for attorneys’ fees and reimbursement of litigation
18 costs and expenses to Class Counsel, Settlement Administration Costs, the Service Awards, the
19 PAGA Payment and the LWDA Payment shall be paid. It expressly excludes Employer Taxes,
20 which shall be paid by Leadpoint, separate, apart and in addition to the Gross Settlement Amount.

21 **N. “Individual PAGA Payment”** means a payment made to an Aggrieved Employee
22 for his or her share of the PAGA Payment, which may be in addition to his or her Individual
23 Settlement Share if he or she is also a Participating Class Member.

24 **O. “Individual Settlement Payment”** means a payment to a Participating Class
25 Member of his or her net share of the Net Settlement Amount.

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28 ¹ As may be increased in accordance with Paragraph 17 below.

1 **P. “Individual Settlement Share”** means the gross amount of the Net Settlement
2 Amount that a Participating Class Member is projected to receive based on the number of
3 Workweeks that he or she worked as a Settlement Class Member during the Class Period, which
4 shall be reflected in his or her Class Notice.

5 **Q. “LWDA Payment”** means the payment to the State of California Labor and
6 Workforce Development Agency (“LWDA”) for its seventy-five percent (75%) share of the total
7 amount allocated toward penalties under the PAGA, all of which is to be paid from the Gross
8 Settlement Amount. The Parties have agreed that Seventy-Five Thousand Dollars and Zero Cents
9 (\$75,000.00) shall be allocated toward PAGA penalties, of which Fifty-Six Thousand Two
10 Hundred Fifty Dollars and Zero Cents (\$56,250.00) will be paid to the LWDA (*i.e.*, the LWDA
11 Payment) and Eighteen Thousand Seven Hundred Fifty Dollars and Zero Cents (\$18,750.00) will
12 be paid to Aggrieved Employees on a *pro rata* basis based on the Pay Periods worked in the
13 PAGA Period, as further set out herein (*i.e.* the PAGA Payment).

14 **R. “Net Settlement Amount”** means the portion of the Gross Settlement Amount
15 that is available for distribution to the Participating Class Members after deductions for the Court-
16 approved allocations for Settlement Administration Costs, Service Award to Plaintiff, an award
17 of attorneys’ fees, reimbursement of litigation costs and expenses to Class Counsel, the LWDA
18 Payment and the PAGA Payment.

19 **S. “Operative Complaint”** means the First Amended Complaint to be filed in the
20 Montoya Class Action.

21 **T. “PAGA Payment”** is the 25% portion of the Seventy-Five Thousand Dollars and
22 Zero Cents (\$75,000.00) that is allocated toward PAGA penalties (Eighteen Thousand Seven
23 Hundred Fifty Dollars and Zero Cents (\$18,750.00)) that will be paid to Aggrieved Employees
24 on a *pro rata* basis based on the Pay Periods worked as non-exempt, hourly-paid employees in
25 California in the PAGA Period, which would be in addition to their Individual Settlement
26 Payment if they are Participating Class Members, as well.

27 **U. “PAGA Period”** means the period from July 12, 2021, through January 25, 2024.
28

1 **T. “Participating Class Members”** means all Settlement Class Members who do
2 not submit a timely and valid Request for Exclusion.

3 **U. “Participating Individual Settlement Share”** means the gross amount of the Net
4 Settlement Amount that a Participating Class Member is eligible to receive based on the number
5 of Workweeks that he or she worked as a Settlement Class Member during the Class Period once
6 all opt-outs have been factored in, excluding any Individual PAGA Payment to which he or she
7 may be entitled if he or she is also an Aggrieved Employee.

8 **V. “Pay Period”** means any pay period during which an Aggrieved Employee
9 worked for Defendant for at least one day during the PAGA Period, based on dates of
10 employment (*i.e.* hire dates, re-hire dates (as applicable), and termination dates (as applicable)).

11 **W. “Plaintiff,” “Named Plaintiff” or “Class Representative”** shall refer to plaintiff
12 Jennifer Montoya and Juan Manso Gontez.

13 **W. “Preliminary Approval Date”** means the date on which the Court enters an Order
14 granting preliminary approval of the Settlement.

15 **X. “Released Parties”** shall mean Defendant, MarBorg Industries, Inc., MarBorg
16 Recovery Management, LLC, Waste Management, Inc., Republic Services, Inc., FCC
17 Environmental Services, LLC, and any of their past, present, and future direct or indirect parents,
18 subsidiaries, predecessors, successors, and affiliates, as well as each of their past, present, and
19 future officers, directors, employees, partners, members, owners, shareholders, agents, attorneys,
20 insurers, reinsurers, and any individual or entity which was alleged or could have been alleged
21 as jointly liable with Leadpoint and/or MarBorg as an employer of the Class Members.

22 **Y. “Response Deadline”** means the deadline for Settlement Class Members to mail
23 any Requests for Exclusion, Objections or Workweek Disputes to the Settlement Administrator,
24 which is sixty (60) calendar days from the date that the Class Notice is first mailed in English
25 and Spanish by the Settlement Administrator, unless a Class Member’s notice is re-mailed. In
26 such an instance, the Response Deadline shall be fifteen (15) calendar days from the re-mailing
27 or sixty (60) calendar days from the date of the initial mailing, whichever is later, in which to
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1 postmark a Request for Exclusion, Workweek Dispute, or Objection. The date of the postmark
2 shall be the exclusive means for determining whether a Request for Exclusion, Objection or
3 Workweek Dispute was submitted by the Response Deadline.

4 **Z. “Request for Exclusion”** means a written request to be excluded from the
5 Settlement Class pursuant to Paragraph 9(C) below.

6 **AA. “Service Awards”** means monetary amounts to be paid to Plaintiffs of up to
7 Twelve Thousand Five Hundred Dollars and Zero Cents (\$12,500.00) to each plaintiff, for a total
8 of Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00) to Plaintiffs, which, subject to
9 Court approval, will be paid out of the Gross Settlement Amount.

10 **BB. “Settlement Administration Costs”** means all costs incurred by the Settlement
11 Administrator in administration of the Settlement, including, but not limited to, translating the
12 Class Notice to Spanish, distribution of the Class Notice to the Settlement Class in English and
13 Spanish, calculating Individual Settlement Shares, Individual Settlement Payments, Individual
14 PAGA Payments and Participating Individual Settlement Shares, as well as associated taxes and
15 withholdings, providing declarations, generating Individual Settlement Payment checks and
16 related tax reporting forms, doing administrative work related to unclaimed checks, transmitting
17 payment to Class Counsel for the Court-approved amounts for attorneys’ fees and reimbursement
18 of litigation costs and expenses, to Plaintiffs for their Service Awards and to the LWDA for the
19 LWDA Payment, providing weekly reports of opt-outs, objections and related information, and
20 any other actions of the Settlement Administrator as set forth in this Agreement, all pursuant to
21 the terms of this Agreement. The Settlement Administration Costs are estimated not to exceed
22 \$15,000. If the actual amount of the Settlement Administration Costs is less than \$15,000, the
23 difference between \$15,000 and the actual Settlement Administration Costs shall be a part of the
24 Net Settlement Amount. If the Settlement Administration Costs exceed \$15,000, then such excess
25 will be paid solely from the Gross Settlement Amount and Defendant will not be responsible for
26 paying any additional funds in order to pay these additional costs.

1 **CC. “Settlement Administrator”** means the Third-Party Administrator selected by
2 Plaintiffs that will be responsible for the administration of the Settlement including, without
3 limitation, translating the Class Notice in Spanish, distribution of the Individual Settlement
4 Payments to be made by Defendant from the Gross Settlement Amount and related matters under
5 this Agreement.

6 **DD. “Workweeks”** shall be defined based on hire dates, termination dates, and re-hire
7 dates (as applicable). To qualify as a Workweek, a Class Member must have worked at least one
8 day in a week during the Class Period.

9 **2. BACKGROUND**

10 **A.** On July 13, 2022, plaintiff Jennifer Montoya filed with the LWDA and served on
11 defendant FPR II, LLC, dba Leadpoint Business Services (“Defendant”), a notice under Labor
12 Code section 2699.3, stating that she intended to serve as a proxy of the LWDA to recover civil
13 penalties on behalf of Aggrieved Employees for alleged Labor Code violations (the “Montoya
14 PAGA Notice”).

15 **B.** On October 13, 2022, plaintiff Jennifer Montoya filed a putative wage-and-hour
16 class action, captioned *Montoya v. FPR II, LLC, et al.*, in the Santa Clara County Superior Court,
17 Case Number 22CV404499, alleging causes of action against Defendant, for: (1) Violation of
18 California Business and Professions Code §§ 17200, *et seq*; (2) Violation of California Labor
19 Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages); (3) Violation of California Labor
20 Code §§ 510 and 1198 (Unpaid Overtime Wages); (4) Violation of California Labor Code §§
21 226.7 and 512(a) (Unpaid Meal Period Premiums); (5) Violation of California Labor Code §§
22 226.7 and 512(a) (Unpaid Rest Period Premiums); (6) Violation of California Labor Code §
23 226(a) (Failure to Issue Accurate Wage Statements); (7) Violation of California Labor Code §§
24 2800 and 2802 (Unreimbursed Business Expenses); (8) Failure to Provide Wages When Due in
25 Violation of California Labor Code §§ 201-203 (Waiting Time Penalties); and (9) Failure to Pay
26 Sick Wages In Violation of California Labor Code §§201-204, 233 and 246. (the “Montoya
27 Class Action”).
28

1 **C.** On October 18, 2022, plaintiff Juan Manso Gontez filed with the LWDA and
2 served on MarBorg Industries and Leadpoint a notice under Labor Code section 2699.3, stating
3 that he intended to serve as a proxy of the LWDA to recover civil penalties on behalf of
4 Aggrieved Employees for alleged Labor Code violations (the “Gontez PAGA Notice”).

5 **D.** On October 20, 2022, plaintiff Juan Manso Gontez filed a putative wage-and-hour
6 class action, captioned *Gontez v. Marborg Industries, et al.*, in the Santa Barbara Superior Court,
7 Case Number 22CV408517, alleging causes of action against MarBorg Industries and Defendant
8 for: (1) Failure to Pay Overtime Wages; (2) Failure to Pay Minimum Wages; (3) Failure to
9 Provide Meal Periods; (4) Failure to Provide Rest Periods; (5) Waiting Time Penalties; (6) Failure
10 to Timely Furnish Accurate Itemized Wage Statements; (7) Failure to Timely Pay Wages During
11 Employment; (7) Failure to Indemnify Business Expenses; and (8) Unfair Competition and
12 Business Practices. (the “Gontez Class Action”).

13 **E.** On December 16, 2022, after sixty-five (65) days had passed without any action
14 by the LWDA with respect to the alleged Labor Code violations, plaintiff Jennifer Montoya filed
15 a separate representative action under PAGA, captioned *Montoya v. FPR II, LLC, et al.*, in the
16 Santa Clara County Superior Court, Case Number 22CV408517, seeking civil penalties pursuant
17 to Labor Code § 2699, et seq. for Violations of Labor Code §§ 201, 202, 203, 204 *et seq.*, 210,
18 221, 226(a), 226.7, 227.3, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California
19 Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the applicable Wage
20 Order(s).

21 **F.** On December 19, 2022, plaintiff Juan Manso Gontez filed an amended PAGA
22 notice, adding MarBorg Recovery Management, LLC, as respondent (the “Gontez Amended
23 PAGA Notice,” collectively with the Montoya PAGA Notice and the Gontez PAGA Notice, the
24 “PAGA Notices”).

25 **G.** On December 25, 2023, after sixty-five (65) days had passed without any action
26 by the LWDA with respect to the alleged Labor Code violations, plaintiff Juan Manso Gontez
27 filed a separate representative action under PAGA, captioned *Gontez v. Marborg Industries, et*
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1 *al.* in the Superior Court of the State of California for the County of Santa Barbara, Case No.
2 23CV00298, seeking civil penalties under California Labor Code sections 210, 226.3, 558,
3 1174.5, 1197.1 and 2699.

4 **H.** Counsel for plaintiff Jennifer Montoya and counsel for Juan Manso Gontez
5 entered into a joint prosecution agreement.

6 **I.** Thereafter, the Parties agreed to exchange informal discovery and attend an early
7 mediation, in which Plaintiffs were provided with, among other things: (1) time and payroll
8 records for the putative class members; (2) putative class data points, including the number of
9 putative class members from October 13, 2018 through January 17, 2024, the number of
10 Aggrieved Employees from July 12, 2021 through January 17, 2024, Workweeks worked by
11 putative class members from October 13, 2019 through January 17, 2024, Workweeks worked
12 by Aggrieved Employees from January 12, 2021 through January 17, 2024, the total number of
13 Pay Periods from October 13, 2018 through January 17, 2024, and Pay Periods during the PAGA
14 Period; (3) Leadpoint's Talent Handbook; and (4) Plaintiffs' personnel records.

15 **J.** On January 25, 2024, the Parties participated in a full-day mediation with Mark
16 S. Rudy, Esq., a well-regarded mediator, experienced in mediating complex labor and
17 employment matters. With the aid of the mediator's evaluation, the Parties reached the Settlement
18 to resolve the Action. As part of this Agreement, the Parties agree to stipulate to plaintiff Jennifer
19 Montoya's filing of a First Amended Complaint in the Montoya Class Action, adding claims in
20 the Montoya PAGA Action, Gontez Class Action and Gontez PAGA Action as against
21 Leadpoint, and plaintiff Juan Manso Gontez as a named plaintiff, and filing of requests for
22 dismissal without prejudice as to Leadpoint of the Montoya PAGA Action, Gontez Class Action
23 and Gontez PAGA Action, and without prejudice as to MarBorg of the Gontez Class Action and
24 Gontez PAGA Action, within five (5) business days of filing of the First Amended Complaint,
25 thereby effectively consolidating these actions with the Montoya Class Action, for purposes of
26 this Settlement. The First Amended Complaint in the Montoya Class Action is the "Operative
27 Complaint."
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1 **K.** Class Counsel have conducted significant investigation of the law and facts
2 relating to the claims asserted in the Action and the PAGA Notice, and have concluded that the
3 Settlement set forth herein is fair, reasonable, adequate and in the best interests of the Settlement
4 Class, taking into account the sharply contested issues involved, the expense and time necessary
5 to litigate the Action through trial and any appeals, the risks and costs of further litigation of the
6 Action, the risk of an adverse outcome, the uncertainties of complex litigation, the information
7 learned through discovery regarding Plaintiffs' allegations, and the substantial benefits to be
8 received by Settlement Class Members.

9 **L.** Leadpoint and MarBorg expressly deny any liability or wrongdoing of any kind
10 associated with the claims alleged in the Operative Complaint, Actions, and/or PAGA Notices.
11 Defendant and MarBorg further deny all material allegations set forth in Operative Complaint,
12 Actions, and/or PAGA Notices and have asserted numerous affirmative defenses thereto.
13 Leadpoint and MarBorg maintain, among other things, that they have complied with federal and
14 California law in all respects. Nothing in this Settlement Agreement shall be construed or deemed
15 an admission of liability, culpability, negligence, or wrongdoing on the part of the Released
16 Parties. Notwithstanding, Defendant has concluded that, because of the substantial expense of
17 defending against the Action, the length of time necessary to resolve the issues presented herein,
18 the inconvenience involved and the concomitant disruption to its business operations, it is in its
19 best interest to accept the terms of this Agreement. Defendant desires to settle the Actions for the
20 purpose of avoiding the burden, expense and uncertainty of continuing litigation, and for the
21 purpose of putting to rest the controversies engendered by the Action.

22 **M.** This Agreement is intended to and does effectuate the full, final, and complete
23 resolution of all Class Released Claims of Plaintiffs and Participating Class Members, and all
24 PAGA Released Claims of Plaintiffs and, to the extent permitted by law, of the State of California
25 and Aggrieved Employees.

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1 **3. JURISDICTION**

2 The Court has jurisdiction over the Parties and the subject matter of the Actions. The
3 Actions include claims that, if proven, would authorize the Court to grant relief pursuant to the
4 applicable statutes. After the Court has granted Final Approval of the Settlement and entered
5 judgment, the Court shall retain jurisdiction over the Parties to enforce the terms of the judgment
6 pursuant to California Rules of Court, rule 3.769, subdivision (h).

7 **4. STIPULATION OF CLASS CERTIFICATION**

8 The Parties stipulate to the certification of the Settlement Class under this Agreement for
9 purposes of settlement only.

10 **5. AMENDED COMPLAINT, STIPULATIONS, AND MOTIONS FOR**
11 **APPROVAL OF SETTLEMENT**

12 The Parties hereby stipulate to plaintiff Jennifer Montoya’s filing of a First Amended
13 Complaint in the Montoya Class Action to: (1) add all the claims set forth in the Montoya PAGA
14 Action, Gontez Class Action, and Gontez PAGA Action as against Leadpoint; (2) to add plaintiff
15 Juan Manso Gontez as a named plaintiff; and (3) to allow filing of requests for dismissal without
16 prejudice as to Leadpoint of the Montoya PAGA Action, Gontez Class Action and Gontez PAGA
17 Action, and without prejudice as to MarBorg of the Gontez Class Action and Gontez PAGA
18 Action, thereby effectively consolidating these actions with the Montoya Class Action, for
19 purposes of this Settlement.

20 If required, the Parties will mutually stipulate and agree to stay all pending deadlines
21 including but not limited to responses to discovery or depositions or any trial dates, indefinitely.

22 Within 30 days of the full execution of this Agreement, Plaintiffs will move for an order
23 granting preliminary approval of the Settlement, approving and directing the mailing of the
24 proposed Notice of Proposed Class Action Settlement and Date for Final Approval Hearing
25 (“Class Notice”) attached hereto as **Exhibit “A,”** conditionally certifying the Settlement Class
26 for settlement purposes only, and approving the deadlines proposed by the Parties for the
27 submission of Requests for Exclusion, Workweek Disputes and Objections. If and when the
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1 Court preliminarily approves the Settlement, and within 30 days of the administration of the Class
2 Notice in a manner consistent with the Court's Preliminary Approval Order, Plaintiff will move
3 for an order finally approving the Settlement and seek entry of a Judgment in line with this
4 Settlement. The Parties may both respond to any Objections lodged to final approval of the
5 Settlement up to five (5) court days before the Final Approval Hearing.

6 **6. STATEMENT OF NO ADMISSION**

7 Leadpoint and MarBorg deny any wrongdoing of any sort and further deny any liability
8 to Plaintiffs and the Settlement Class with respect to any claims or allegations asserted in the
9 Operative Complaint, the Actions, and the PAGA Notices. This Agreement shall not be deemed
10 an admission by Leadpoint and/or MarBorg of any claims or allegations asserted in the Operative
11 Complaint, the Actions, and/or the PAGA Notices. Except as set forth elsewhere herein, in the
12 event that this Agreement is not approved by the Court or any appellate court, is terminated, or
13 otherwise fails to be enforceable, Plaintiffs will not be deemed to have waived, limited or affected
14 in any way any claims, rights or remedies, or defenses in in the Operative Complaint, the Actions,
15 and/or the PAGA Notices, and Leadpoint and MarBorg will not be deemed to have waived,
16 limited or affected in any way any of their objections or defenses in the Operative Complaint, the
17 Actions, and/or the PAGA Notices. The Parties shall not stipulate to class certification and shall
18 be restored to their respective positions in the Operative Complaint, the Actions, and the PAGA
19 Notices prior to the entry of this Settlement. Payment of wages under this Settlement neither
20 extends nor alters the Class Members' period of employment with Defendant for any purpose.

21 **7. RELEASE OF CLAIMS**

22 **A. Release by All Participating Class Members**

23 Upon the Effective Date and payment by Defendant to the Settlement Administrator of
24 the full Gross Settlement Amount and Employer's Taxes necessary to effectuate the Settlement,
25 Plaintiffs and all Participating Class Members, will release Defendant and the Released Parties
26 from all class claims that occurred during the Class Period that were alleged, or reasonably could
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1 have been alleged based upon the facts alleged in the Operative Complaint, including any
2 attached Exhibits, including the following:

3 (1) Unfair competition in violation of California Business and Professions
4 Code §§ 17200, *et seq.*; failure to pay minimum wages in violation of California Labor Code §§
5 1194, 1197 & 1197.1; failure to pay overtime wages in violation of California Labor Code § 510;
6 failure to provide request meal periods in violation of California Labor Code §§ 226.7 & 512 and
7 the applicable IWC Wage Order; failure to provide request rest periods in violation of California
8 Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order; failure to provide accurate
9 itemized wage statements in violation of California Labor Code § 226; failure to reimburse
10 employees for required expenses in violation of California Labor Code § 2802 (including
11 mandatory safety uniforms, gear required to perform job duties, cell phones, and personal
12 vehicles or mileage reimbursement); failure to provide wages when due in violation of California
13 Labor Code §§ 201, 202 and 203; and failure to pay sick wages in violation of California Labor
14 Code §§201-204, 233, 246;

15 (2) Any claims for injunctive relief, declaratory relief, restitution, fraudulent
16 business practices or punitive damages alleged or which could have been alleged under the facts
17 pleaded in the complaints; and

18 (3) Any and all other claims under California common law, the California
19 Labor Code, including, Lab. Code §§ 210, 221, 226(a), 227.3, 1198, the Fair Labor Standards
20 Act (“FLSA”), California Industrial Welfare Commission Wage Orders, California Code of
21 Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the California Business and
22 Professions Code alleged in or that could have been alleged under the Operative Complaint (the
23 “Released Class Claims”).

24 **B. Release by All Aggrieved Employees**

25 The Aggrieved Employees and, to the extent permitted by law, the State of California,
26 shall release Defendant and the Released Parties, for the defined PAGA Period, from all claims
27 for PAGA civil penalties, attorneys’ fees, claims for interest, or costs pursuant to the PAGA, for
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1 any violations that were alleged, or reasonably could have been alleged in the Operative
2 Complaint and/or the PAGA Notices, including, Labor Code §§ 201, 202, 203, 204, 210, 221,
3 226(a), 226.3, 226.7, 227.3, 246 et seq., 510, 512, 558, 558(a)(1)(2), 1174.5, 1194, 1197, 1197.1,
4 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and
5 the applicable Wage Order(s), or premiums in connection with any of the preceding claims, as
6 well as any claims under the California Labor Code, California Industrial Welfare Commission's
7 Wage Orders, or the California Code of Regulations, based upon the facts that were alleged in
8 the PAGA Notices and Operative Complaint (the "Released PAGA Claims"). The Released Class
9 Claims and the Released PAGA Claims are hereinafter referred to as the "Released Claims."

10 **C. Mutual Release**

11 Plaintiffs and Defendant, and each of them, waive any and all claims for fees, costs,
12 indemnity or contribution against Plaintiffs, any Class Member, Class Counsel in the Actions,
13 Defendant, Defendant's Counsel, MarBorg, or MarBorg's Counsel in the Actions other than as
14 provided herein.

15 **D. Claims Not Released**

16 The Released Claims by Class Members and Aggrieved Employees set forth herein
17 exclude any and all claims asserted against MarBorg stemming solely from their direct
18 employment by MarBorg during the Class Period and/or the PAGA Period (to the extent Class
19 Members and/or Aggrieved Employees may attempt to allege any claim under a theory of joint
20 employment between the Released Parties, those claims have been expressly released as a
21 material term and condition of this Agreement) and all other claims for vested benefits, wrongful
22 termination, violation of the Fair Employment and Housing Act, unemployment insurance,
23 disability, social security, workers' compensation, and any other claims outside of the Class
24 Released Claims of Participating Class Members arising during the Class Period and the PAGA
25 Released Claims of Aggrieved Employees (and, to the extent permitted by law, the State of
26 California) arising outside of the PAGA Period.

1 **E. General Release**

2 Upon the Effective Date and payment by Defendant to the Settlement Administrator
3 selected of the full Gross Settlement Amount and Employer's Taxes necessary to effectuate the
4 Settlement, in addition to the Released Claims, Plaintiffs make the additional following General
5 Release: Plaintiffs and their respective former and present spouses, representatives, agents,
6 attorneys, heirs, administrators, successors, and assigns generally, release and discharge the
7 Released Parties from all claims, demands, rights, liabilities, transactions, occurrences, and
8 causes of action of every nature and description whatsoever, known or unknown, asserted or that
9 might have been asserted, whether in tort, contract, or for violation of any state or federal statute,
10 rule, law or regulation arising out of, relating to, or in connection with any act or omission of the
11 Released Parties through the date of full execution of this Agreement in connection with
12 Plaintiffs' employment with Defendant or termination thereof, except for any and all other claims
13 that may not be released as a matter of law through this Agreement. To the extent of the General
14 Release provided herein, Plaintiffs stipulate and agree that, upon the Effective Date and payment
15 by Defendant to the Settlement Administrator selected of the full Gross Settlement Amount and
16 Employer's Taxes necessary to effectuate the Settlement, Plaintiffs expressly waive and
17 relinquish, to the fullest extent permitted by law, all rights and benefits afforded to them by
18 Section 1542 of the California Civil Code and do so understanding and acknowledging the
19 significance of the waiver of Section 1542, or any other similar provision under federal or state
20 law, which states:

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

28 **8. SETTLEMENT ADMINISTRATOR**

A. Plaintiff, through Class Counsel, has selected ILYM Group to administer the
Settlement, which includes, but is not limited to, translating the Class Notice to Spanish,

1 distributing, and responding to inquiries about the Class Notice, and calculating all amounts to
2 be paid from the Gross Settlement Amount. Charges and expenses of the Settlement
3 Administrator, currently estimated to be \$15,000, will be paid from the Gross Settlement
4 Amount. If the actual amount of the Settlement Administration Costs is less than \$15,000, the
5 difference between \$15,000 and the actual Settlement Administration Costs shall be a part of the
6 Net Settlement Amount. If the Settlement Administration Costs exceed \$15,000, then such excess
7 will be paid solely from the Gross Settlement Amount and Defendant will not be responsible for
8 paying any additional funds in order to pay these additional costs.

9 **9. NOTICE, WORKWEEK DISPUTE, OBJECTION AND EXCLUSION**
10 **PROCESS**

11 **A. Notice to the Settlement Class Members**

12 (1) Within ten (10) calendar days after the Preliminary Approval Date,
13 Defendant's Counsel shall provide the Settlement Administrator with information with respect
14 to each Settlement Class Member, including his or her: (1) name; (2) last known address(es)
15 currently in Defendant's possession, custody or control; (3) last known telephone number(s)
16 currently in Defendant's possession, custody or control; (4) last known Social Security
17 Number(s) in Defendant's possession, custody or control; and (5) the dates of employment, *i.e.*,
18 hire dates and, if applicable, re-hire date(s) and/or separation date(s)) for each Settlement Class
19 Member ("Class List"). The Settlement Administrator shall perform an address search using the
20 United States Postal Service National Change of Address ("NCOA") database and update the
21 addresses contained on the Class List with the newly found addresses, if any. Within seven (7)
22 calendar days or soon thereafter of receiving the Class List from Defendant, the Settlement
23 Administrator shall mail the Class Notice in English and Spanish to the Settlement Class
24 Members via first-class regular U.S. Mail using the most current mailing address information
25 available. The Settlement Administrator shall maintain the Class List and digital copies of all the
26 Settlement Administrator's records evidencing the giving of notice to any Settlement Class
27 Member for at least four (4) years from the Final Approval Date.

(2) The Class Notice will set forth:

- (a) the Settlement Class Member's estimated Individual Settlement Payment and Individual PAGA Payment, and the basis for each;
 - (b) the information required by California Rules of Court, rule 3.766, subdivision (d);
 - (c) the material terms of the Settlement;
 - (d) the proposed Settlement Administration Costs;
 - (e) the definition of the Settlement Class;
 - (f) a statement that the Court has preliminarily approved the Settlement;
 - (g) how the Settlement Class Member can obtain additional information, including contact information for Class Counsel;
 - (h) information regarding opt-out and objection procedures;
 - (i) the date and location of the Final Approval Hearing; and
 - (j) that the Settlement Class Member must notify the Settlement Administrator no later than the Response Deadline if the Settlement Class Member disputes the accuracy of the number of Workweeks worked as set forth on his or her Class Notice ("Workweek Dispute").
- If a Settlement Class Member fails to timely dispute the number of Workweeks attributed to him or her in conformity with the instructions in the Class Notice, then he or she shall be deemed to have waived any objection to its accuracy and any claim to any additional settlement payment based on different data.

(3) If a Class Notice from the initial notice mailing is returned as undeliverable, the Settlement Administrator will attempt to obtain a current address for the Settlement Class Member to whom the returned Class Notice had been mailed, within five (5) calendar days of receipt of the returned Class Notice, by: (1) contacting the Settlement Class Member by phone, if possible, and (2) undertaking skip tracing. If the Settlement Administrator

1 is successful in obtaining a new address, it will re-mail the Class Notice to the Settlement Class
2 Member within three (3) business days. Further, any Class Notices that are returned to the
3 Settlement Administrator with a forwarding address before the Response Deadline shall be
4 promptly re-mailed to the forwarding address affixed thereto.

5 (4) No later than seven (7) calendar days from the Response Deadline, the
6 Settlement Administrator shall provide counsel for the Parties with a declaration attesting to the
7 completion of the notice process, including the number of attempts to obtain valid mailing
8 addresses for and re-sending of any returned Class Notices, as well as the identities,² number of,
9 and copies of all Requests for Exclusion and Objections received by the Settlement
10 Administrator.

11 **B. Objections**

12 Only Participating Class Members may object to the Settlement. In order for any
13 Settlement Class Member to object to this Settlement in writing, or any term of it, he or she must
14 do so by mailing a written objection to the Settlement Administrator at the address provided on
15 the Class Notice no later than the Response Deadline. The Settlement Administrator shall email
16 a copy of the Objection forthwith to Class Counsel and Defendant's Counsel and attach copies
17 of all Objections to the Declaration it provides Class Counsel, which Class Counsel shall file in
18 support of Plaintiff's Motion for Final Approval. The Objection should set forth in writing: (1)
19 the Objector's name; (2) the Objector's address; (3) the last four digits of the Objector's Social
20 Security Number; (4) the Objector's signature; (5) a statement of whether the Objector plans to
21 appear at the Final Approval Hearing; and (6) the reason(s) for the Objection, along with
22 whatever legal authority, if any, the Objector asserts in support of the Objection. If a Settlement
23 Class Member objects to the Settlement, the Settlement Class Member will remain a member of
24

25 ² The identities of the Settlement Class Member(s) who request an exclusion from and/or opt of
26 the settlement will be used exclusively by the Parties to notify the Court of potential objectors at
27 any hearing for Final Approval and to identify the individuals excluded from the Class. Class
28 Counsel represents that it will not use the information to seek to represent, discuss, or refer any
of these individuals in conjunction with filing a potential lawsuit against any of the Released
Parties on the Class Released Claims and/or PAGA Released Claims.

1 the Settlement Class and if the Court approves this Agreement, the Settlement Class Member
2 will be bound by the terms of the Settlement in the same way and to the same extent as a
3 Settlement Class Member who does not object. The date of mailing of the Class Notice to the
4 objecting Settlement Class Member shall be conclusively determined according to the records of
5 the Settlement Administrator. Settlement Class Members need not object in writing to be heard
6 at the Final Approval Hearing; they may object or comment in person at the hearing at their own
7 expense. Class Counsel and Defendant's Counsel may respond to any objection lodged with the
8 Court up to five (5) court days before the Final Approval Hearing.

9 **C. Requesting Exclusion**

10 Any Settlement Class Member may request exclusion from (*i.e.*, "opt out" of) the
11 Settlement by mailing a written request to be excluded from the Settlement ("Request for
12 Exclusion") to the Settlement Administrator, postmarked on or before the Response Deadline.
13 To be valid, a Request for Exclusion must include: (1) the Class Member's name; (2) the last
14 four (4) digits of the Class Member's Social Security Number; (3) the Class Member's signature;
15 and (4) the following statement: "Please exclude me from the Settlement Class in the *Montoya*
16 *v. FPR II, LLC, et al.*, matter," or any statement of similar meaning standing for the proposition
17 that the Class Member does not wish to participate in the Settlement. The Settlement
18 Administrator shall immediately report the Requests for Exclusions that it receives, to the Court,
19 in its declaration to be provided in advance of the Final Approval Hearing. Any Settlement Class
20 Member who requests exclusion using this procedure will not be entitled to receive any payment
21 from the Settlement and will not be bound by the Settlement Agreement or have any right to
22 object to, appeal, or comment on the Settlement. Any Settlement Class Member who does not
23 opt out of the Settlement by submitting a timely and valid Request for Exclusion will be bound
24 by all terms of the Settlement, including those pertaining to the Released Claims, as well as any
25 Judgment that may be entered by the Court if Final Approval of the Settlement is granted.

26 In addition, to the extent required by law, the cashing of the settlement check by a
27 Settlement Class Member shall be deemed to be an opt-in for purposes of releasing the Released
28

Parties from any claims predicated under the Fair Labor Standards Act (“FLSA”) pursuant to *Rangel v. Check Cashers*, 899 F.3d 1106 (9th Cir. 2018) that could have been alleged under the same or similar facts, allegations and/or claims pleaded in the Operative Complaint, Actions, and PAGA Notices. The Settlement Administrator shall include a legend on the settlement check, stating: “By cashing this check, I am opting into the settlement in *Jennifer Montoya v. FPR II, LLC, et al.*, Santa Clara County Superior Court, Case Number 22CV404499, under the Fair Labor Standards Act, 29 U.S.C. § 216(b), and releasing the Released Claims described in the Settlement Agreement.” A Settlement Class Member cannot submit both a Request for Exclusion and an objection. If a Settlement Class Member submits an Objection and a Request for Exclusion, the Request for Exclusion will control, and the Objection will be overruled. Settlement Class Members who worked during the PAGA Period as Aggrieved Employees that submit a valid Request for Exclusion will still be deemed Aggrieved Employees, will still receive their Individual PAGA Payments, and will be bound by the release of the PAGA Released Claims.

D. Disputes Regarding Settlement Class Members’ Workweek Data

Each Settlement Class Member may dispute the number of Workweeks attributed to him or her on his or her Class Notice (“Workweek Dispute”). Any such disputes must be mailed to the Settlement Administrator by the Settlement Class Member, postmarked on or before the Response Deadline. The Settlement Administrator shall immediately provide copies of all disputes to Defense Counsel and shall immediately attempt to resolve all such disputes directly with relevant Settlement Class Member(s) with the assistance of Defense Counsel. If the dispute cannot be resolved in this manner, the Court shall adjudicate the dispute.

10. INDIVIDUAL SETTLEMENT PAYMENTS AND INDIVIDUAL PAGA PAYMENTS

Individual Settlement Payments will be calculated and distributed to Participating Class Members from the Net Settlement Amount on a *pro rata* basis, based on the Participating Class Members’ respective number of Workweeks worked during the Class Period. Individual PAGA Payments to Aggrieved Employees will be calculated and distributed to Aggrieved Employees

1 from the PAGA Payment on a *pro rata* basis based on Aggrieved Employees' respective
2 number of Pay Periods worked during the PAGA Period. Specific calculations of the Individual
3 Settlement Shares and Individual PAGA Payments to Aggrieved Employees will be made as
4 follows:

5 **A.** The Settlement Administrator will determine the total number of Workweeks
6 worked by each Settlement Class Member during the Class Period ("Class Member's
7 Workweeks"), as well as the aggregate number of Workweeks worked by all Settlement Class
8 Members during the Class Period ("Class Workweeks"). Additionally, the Settlement
9 Administrator will determine the total number of Pay Periods worked by each Aggrieved
10 Employee during the PAGA Period ("Aggrieved Employee's Pay Periods"), as well as the
11 aggregate number of Pay Periods worked by all Aggrieved Employees during the PAGA Period
12 ("PAGA Pay Periods").

13 **B.** To determine each Participating Class Member's Participating Individual
14 Settlement Share, the Settlement Administrator will determine the aggregate number of
15 Workweeks worked by all Participating Class Members during the Class Period ("Participating
16 Class Workweeks") and use the following formula: Individual Settlement Share =
17 (Participating Class Member's Workweeks worked ÷ Participating Class Workweeks) × Net
18 Settlement Amount.

19 **C.** The net amount of the Participating Individual Settlement Share is to be paid out
20 to Participating Class Members by way of check and is referred to as "Individual Settlement
21 Payment(s)".

22 **D.** To determine each Aggrieved Employee's Individual PAGA Payment, the
23 Settlement Administrator will use the following formula: Aggrieved Employee's Individual
24 PAGA Payment = (Aggrieved Employee's PAGA Pay Periods worked ÷ PAGA Pay Periods)
25 x \$18,750.00 (the PAGA Payment).

26 **E.** Individual Settlement Payments and Individual PAGA Payments shall be paid
27 to Participating Class Members and/or Aggrieved Employees by way of check. When a
28

1 Participating Class Member is also an Aggrieved Employee, one check may be issued that
2 aggregates both the Individual Settlement Payment and the Individual PAGA Payment.

3 **11. DISTRIBUTION OF PAYMENTS**

4 **A. Distribution of Individual Settlement Payments**

5 Participating Class Members will receive an Individual Settlement Payment. Individual
6 Settlement Payment checks shall remain valid and negotiable for one hundred eighty (180)
7 calendar days after the date of their issuance. Thereafter, checks for such payments shall be
8 canceled and funds associated with such checks shall be considered unpaid, unclaimed, or
9 abandoned cash residue pursuant to Code of Civil Procedure section 384 (“Unpaid Residue”).
10 The Unpaid Residue plus accrued interest, if any, as provided in Code of Civil Procedure section
11 384, shall be transmitted as follows: Child Advocates of Silicon Valley, the *cy pres* recipient,
12 509 Valley Way, Building 2, Milpitas, CA 95035, for use in Santa Clara County. The Settlement
13 Administrator shall prepare a report regarding the distribution plan pursuant to Code of Civil
14 Procedure section 384 and the report shall be presented to the Court by Class Counsel along with
15 a proposed amended judgment that is consistent with the provisions of Code of Civil Procedure
16 section 384.

17 **B. Funding of Settlement**

18 Defendant shall, within fourteen (14) calendar days of the Effective Date, make payment
19 of the Gross Settlement Amount (as the same may be increased pursuant to Paragraph 17 of this
20 Agreement) and Employer Taxes to the Settlement Administrator pursuant to Internal Revenue
21 Code section 1.468B-1 for deposit in an interest-bearing qualified settlement account (“QSA”)
22 with an FDIC insured banking institution, for distribution in accordance with this Agreement and
23 the Court’s Orders, and subject to the conditions described herein. The Participating Class
24 Members hereby agree that Leadpoint shall be solely responsible for remittance of the Gross
25 Settlement Amount and Employer Taxes and hereby waive, release and forever discharge
26 MarBorg from any and all claims, demands or actions for contribution relating to any unpaid
27 portion of the Gross Settlement Amount, and agree not to seek recovery from MarBorg for such
28

unpaid amounts.

C. Time for Distribution

Within seven (7) calendar days after payment of the full Gross Settlement Amount and Employer Taxes by Defendant, or as soon thereafter as practicable, the Settlement Administrator shall distribute all payments due from the QSA for: (1) the Service Award to Plaintiff, as specified in this Agreement and approved by the Court; (2) the Attorneys' Fees and Costs Award to be paid to Class Counsel, as specified in this Agreement and approved by the Court; (3) the Settlement Administrator Costs, as specified in this Agreement and approved the Court; (4) the LWDA Payment, as specified in this Agreement and approved by the Court; (5) Individual PAGA Payments to Aggrieved Employees, as specified in this Agreement and approved by the Court; and (6) Individual Settlement Payments to Participating Class Members, less applicable taxes and withholdings, as specified in this Agreement and approved by the Court. All interest accrued shall be for the benefit of the Class Members and distributed on a *pro rata* basis to Participating Class Members based on the number of Workweeks worked by them in the Class Period.

12. ATTORNEYS' FEES AND LITIGATION COSTS

Class Counsel shall apply for, and Defendant shall not oppose, an award of attorneys' fees of up to one-third (1/3) of the Gross Settlement Amount, which, unless escalated pursuant to Paragraph 17 of this Agreement, amounts to Five Hundred Thousand Dollars and Zero Cents (\$500,000.00). The fee split between BLG and BNBD is 40% of fees awarded to BLG and 60% to BNBD. All Plaintiffs consented to the fee split pursuant to rule 1.5.1 of the California Rules of Professional Conduct. Class Counsel shall further apply for, and Defendant shall not oppose, an application or motion by Class Counsel for reimbursement of actual costs associated with Class Counsel's prosecution of this matter as set forth by declaration testimony in an amount up to Fifty Thousand Dollars and Zero Cents (\$50,000.00), subject to proof. Awards of attorneys' fees and costs shall be paid out of the Gross Settlement Amount, for all past and future attorneys' fees and costs necessary to prosecute, settle and obtain Final Approval of the settlement in

1 Action. The “future” aspect of the amounts stated herein includes, without limitation, all time
2 and expenses expended by Class Counsel (including any appeals therein). There will be no
3 additional charge of any kind to either the Settlement Class Members or request for additional
4 consideration from Defendant for such work unless, Defendant materially breach this Agreement,
5 including any term regarding funding, and further efforts are necessary from Class Counsel to
6 remedy said breach, including, without limitation, moving the Court to enforce the Agreement,
7 subject to proof. Should the Court approve attorneys’ fees and/or litigation costs and expenses in
8 amounts that are less than the amounts provided for herein, then the unapproved portion(s) shall
9 be a part of the Net Settlement Amount.

10 **13. SERVICE AWARDS TO PLAINTIFFS**

11 Named Plaintiffs shall seek, and Defendant shall not oppose, Service Award in an amount
12 not to exceed Twelve Thousand Five Hundred Dollars and Zero Cents (\$12,500.00) to each
13 plaintiff, for a total of Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00) to Plaintiffs,
14 for their participation in and assistance with the Action. Any Service Awards and additional
15 consideration awarded and/or paid to Plaintiffs shall be paid from the Gross Settlement Amount
16 and shall be reported on an IRS Form 1099. If the Court approves the Service Awards in less
17 than the amounts sought herein, then the unapproved portion(s) shall be a part of the Net
18 Settlement Amount. Any determination by the Court of a lesser Service Aware shall not void this
19 Agreement.

20 **14. TAXATION AND ALLOCATION**

21 a. Each Individual Settlement Share shall be allocated as follows: 20% as wages (to
22 be reported on an IRS Form W2); and 80% as interest and penalties (to be reported on an IRS
23 Form 1099). Each Individual PAGA Payment shall be allocated entirely as penalties and reported
24 IRS Form 1099. The Parties agree that the employees’ share of taxes and withholdings with
25 respect to the wage portion of the Individual Settlement Share will be withheld from the
26 Individual Settlement Share in order to yield the Individual Settlement Payment.

1 b. Forms W-2 and/or Forms 1099 will be distributed by the Settlement
2 Administrator at times and in the manner required by the Internal Revenue Code of 1986 (the
3 “Code”) and consistent with this Agreement. If the Code, the regulations promulgated
4 thereunder, or other applicable tax law, is changed after the date of this Agreement, the processes
5 set forth in this Section may be modified in a manner to bring Defendant into compliance with
6 any such changes.

7 c. All Employer Taxes shall be paid by Defendant separate, apart, and in addition to
8 the Gross Settlement Amount. Defendant shall remain liable to pay the employer’s share of
9 payroll taxes as described above.

10 d. Neither Counsel for Plaintiffs nor Defendant intend anything contained in this
11 Agreement to constitute advice regarding taxes or taxability, nor shall anything in this Agreement
12 be relied upon as such within the meaning of United States Treasury Department Circular 230
13 (31 C.F.R. Part 10, as amended) or otherwise.

14 **15. PRIVATE ATTORNEYS GENERAL ACT ALLOCATION**

15 The Parties agree to allocate Seventy-Five Thousand Dollars and Zero Cents (\$75,000.00)
16 of the Gross Settlement Amount toward PAGA penalties. Pursuant to the PAGA, seventy-five
17 percent (75%) of the amount allocated toward PAGA penalties (\$56,250.00) will be paid to the
18 LWDA and twenty-five percent (25%) or \$18,750.00 will be distributed to Aggrieved Employees
19 on a *pro rata* basis based upon their respective Pay Periods worked as Aggrieved Employees
20 during the PAGA Period.

21 **16. COURT APPROVAL**

22 This Agreement is contingent upon an order by the Court granting Final Approval of the
23 Settlement, and that the LWDA does not intervene and object to the Settlement. Plaintiffs or
24 Defendant may terminate this Settlement if after submitting the settlement for approval to the
25 Court, any Court declines to enter the preliminary approval order (despite best efforts by the
26 Parties to resolve the Court’s concerns), the final approval order, or judgment in substantially the
27 form submitted by the Parties, or if an appeal opposing the judgment is not ultimately dismissed.

1 The terminating Party shall give to the other Party (through its/their counsel) written notice of its
2 decision to terminate no later than fourteen (14) calendar days after receiving notice that one of
3 the enumerated events has occurred. Termination shall have the following effects:

4 **A.** The Settlement Agreement shall be terminated and shall have no force or effect,
5 and no Party shall be bound by any of its terms.

6 **B.** In the event the Settlement Agreement is terminated, Defendant shall have no
7 obligation to make any payments to any party, Class Member, or counsel, and the Gross
8 Settlement Amount in its entirety in the escrow account shall revert to Defendant. If there are
9 any fees incurred by the Settlement Administrator and the settlement is terminated by Defendant,
10 Defendant shall solely be responsible for any costs and fees incurred by the Settlement
11 Administrator.

12 **C.** The preliminary approval order, final approval order, and judgment shall be
13 vacated.

14 **D.** The Settlement and all negotiations, statements and proceedings relating to same
15 shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their
16 respective positions prior to the Settlement.

17 **E.** Except as otherwise discoverable, this Agreement nor any ancillary documents,
18 actions, statements, or filings in furtherance of settlement (including all matters associated with
19 the mediation) shall be admissible or offered into evidence in the Actions or any other action for
20 any purpose whatsoever.

21 If this Settlement Agreement is voided, not approved by the Court or approval is reversed
22 on appeal, it shall have no force or effect and no Party shall be bound by its terms except to the
23 extent: (a) the Court reserves any authority to issue any appropriate orders when denying
24 approval; and/or (b) there are any terms and conditions in this Settlement Agreement specifically
25 stated to survive the Settlement Agreement being voided or not approved, and which control in
26 such an event.

1 **17. INCREASE IN WORKWEEKS**

2 Defendant represents that there are no more than 58,000 Workweeks worked by Class
3 Members during the Class Period. In the event the number of Workweeks worked by Class
4 Members during the Class Period increases by more than 5% or 2,900 Workweeks, Defendant,
5 at its option, can choose to: (1) cut off the end date for the Class Period as of the date on which
6 the number of Workweeks reaches 58,000; or (2) increase the Gross Settlement Amount
7 proportionally by the Workweeks in excess of 58,000 multiplied by the Workweek Value. The
8 Workweek Value shall be calculated by dividing the originally agreed-upon Gross Settlement
9 Amount (\$1,500,000.00) by 58,000. The Parties agree that the Workweek Value and the
10 settlement amounts to \$25.86 per Workweek (\$1,500,000 / 58,000 Workweeks). Thus, for
11 example, should there be 61,000 Workweeks worked by Class Members during the Class Period
12 and Defendant chooses the second option, then the Gross Settlement Amount shall be increased
13 by \$77,580 ((61,000 Workweeks – 58,000 Workweeks) x \$25.86/Workweek).

14 **18. DEFENDANT’S RIGHT TO WITHDRAW**

15 If 5% or more of the Class Members timely opt out of the Settlement, Defendant may,
16 but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant
17 withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that
18 neither Party will have any further obligation to perform under this Agreement, provided
19 Defendant will remain responsible for paying all Settlement Administration Expenses incurred
20 to that point. Defendant must notify Class Counsel of its election to withdraw not later than
21 fifteen (15) calendar days after the Administrator sends the final Exclusion List to Defense
22 Counsel.

23 **19. NOTICE OF JUDGMENT**

24 In addition to any duties set out herein, the Settlement Administrator shall provide
25 notice of the Final Judgment entered in the Action by posting the same on its website for a
26 period of no less than four (4) years.

1 **20. MISCELLANEOUS PROVISIONS**

2 **A. Interpretation of the Agreement**

3 This Agreement constitutes the entire agreement between the Parties with respect to its
4 subject matter. Except as expressly provided herein, this Agreement has not been executed in
5 reliance upon any other written or oral representations or terms, and no such extrinsic oral or
6 written representations or terms shall modify, vary, or contradict its terms. In entering into this
7 Agreement, the Parties agree that this Agreement is to be construed according to its terms and
8 may not be varied or contradicted by extrinsic evidence. The Agreement will be interpreted and
9 enforced under the laws of the State of California, both in its procedural and substantive aspects,
10 without regard to its conflict of law provisions. Any claim arising out of or relating to the
11 Agreement, or the subject matter hereof, will be resolved solely and exclusively in the Superior
12 Court of the State of California for the County of Santa Clara, and Plaintiffs and Defendant
13 hereby consent to the personal jurisdiction of the Court in the Action over it solely in connection
14 therewith. The foregoing is only limited to disputes concerning this Agreement. The Parties, and
15 each of them, participated in the negotiation and drafting of this Agreement had available to them
16 the advice and assistance of independent counsel. As such, neither Plaintiffs nor Defendant may
17 claim that any ambiguity in this Agreement should be construed against the other. The Agreement
18 may be modified only by a writing signed by counsel for the Parties and approved by the Court.

19 **B. Further Cooperation**

20 The Parties and their respective attorneys shall proceed diligently to prepare and execute
21 all documents, to seek the necessary approvals from the Court, and to do all things reasonably
22 necessary to consummate the Settlement as expeditiously as possible. The Parties agree that they
23 will not take any action inconsistent with this Agreement, including, without limitation,
24 encouraging Class Members to opt out of the Settlement. In the event the Court finds that any
25 Party has taken actions inconsistent with the Settlement, including, without limitation,
26 encouraging Class Members to opt out of the Settlement, the Court may take any corrective
27 actions, including enjoining any Party from communicating regarding the Settlement on an ex
28

1 *parte* basis, issuing (a) corrective notice(s), awarding monetary, issue, evidentiary and/or
2 terminating sanctions against that Party, and/or enforcing this Agreement despite the presence of
3 opt-outs and/or objections.

4 **C. Confidentiality**

5 Plaintiffs and Class Counsel will not make any public disclosure of the Settlement
6 until after the filing of the motions for preliminary approval of the Settlement. Plaintiffs and
7 Class Counsel represent that they have not made any such disclosure. Class Counsel will take all
8 steps necessary to ensure that Plaintiffs are aware of, and will encourage them to adhere to, the
9 restriction against any public disclosure of the Settlement until after the Settlement is
10 preliminarily approved by the Court. After preliminary approval, Class Counsel and Plaintiffs
11 agree not to publicize the terms of this Settlement with the media, including but not limited to,
12 any newspaper, journal, magazine, website and/or online reporter of settlements or on any
13 website.

14 **D. Counterparts**

15 The Agreement may be executed in one or more actual or non-original counterparts, all
16 of which will be considered one and the same instrument and all of which will be considered
17 duplicate originals.

18 **E. Authority**

19 Each individual signing below warrants that he or she has the authority to execute this
20 Agreement on behalf of the Party for whom or which that individual signs.

21 **F. No Third-Party Beneficiaries**

22 Plaintiffs, Participating Class Members, Aggrieved Employees, the State of California,
23 Class Counsel, and the Released Parties are direct beneficiaries of this Agreement, but there are
24 no third-party beneficiaries.

25 **G. Deadlines Falling on Weekends or Holidays**

26 To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday,
27 or legal holiday, that deadline shall be continued until the following business day.

1 **H. Jurisdiction of the Court**

2 Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain
3 jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of
4 this Settlement Agreement and all orders and judgments entered in connection therewith, and the
5 Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting,
6 implementing, and enforcing the settlement embodied in this Settlement Agreement and all orders
7 and judgments entered in connection therewith.

8 **I. Severability**

9 In the event that one or more of the provisions contained in this Agreement shall for any
10 reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or
11 unenforceability shall in no way affect any other provision if Defendant's Counsel and Class
12 Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed
13 as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

14
15 **IT IS SO AGREED:**

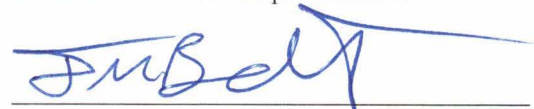
16
17 Dated: _____, 2024

JENNIFER MONTOYA
Plaintiff and Class Representative

18
19
20 Dated: _____, 2024

JUAN MANSO GONTEZ
Plaintiff and Class Representative

21
22
23 Dated: June 19, 2024



FPR II, LLC, dba LEADPOINT BUSINESS
SERVICES
Defendant
By: Dan Behrendt
Its: CFO

1 **H. Jurisdiction of the Court**

2 Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain
3 jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of
4 this Settlement Agreement and all orders and judgments entered in connection therewith, and the
5 Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting,
6 implementing, and enforcing the settlement embodied in this Settlement Agreement and all orders
7 and judgments entered in connection therewith.

8 **I. Severability**

9 In the event that one or more of the provisions contained in this Agreement shall for any
10 reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or
11 unenforceability shall in no way affect any other provision if Defendant's Counsel and Class
12 Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed
13 as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

14
15 **IT IS SO AGREED:**

16 Dated: 06-13, 2024

Jennifer Montoya
JENNIFER MONTOYA
Plaintiff and Class Representative

18
19
20 Dated: _____, 2024

JUAN MANSO GONTEZ
Plaintiff and Class Representative

21
22
23 Dated: _____, 2024

FPR II, LLC, dba LEADPOINT BUSINESS
SERVICES
Defendant
By: _____
Its: _____

H. Jurisdiction of the Court

Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Settlement Agreement and all orders and judgments entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the settlement embodied in this Settlement Agreement and all orders and judgments entered in connection therewith.

I. Severability

In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way affect any other provision if Defendant’s Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

IT IS SO AGREED:

Dated: _____, 2024

JENNIFER MONTOYA
Plaintiff and Class Representative

Dated: 06/17 _____, 2024



Juan Manso (Jun 17, 2024 11:29 PDT)

JUAN MANSO GONTEZ
Plaintiff and Class Representative

Dated: _____, 2024

FPR II, LLC, dba LEADPOINT BUSINESS
SERVICES
Defendant
By: _____
Its: _____

1 **AGREED AS TO FORM:**

2
3 Dated: June 19, 2024



Kyle Nordrehaug
APARAJIT BHOWMIK
NICHOLAS J. BLOUW

4
5
6
7
8
9 Dated: , 2024



DAVID D. BIBIYAN
VEDANG J. PATEL
BRANDON M. CHANG

Counsel for Plaintiff JENNIFER MONTOYA
and JUAN MANSO GONTEZ

10
11
12
13
14 Dated: June 21, 2024



CHAD D. GREESON
NICHOLAS A. GIOIELLO

Counsel for Defendant FPR II, LLC, dba
LEADPOINT BUSINESS SERVICES

EXHIBIT “A”

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT, YOUR RIGHTS, AND DATE
FOR FINAL APPROVAL HEARING**
Montoya. v. FPR II, L.L.C., et al.
(County of Santa Clara, California Superior Court Case No. 22CV404499)

As a current or former non-exempt, hourly-paid employee of FPR II, L.L.C., dba Leadpoint Business Services, in the State of California, you are entitled to receive money from a class action settlement.

PLEASE READ THIS NOTICE CAREFULLY

You have received this Notice of Class Action Settlement (“Notice”) because the records of FPR II, L.L.C., dba Leadpoint Business Services, (“Leadpoint” or “Defendant”) show that you are a “Class Member” and, therefore, are entitled to payment from this class action settlement. “Class Members” are all persons currently or formerly employed by Leadpoint as nonexempt, hourly-paid employees during the period from October 13, 2018, through January 25, 2024 (“Class Period”) in the State of California. “Class Members” does not include any current or former employees directly hired by MarBorg Industries, Inc. and/or MarBorg Recovery Management, LLC (collectively, “MarBorg”) during the period from October 13, 2018, through January 25, 2024, except to the extent any “Class Members” may claim liability under a theory of joint employment.

As a “Class Member” you have a right to know about a proposed settlement of a class action lawsuit, and about all your options before the Court decides whether to finally approve the settlement. If the Court approves the settlement and then any objections and appeals are resolved, a “Settlement Administrator” appointed by the Court will make the payments described in this Notice. This Notice explains the Lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them and how to get them.

Jennifer Montoya and Juan Manso Gontez were non-exempt, hourly-paid employees of Leadpoint. They are the “Plaintiffs” in this class action lawsuit, *Montoya v. FPR II, LLC, et al.*, filed in Santa Clara County Superior Court, Civil Case Number 22CV404499 (the “Lawsuit”), alleging, among other things, claims for: (1) Unfair Competition in Violation of Cal. Bus. & Prof. Code § 17200, *et seq.*; (2) Failure to Pay Minimum Wages in Violation of Cal. Lab. Code §§ 1194, 1197, 1197.1 and the Applicable IWC Wage Order; (3) Failure to Pay Overtime Wages in Violation of Cal. Lab. Code §§ 510, 1194, 119 and the Applicable IWC Wage Order; (4) Failure to Provide Required Meal Periods in Violation of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order; (5) Failure to Provide Required Rest Breaks in Violation of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order; (6) Failure to Provide Accurate Itemized Statements in Violation of Cal. Lab. Code § 226 and the Applicable IWC Wage Order; (7) Failure to Reimburse Employees for Required Expenses in Violation of Cal. Lab. Code § 2802; (8) Failure to Provide Wages When Due in Violation of Cal. Lab. Code §§ 201, 202, 203, 204 and the Applicable IWC Wage Order; (9) Failure to Pay Sick Wages in Violation of Cal. Lab. Code §§ 201-204, 233, 246; (10) Waiting Time Penalties in Violation of Cal. Lab. Code §§ 201, 202, 203 and the Applicable IWC Wage Order; (11) Failure to Timely Pay Wages in Violation of Cal. Lab. Code § 204 and the Applicable IWC Wage Order; and (12) Violation of the Private Attorneys General Act (“PAGA”) [Cal. Lab. Code § 2698, *et seq.*].

Santa Clara County Superior Court granted preliminary approval the proposed Settlement and this Notice. The Court has not made any determination of the validity of the claims in the Lawsuit. Leadpoint expressly denies any liability or wrongdoing of any kind associated with this Lawsuit and further denies all material allegations set forth in the Lawsuit. Leadpoint contends that it has complied with Federal and California law in all respects, and nothing about this Notice should be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Leadpoint. The Court has only preliminarily approved this class action settlement. The Court will decide whether to give final approval to this settlement at the Final Approval Hearing.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE PAYMENT	Get a payment and give up your legal rights to pursue claims released by the settlement of the Lawsuit. Based on Defendant’s records, and the Parties’ current assumptions, your estimated payment as a Class Member is <<\$_____>>. See the explanation on page 4 below.
OPT OUT OF THE SETTLEMENT	Exclude yourself from the Settlement, get no payment for settlement of the class claims, and retain your legal rights to individually pursue the class claims that would otherwise be released by the settlement of the Lawsuit. If you worked for Defendants as a non-exempt, hourly-paid employee during the period of July 12, 2021 through January 25, 2024 (“PAGA Period”) as well, then you will be deemed an “Aggrieved Employee” and you will still receive your share of the proceeds available from the settlement of the PAGA Released Claims, defined below, (your “Individual PAGA Payment”) even if you opt out of the class settlement. “Aggrieved Employees” do not include any current or former employees directly hired and employed by MarBorg, except to the extent any “Aggrieved Employee” may claim liability under a theory of joint employment.
OBJECT TO THE SETTLEMENT	If you do not opt out, you may write to the Settlement Administrator, _____ about why you object to the settlement, and they will forward your concerns to counsel which will then be provided to the Court. If the Court approves the Settlement, despite your objection, you will still be bound by the Settlement. You or your attorney may also address the Court during the Final Approval Hearing scheduled for [DATE AND TIME] in Department 19 of the Santa Clara County Superior Court, located at 161 North First Street, San Jose, CA 95113. Class Members may appear at the final approval hearing in person or remotely using the Microsoft Teams link for Department 19 (Afternoon Session). Instructions for appearing remotely _____ are _____ provided _____ at https://www.sccourt.org/general_info/ra_teams/video_hearings_teams.shtml and should be reviewed in advance. Class members who wish to appear remotely are encouraged to contact class counsel at least three days before the hearing if possible, so that potential technology or audibility issues can be avoided or minimized.

Summary of the Settlement Terms

Plaintiffs and Defendants have agreed to settle this case on behalf of themselves and Class Members and Aggrieved Employees for the Gross Settlement Amount of \$1,500,000.00, unless increased pursuant to the Settlement Agreement. The Gross Settlement with the exception of employer payroll taxes, which will be paid separately from and in addition to the settlement Amount, the Settlement Amount is an “all in” amount and includes: (1) Administration Costs up to \$15,000 (2) service awards of up to \$12,500.00 to Jennifer Montoya and Juan Manso Gontez each, for a total of \$25,000.00 to plaintiffs for their time and effort in pursuing this case; (3) up to one-third (1/3) of the Gross Settlement Amount in attorneys’ fees which, unless escalated pursuant to the Settlement Agreement, amounts to \$500,000.00; (4) up to \$50,000.00 in litigation costs to Class Counsel, according to proof; (5) payment allocated to PAGA penalties in the amount of \$75,000.00 of the Gross Settlement Amount toward PAGA penalties. Pursuant to the PAGA, seventy-five percent (75%) of the amount allocated toward PAGA, or \$56,250.00, will be paid to the LWDA and twenty-five percent (25%), or \$18,750.00, will be distributed to “Aggrieved Employees.” After deducting these sums, a total of approximately not less than \$ [REDACTED] will be available for distribution to Class Members (“Net Settlement Amount”).

What do I Release Under The Settlement?

Upon the Effective Date and payment by Defendant to the Settlement Administrator of the full Gross Settlement Amount and Employer’s Taxes necessary to effectuate the Settlement, Plaintiffs and all Participating Class Members, will release Defendant and the Released Parties from all class claims that occurred during the Class Period that were alleged, or reasonably could have been alleged based upon the facts alleged in the Operative Complaint, including any attached Exhibits, including the following: Unfair competition in violation of California Business and Professions Code §§ 17200, *et seq.*; failure to pay minimum wages in violation of California Labor Code §§ 1194, 1197 & 1197.1; failure to pay overtime wages in violation of California Labor Code § 510; failure to provide request meal periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order; failure to provide request rest periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order; failure to provide accurate itemized wage statements in violation of California Labor Code § 226; failure to reimburse employees for required expenses in violation of California Labor Code § 2802 (including mandatory safety uniforms, gear required to perform job duties, cell phones, and personal vehicles or mileage reimbursement); failure to provide wages when due in violation of California Labor Code §§ 201, 202 and 203; and failure to pay sick wages in violation of California Labor Code §§ 201-204, 233, 246; any claims for injunctive relief, declaratory relief, restitution, fraudulent business practices or punitive damages alleged or which could have been alleged under the facts pleaded in the complaints; and any and all other claims under California common law, the California Labor Code, including, Lab. Code §§ 210, 221, 226(a), 227.3, 1198, the Fair Labor Standards Act (“FLSA”), California Industrial Welfare Commission Wage Orders, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the California Business and Professions Code alleged in or that could have been alleged under the Operative Complaint (the “Released Class Claims”).

The Aggrieved Employees and, to the extent permitted by law, the State of California, shall release Defendant and the Released Parties, for the defined PAGA Period, from all claims for PAGA civil penalties, attorneys’ fees, claims for interest, or costs pursuant to the PAGA, for any violations that were alleged, or reasonably could have been alleged in the Operative Complaint and/or the PAGA Notices, including, Labor Code §§ 201, 202, 203, 204, 210, 221, 226(a), 226.3, 226.7, 227.3, 246 *et seq.*, 510, 512, 558, 558(a)(1)(2), 1174.5, 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the applicable Wage Order(s), or premiums in connection with any of the preceding claims, as well as any claims under the California Labor Code, California Industrial Welfare Commission’s Wage Orders, or the California Code of Regulations, based upon the facts that were alleged in the PAGA Notices and Operative Complaint (the “Released PAGA Claims”).

“Released Parties” shall mean Defendant, MarBorg Industries, Inc., MarBorg Recovery Management, LLC, Waste Management, Inc., Republic Services, Inc., FCC Environmental Services, LLC, and any of their past, present, and future direct or indirect parents, subsidiaries, predecessors, successors, and affiliates, as well as each of their past, present, and future officers, directors, employees, partners, members, owners, shareholders, agents, attorneys, insurers, reinsurers, and any individual or entity which was alleged or could have been alleged as jointly liable with Leadpoint and/or MarBorg as an employer of the Class Members.

The Released Claims by Class Members and Aggrieved Employees set forth herein exclude any and all claims asserted against MarBorg stemming solely from their direct employment by MarBorg during the Class Period and/or the PAGA Period (to the extent Class Members and/or Aggrieved Employees may attempt to allege any claim under a theory of joint employment between the Released Parties, those claims have been expressly released as a material term and condition of this Agreement) and all other claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, and any other claims outside of the Class Released Claims of Participating Class Members arising during the Class Period and the PAGA Released Claims of Aggrieved Employees (and, to the extent permitted by law, the State of California) arising outside of the PAGA Period.

Distribution to Class Members

Individual Settlement Payments will be calculated and distributed to Participating Class Members from the Net Settlement Amount on a *pro rata* basis, based on the Participating Class Members’ respective number of Workweeks worked during the Class Period. Individual PAGA Payments to Aggrieved Employees will be calculated and distributed to Aggrieved Employees from the PAGA Payment on a *pro rata* basis based on Aggrieved Employees’ respective number of Workweeks worked during the PAGA Period. Specific calculations of the Individual Settlement Shares and Individual PAGA Payments to Aggrieved Employees.

The Settlement Administrator will determine the total number of Workweeks worked by each Settlement Class Member during the Class Period (“Class Member’s Workweeks”), as well as the aggregate number of Workweeks worked by all Settlement Class Members during the Class Period (“Class Workweeks”). Additionally, the Settlement Administrator will determine the total number of Pay Periods worked by each Aggrieved Employee during the PAGA Period (“Aggrieved Employee’s Pay Periods”), as well as the aggregate number of Pay Periods worked by all Aggrieved Employees during the PAGA Period (“PAGA Pay Periods”).

To determine each Settlement Class Member’s Individual Settlement Share, the Settlement Administrator will use the following formula: Individual Settlement Share = (Settlement Class Member’s Workweeks worked ÷ Class Workweeks) × Net Settlement Amount. To determine each Participating Class Member’s Participating Individual Settlement Share, the Settlement Administrator will determine the aggregate number of Workweeks worked by all Participating Class Members during the Class Period (“Participating Class Workweeks”) and use the following formula: Individual Settlement Share = (Participating Class Member’s Workweeks worked ÷ Participating Class Workweeks) × Net Settlement Amount.

Defendant’s records indicate that you worked [Eligible Workweeks] Workweeks as an hourly-paid employee in California during the Class Period and [Eligible Pay Periods] Pay Periods during the PAGA Period. Based on these records, your estimated payment as a Class Member would be [\$Estimated Award] and your estimated payment as an Aggrieved Employee would be [\$Estimated Award].

Tax Reporting

Payments to Class Members as PAGA Payments shall be designated as penalties. All other payments to Class Members from the Net Settlement Amount shall be designated 20% as wages and 80% as penalties. The Settlement Administrator will be responsible for issuing a form W-2 to each Class Member for the amount each receives for unpaid “wages” and any IRS Form 1099s required by law. This notice is not intended to provide legal or tax advice on your Settlement Share.

Your check will be valid for 180 days after issuance. Thereafter, checks for such payments shall be canceled and funds associated with such checks shall be considered unpaid, unclaimed, or abandoned cash residue pursuant to Code of Civil Procedure section 384 (“Unpaid Residue”). The Unpaid Residue plus accrued interest, if any, as provided in Code of Civil Procedure section 384, shall be transmitted as follows: Child Advocates of Silicon Valley, the *cy pres* recipient, for use in Santa Clara County.

Your Options Under the Settlement

Option 1 – Do Nothing and Receive Your Payment

If you do not opt out, you are automatically entitled to your Individual Settlement Payment (*i.e.*, your share of the Net Settlement Amount) because you are a Class Member. If you do not dispute your settlement share calculation and do not opt out of the settlement, you will be bound by the entire release in the settlement and receive your Individual Settlement Payment, as well as your Individual PAGA Payment if you are also an Aggrieved Employee. **In other words, if you are a Class Member, you do not need to take any action to receive the settlement payment(s) set forth above.**

Class Members who do not submit a valid and timely opt out (pursuant to Option 2 below), will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all “Released Claims” he or she may have or had upon final approval of this Settlement and payment by Defendants to the Settlement Administrator.

Option 2 – Opt Out of the Settlement

In order to opt out of the Settlement, the Class Member must timely submit by mail an opt-request request to the Settlement Administrator by the Response Deadline. The opt-out request should state the Class Member’s name, address, the last four (4) digits of the Class Member’s Social Security Number, the Class Member’s signature, and the following statement: “Please exclude me from the Settlement Class in the *Montoya v. FPR II, LLC, et al.*, matter,” or any statement of similar meaning standing for the proposition that the Class Member does not wish to participate in the Settlement. Sign, date, and mail your written request for exclusion to the address below:

[Settlement Administrator]

[Mailing Address]

The Request for Exclusion form must be mailed and postmarked to the Administrator not later than [RESPONSE DEADLINE].

The proposed settlement includes the settlement of the PAGA Released Claims. An employee may not request exclusion from the settlement of a PAGA claim. Thus, if the court approves the settlement, then even if you request exclusion from the settlement, if you are an Aggrieved Employee, you will still receive your Individual

PAGA Payment and will be deemed to have released the PAGA Released Claims. A request for exclusion will preserve your right, if any, to individually pursue only the Class Released Claims.

Option 3 – Submit an Objection to the Settlement

If you wish to object to the Settlement, you may submit an objection in writing by mail, stating why you object to the Settlement. Your written objection must provide your name, address, last four (4) digits of your Social Security Number, your signature, a statement of whether you plan to appear at the Final Approval Hearing, and a statement of the reason(s), along with whatever legal authority, if any, why you believe that the Court should not approve the Settlement. Your written objection must be mailed to the Administrator no later than **[RESPONSE DEADLINE]**. Please note that you cannot both object to the Settlement and opt out of the Settlement. If you exclude yourself, then your objection will be overruled. If the Court overrules your objection, you will be bound by the Settlement and will receive your Settlement Share.

You may also appear at the Final Approval Hearing at your expense. Class Members may appear at the final approval hearing in person or remotely using the Microsoft Teams link for Department 19 (Afternoon Session). Instructions for appearing remotely are provided at https://www.sccourt.org/general_info/ra_teams/video_hearings_teams.shtml and should be reviewed in advance. Class members who wish to appear remotely are encouraged to contact class counsel at least three days before the hearing if possible, so that potential technology or audibility issues can be avoided or minimized. All written objections, supporting papers and/or notices of intent to appear at the Final Approval Hearing must (a) clearly identify the case name and number (*Montoya v. FPR II, LLC, et al.*, Case Number 22CV404499), (b) be submitted to the Court either by mailing the objection to: Clerk of the Court, Superior Court of California, County of Santa Clara, 191 N. 1st Street, San Jose, California 95113, or by filing in person at the same location; (c) also be mailed to the law firms identified below, and (d) be filed or postmarked on or before **[RESPONSE DEADLINE]**.

Final Approval Hearing

You may, if you wish, appear at the Final Approval Hearing set for [REDACTED] at [REDACTED]:[REDACTED].m. Before Hpn. Theodore Zayner in Department 19 of the Santa Clara County Superior Court, located at 161 North First Street, San Jose, CA 95113, and orally object to the Settlement, discuss your written objections with the Court and the Parties, or otherwise comment on the Settlement at your own expense. You may also retain an attorney to represent you at the Hearing at your own expense. Class Members may appear at the final approval hearing in person or remotely using the Microsoft Teams link for Department 19 (Afternoon Session). Instructions for appearing remotely are provided at https://www.sccourt.org/general_info/ra_teams/video_hearings_teams.shtml and should be reviewed in advance. Class members who wish to appear remotely are encouraged to contact class counsel at least three days before the hearing if possible, so that potential technology or audibility issues can be avoided or minimized.

Additional Information

This Notice of Class Action Settlement is only a summary of this case and the Settlement. For a more detailed statement of the matters involved in this case and the Settlement, you may call the Settlement Administrator at **[PHONE NUMBER]** or Class Counsel, whose information appears below:

Attorneys For Plaintiff and Class Members	Attorneys For Defendants
BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP Norman B. Blumenthal (State Bar #068687) Kyle R. Nordrehaug (State Bar #205975)	LITTLER MENDELSON, P.C. Chad D. Greeson Nicholas Gioiello 1255 Treat Boulevard, Suite

Email: kyle@bamlawca.com 2255 Calle Clara La Jolla, CA 92037 Telephone: (858)551-1223; Facsimile: (858)551-1232 Website: www.bamlawca.com BIBIYAN LAW GROUP, P.C. David D. Bibiyan (SBN 287811) david@tomorrowlaw.com Jeffrey D. Klein (SBN 297296) jeff@tomorrowlaw.com Vedang J. Patel (SBN 328647) vedang@tomorrowlaw.com 1460 Westwood Boulevard Los Angeles, CA 90024 Tel: (310) 438-5555; Fax: (310) 300-1705	600 Walnut Creek, CA 94597 Tel: (925) 932-2468 Fax: (925) 946-9809 E-Mail: cgreeson@littler.com; ngioiello@littler.com
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You may also visit the Settlement Administrator's website at [\[WEBSITE\]](#) to gain access to key documents in this case, including the Settlement Agreement, the Order Granting Preliminary Approval of this Settlement, the Order Granting Final Approval of this Settlement, and the Final Judgment.

The pleadings and other records in this litigation, including the Settlement Agreement, may be examined (a) online on the Superior Court of California, County of Santa Clara's Electronic Filing and Service Website at www.scefiling.org, or (b) in person at Records, Superior Court of California, County of Santa Clara, 191 N. 1st Street, San Jose, California 95113, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays and closures.

All inquiries by Class Members regarding this Notice of Class Action Settlement and/or the Settlement should be directed to the Settlement Administrator.

**PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE,
DEFENDANTS, OR DEFENDANTS' ATTORNEYS WITH INQUIRIES.**

EXHIBIT #3

Blumenthal Nordrehaug Bhowmik DeBlouw LLP

2255 CALLE CLARA
LA JOLLA, CA - California 92037-3107

INVOICE

Invoice # 1
Date: 03/06/2025
Due On: 04/05/2025

Jennifer Montoya
1251 Culppeper Drive
San Jose, CA 95121

CA2690

Leadpoint Business Services; FPR II, LLC

Services

Attorney	Date	Notes	Quantity	Rate	Total
GG	05/22/2022	Reviewed local rules re securing motion date, sent email to VR with information.	0.40	\$250.00	\$100.00
NDB	06/20/2022	Review and analyze original intake notes. Legal research regrading related litigation in state and federal court. Research Defendant's business operations in CA. Conference with Plaintiff to discuss case status.	3.90	\$850.00	\$3,315.00
NDB	06/22/2022	Review documents and emails from Plaintiff regarding DFEH and retaliation claims. Legal research regarding the same. Conference with Plaintiff to discuss facts and case status.	3.90	\$850.00	\$3,315.00
NDB	06/26/2022	Review entire employment file for legal claims. Analyze all paystubs for overtime and 226(a) violations. Legal research regarding recent court opinions for wage statement violations. Analyze trial court orders and judgments.	4.40	\$850.00	\$3,740.00
NDB	06/30/2022	Review facts and law. Draft original complaint.	4.50	\$850.00	\$3,825.00
NDB	07/07/2022	Draft complaint. Legal research meal break certification issues. Send complaint to Plaintiff for approval. Call to discuss claims and process of lawsuit.	4.40	\$850.00	\$3,740.00
SP	07/11/2022	Review of case notes and complaint. Communication with Client re complaint approval.	2.20	\$675.00	\$1,485.00

NDB	07/11/2022	Review complaint and document file. Draft internal case notes memo detailing facts and violations.	2.10	\$850.00	\$1,785.00
NDB	07/13/2022	Research PAGA claims and PAGA penalties. Draft PAGA Notice. Upload to LWDA website.	2.00	\$850.00	\$1,700.00
SB	08/11/2022	Review complaint for filing, analyze, advise ND	2.60	\$450.00	\$1,170.00
SB	08/18/2022	Revise complaint for filing, advise ND	2.80	\$450.00	\$1,260.00
RE	09/19/2022	Review case notes/damage analysis	0.50	\$675.00	\$337.50
RE	09/19/2022	Review & analyze employment file documents/ 1198.5 response	2.50	\$675.00	\$1,687.50
RE	09/20/2022	Review, edit & finalize class action complaint draft	2.75	\$675.00	\$1,856.25
RE	09/22/2022	Review file; research re leadpoint business services re registered agent; email to ND re status of reg agent.	1.00	\$675.00	\$675.00
RE	10/13/2022	Additional research re reg. agent; call to Oregon SOS re reg. agent info for Oregon re Leadpoint Business Services	0.50	\$675.00	\$337.50
RE	10/13/2022	Drafts summons and civil case cover sheet re class action	0.50	\$675.00	\$337.50
RE	10/13/2022	Edit complaint; review and finalize	0.50	\$675.00	\$337.50
RE	10/13/2022	Review & finalize class action complaint package; file in Santa Clara Sup. Ct.	0.70	\$675.00	\$472.50
RE	10/13/2022	Review court-returned documents; review civil lawsuit notice; review docket; memo to firm re judicial/departement assignment and status of initial case management conference re class action	0.50	\$675.00	\$337.50
GG	10/13/2022	Reviewed email re new complaint filed, and updated POS.	0.30	\$250.00	\$75.00
RE	11/17/2022	Draft PAGA only representative action complaint	4.00	\$675.00	\$2,700.00
RE	11/17/2022	Draft summons and civil case cover sheet re paga action	0.50	\$675.00	\$337.50
NDB	11/17/2022	Review and analyze PAGA Notice. Review and revise PAGA Only complaint. Discuss with R. Ehmann. Status update to Plaintiff.	1.90	\$850.00	\$1,615.00
RE	12/06/2022	Prepare initial documents for service of process re class action; send out for service via Knox	0.70	\$675.00	\$472.50
RE	12/13/2022	File Proof of Service of Summons re class action; memo to firm re post service written discovery	0.50	\$675.00	\$337.50

RE	12/16/2022	Review & finalize paga only complaint package; file in Santa Clara Sup. Ct.	0.70	\$675.00	\$472.50
RE	12/19/2022	Review court-returned documents; review civil lawsuit notice & docket; memo to firm re judicial/department assignment and status of initial CMC re paga action	0.50	\$675.00	\$337.50
RE	12/19/2022	Provide notice to LWDA of filing of PAGA only action	0.40	\$675.00	\$270.00
GG	12/19/2022	Reviewed email notification re newly filed PAGA action, drafted POS.	0.30	\$250.00	\$75.00
GG	12/20/2022	Reviewed notice re complex designation of PAGA action, email exchange with Rico re service of notice, and confirmed with PM re service.	0.30	\$250.00	\$75.00
RE	01/17/2023	Review file; email to d/c re service of process via NAR re PAGA action	0.30	\$675.00	\$202.50
RE	01/19/2023	Prepare initial documents for service of process re paga action; draft NAR's; email to defense counsel re service of process via NAR; instruct staff to mail hard copies per code	0.80	\$675.00	\$540.00
VR	01/25/2023	conference of counsel regarding related cases and CMC; review complaint and case notes; advise PM	1.20	\$750.00	\$900.00
NDB	01/27/2023	Review and research related litigation against Defendant. Analyze joint employer issue. Review and revise joint prosecution agreement. Send to Plaintiff for signature. Call to discuss JPA and case status.	1.60	\$850.00	\$1,360.00
VR	01/30/2023	conference of counsel re mediation, stay, and pending motions; discuss relationship between defendants; review declarations; advise PM	1.20	\$750.00	\$900.00
RE	02/21/2023	Review file; email to OPC re executed NAR's re PAGA action	0.30	\$675.00	\$202.50
RE	02/22/2023	Review file; email to team re post-service written discovery	0.20	\$675.00	\$135.00
PM	02/22/2023	Review complaint and claims; review related action complaint and analyze; telephonic conference with co-counsel re respective actions.	1.50	\$750.00	\$1,125.00
GG	02/22/2023	Reviewed notice of rescheduled CMC	0.10	\$250.00	\$25.00
RE	02/23/2023	Draft pos-010 proof of service of summons for FPR LLC and Leadpoint Business Services; attach executed NARs; file; memo to firm re post service written discovery re paga action	0.80	\$675.00	\$540.00
VR	02/23/2023	telephone conference with counsel; review	1.30	\$750.00	\$975.00

		complaints and correspondence with counsel; advise PM			
PM	02/24/2023	Strategize with team regarding additional defendant included in related action; review and analyze related action complaint.	1.00	\$750.00	\$750.00
VR	03/14/2023	telephone conference with plaintiff's counsel re: motion to consolidate; review complaints; advise PM	0.50	\$750.00	\$375.00
VR	03/22/2023	Receipt and Review of Correspondence: review correspondence between parties and plaintiff's counsel; review status of consolidation; advise PM	0.70	\$750.00	\$525.00
PM	03/22/2023	Review co-counsel correspondences; advise team re consolidation.	0.50	\$750.00	\$375.00
VR	04/07/2023	Review and Analyze: review and analyze correspondence between parties; review status of mediation; advise AJB	0.60	\$750.00	\$450.00
VR	04/11/2023	Receipt and Review of Correspondence: review correspondence from Def; review correspondence between plaintiffs; review documents; advise PM and AJB	1.50	\$750.00	\$1,125.00
VR	05/04/2023	telephone call to Def; prep for meet and confer; follow up	0.80	\$750.00	\$600.00
VR	05/05/2023	Draft: draft CMC statement; correspondence to Def; review case notes and documents; advise PM	1.80	\$750.00	\$1,350.00
VR	05/05/2023	Review and Revise: review and revise joint CMC statement; telephone conference of counsel; advise PM; correspondence to Def	1.50	\$750.00	\$1,125.00
VR	05/08/2023	Correspondence with Opposing Counsel: correspondence with Def; review mediation status; review discovery; advise AJB	0.60	\$750.00	\$450.00
VR	05/10/2023	court appearance at CMC; prepare; follow up	2.00	\$750.00	\$1,500.00
PM	05/11/2023	Strategize re summary of previous CMC; review correspondences with Def. regarding mediation; review and analyze legal and factual issues.	1.00	\$750.00	\$750.00
GG	05/17/2023	Reviewed Notice of Further CMC	0.10	\$250.00	\$25.00
VR	05/26/2023	Receipt and Review of Correspondence: review correspondence from parties re mediation and status of defendants; advise PM	0.30	\$750.00	\$225.00
VR	06/02/2023	telephone conference with co-counsel re mediation and motion practice; advise PM	1.20	\$750.00	\$900.00

CJ	06/05/2023	Review upcoming deadlines re MTC and determine status of mediation for purposes of determining whether to proceed with discovery	0.50	\$550.00	\$275.00
NDB	06/05/2023	Review suitable seating claims. Legal research regarding the same. Call with Plaintiff to discuss claims and case status.	1.90	\$850.00	\$1,615.00
CJ	06/09/2023	Review stipulation redlines from OPC, advise team re same, analyze issues presented by team	1.00	\$550.00	\$550.00
PM	06/09/2023	Review stip to stay and advise CJ re the same.	0.50	\$750.00	\$375.00
CJ	06/15/2023	Review Pick Up Stix case, evaluate class action stip and PAGA action stip in relation to same and advise VR and PM	1.50	\$550.00	\$825.00
CJ	06/16/2023	Draft further revisions to stipulations to stay PAGA and Class cases (separately) and sent to OPC	0.50	\$550.00	\$275.00
CJ	06/22/2023	Prepare for and conduct t/c with OPC re Stip to stay, advise PM	1.00	\$550.00	\$550.00
PM	06/22/2023	Review stip to stay actions; advise CJ re the same.	0.50	\$750.00	\$375.00
VR	06/23/2023	Review and Revise: review and revise stipulation re mediation; advise CJ	1.50	\$750.00	\$1,125.00
CJ	06/26/2023	Advise PM re contact information issue and Pick Up Stix issue with respect to editing stipulation to stay	0.50	\$550.00	\$275.00
CJ	06/27/2023	Final review of incorporation and approval of stipulation to Stay	0.50	\$550.00	\$275.00
GG	06/27/2023	Reviewed Joint stip to stay pending mediation, and added to list of stipulations to track, saved.	0.20	\$250.00	\$50.00
VR	06/28/2023	appear at CMC; prep for CMC; review stipulation; review court's orders and docket; advise PM	1.50	\$750.00	\$1,125.00
GG	06/28/2023	Reviewed ROA to confirm upcoming CMC in class action,	0.20	\$250.00	\$50.00
GG	06/28/2023	Reviewed email from VR re CMC.	0.10	\$250.00	\$25.00
GG	06/30/2023	Reviewed filing confirmation re order staying pending mediation, updated list.	0.20	\$250.00	\$50.00
GG	07/10/2023	Reviewed notice re further CMC, updated chart.	0.10	\$250.00	\$25.00
PM	09/07/2023	Review complaint; advise team re cases for mediation; review related action complaints.	1.00	\$750.00	\$750.00
CJ	09/18/2023	Review complaint, procedural posture of case and case notes in preparation for drafting mediation	1.00	\$550.00	\$550.00

		data and document demand			
CJ	09/18/2023	Review related case status and claims, JPA, in preparation for drafting mediation data and document demand	1.00	\$550.00	\$550.00
CJ	09/19/2023	Continue evaluation of documents from Plaintiff and Defendant in preparation for drafting mediation data and document request	1.00	\$550.00	\$550.00
CJ	09/19/2023	Draft mediation data and document request, revise	1.00	\$550.00	\$550.00
CJ	09/20/2023	Continue evaluation of 1198.5 file	1.00	\$550.00	\$550.00
CJ	09/20/2023	Draft and Review - Continue evaluation of complaint and SOL, revise mediation data and doc request	1.00	\$550.00	\$550.00
CJ	09/25/2023	Prepare for and conduct call with co counsel re mediation data and doc, revise and sent to co counsel	1.00	\$550.00	\$550.00
VR	10/12/2023	Review and Revise: review and revise joint CMC statement; review status of mediation; correspondence to Def	1.50	\$750.00	\$1,125.00
GG	10/16/2023	Reviewed notice re continued CMC in PAGA action	0.10	\$250.00	\$25.00
CJ	10/18/2023	Evaluate case adn claims, review report in preparation for hearing	1.00	\$550.00	\$550.00
CJ	12/11/2023	Review P's docs received to date in prep for mediation	0.50	\$550.00	\$275.00
CJ	12/11/2023	Review complaint and claims, evaluate status of Def's docs. correspond with OPC re same	1.00	\$550.00	\$550.00
CJ	12/11/2023	Review 1198 file adn sent to GG for bates stamping	1.00	\$550.00	\$550.00
CJ	12/13/2023	Evaluate status of case adn claims, review docs received in prep for call with OPC	1.00	\$550.00	\$550.00
CJ	12/13/2023	T/c with OPC, memorialize, and advise PM	1.00	\$550.00	\$550.00
CJ	12/13/2023	Correspond with co-counsel re status of mediation docs, determine next steps re mediation	1.00	\$550.00	\$550.00
CJ	12/18/2023	Prepare for and appear at zoom meeting with OPC and co-counsel	1.00	\$550.00	\$550.00
CJ	12/18/2023	Evaluate documents sent by OPC, review redacted portions and advise OPC re same	1.00	\$550.00	\$550.00
CJ	12/18/2023	Evaluate P's wage statement and time records,	1.00	\$550.00	\$550.00

		annotate re same			
NDB	01/05/2024	Review and analyze data produced for mediation purposes. Review time punch data for meal break claims. Review discovery to date and court docket. Call with Plaintiff to discuss settlement authority and mediation claims. Prepare for mediation.	4.90	\$850.00	\$4,165.00
SB	01/10/2024	Speak with client in advance of mediation, analyze claims, advise AJB	2.80	\$450.00	\$1,260.00
NDB	01/10/2024	Review pay stub exemplars for regular rate and wage statement violations. Analyze sick and vacation pay claims. Legal research regarding the same.	3.20	\$850.00	\$2,720.00
CJ	01/12/2024	Evaluate complaint and case notes, review documents received to date and update mediation chart	1.00	\$550.00	\$550.00
NDB	01/12/2024	Review case demographics. Legal research previous settlements with similar claims and workweeks for mediation valuation. Draft MOU for mediation.	2.90	\$850.00	\$2,465.00
CJ	01/15/2024	Review case adn claims, evaluate case notes and Plaintiff's wage statements in preparation for mediation	1.00	\$550.00	\$550.00
CJ	01/15/2024	Evaluate documents and pull exhibits	1.00	\$550.00	\$550.00
CJ	01/15/2024	Draft notes re mediation analysis and bates range where docs can be located	1.00	\$550.00	\$550.00
CJ	01/16/2024	Continue document review, evaluate meal and rest period issue, call Plaintiff	1.50	\$550.00	\$825.00
PM	01/18/2024	Review Def. documents re mediation production; review documents and information needed before mediation.	0.75	\$750.00	\$562.50
SB	01/18/2024	Calculate individual damages, add individual claims to case notes, advise AJB	2.60	\$450.00	\$1,170.00
NDB	01/18/2024	Review facts and law. Begin drafting mediation brief.	3.90	\$850.00	\$3,315.00
AB	01/19/2024	Draft and file mediation brief.	10.00	\$895.00	\$8,950.00
CJ	01/19/2024	Continue review of status of mediation data and documents, follow up re same	0.50	\$550.00	\$275.00
SB	01/22/2024	Prepare for mediation, review and analyze mediation brief, advise AJB	2.60	\$450.00	\$1,170.00
CJ	01/22/2024	Analyze policy documents produced by Defendant including bonus policies and annotate	1.00	\$550.00	\$550.00

		re same			
CJ	01/22/2024	Continue mediation prep, correspond with OPC re same	1.00	\$550.00	\$550.00
CJ	01/24/2024	Review status of mediation, evaluate draft MOU	0.50	\$550.00	\$275.00
NDB	01/24/2024	Review mediation briefs and all mediation materials. Analyze expert damage and penalty report and notes and assumptions. Conference with Plaintiff to discuss upcoming mediation.	2.70	\$850.00	\$2,295.00
SB	01/25/2024	Attend mediation	5.20	\$450.00	\$2,340.00
AB	01/25/2024	Prep and appear for mediation.	8.00	\$895.00	\$7,160.00
AB	01/26/2024	Review/analyze draft of MOU. Revise. Draft/send corr w/ revised MOU. Analyze next steps to finalize settlement and team's adherence to Court's deadlines/procedures.	3.00	\$895.00	\$2,685.00
AB	01/31/2024	Prep and appear for call with defense counsel re MOU.	2.00	\$895.00	\$1,790.00
AB	02/08/2024	Review status of finalizing MOU. Draft/send corr to defendant following up on MOU and arguing about separation of PAGA/Class releases.	3.00	\$895.00	\$2,685.00
AB	02/09/2024	Prep for and have call w/ defense attorneys. Review/revise/circulate MOU.	3.00	\$895.00	\$2,685.00
NDB	02/15/2024	Review mediation notes and results. Review and analyze MOU terms. Send MOU to Plaintiff for signature. Call to discuss terms and settlement amounts.	1.40	\$850.00	\$1,190.00
AB	02/22/2024	Review/analyze CMC Statements due in both the PAGA case and the Class case	2.00	\$895.00	\$1,790.00
VR	02/22/2024	Review and Revise: review and revise joint statement; review case history and documents; advise CJ	0.60	\$750.00	\$450.00
CJ	02/22/2024	Research status of class case, evaluate complaint and prior orders	1.00	\$550.00	\$550.00
CJ	02/22/2024	Research status of PAGA case, evaluate complaint and prior orders	1.00	\$550.00	\$550.00
CJ	02/22/2024	Draft CMc Statements	1.00	\$550.00	\$550.00
CJ	02/23/2024	Analyze OPC revisions to class CMC Statement, revise	1.00	\$550.00	\$550.00
CJ	02/23/2024	Analyze OPC revisions to PAGA CMC Statement, revise	0.50	\$550.00	\$275.00
CJ	02/23/2024	Analyze MOU and status re same, advise PM	0.50	\$550.00	\$275.00

TM	02/26/2024	Reviewed Notice of Case Management Conference.	0.20	\$450.00	\$90.00
CJ	02/28/2024	Prepare for hearing (status conference) - review Joint CMC St in PAGA action and Class Action, research ROA in both cases	1.00	\$550.00	\$550.00
PM	03/01/2024	Review MOU and analyze re settlement agreement.	0.50	\$750.00	\$375.00
PM	03/15/2024	Review MOU and complaints for all actions; begin drafting long form agreement.	2.00	\$750.00	\$1,500.00
PM	03/18/2024	Review MOU; strategize re long form settlement agreement; strategize re preliminary approval; review status of action.	3.00	\$750.00	\$2,250.00
PM	03/25/2024	Review MOU; review draft settlement agreement.	2.50	\$750.00	\$1,875.00
PM	03/29/2024	Draft amended complaint; review long form settlement agreement draft.	4.00	\$750.00	\$3,000.00
PM	04/01/2024	Review and revise draft amended complaint.	0.50	\$750.00	\$375.00
JH	04/08/2024	Review draft agreement by co-counsel; discuss with PM; follow up with defense counsel; review draft FAC and follow-up with co-counsel	1.00	\$750.00	\$750.00
PM	04/08/2024	Review status of settlement; advise JH re the same; review prior emails regarding amended complaint and settlement agreement.	0.75	\$750.00	\$562.50
SP	04/11/2024	Reviewed correspondence, MOU, first amended complaint, complaint and case notes. Corresponded with JSH and PM. Revised and finalized Draft FAC and sent to Opp Counsel.	0.90	\$675.00	\$607.50
JH	04/17/2024	Review file and corresp.; follow up with defense counsel re revisions to longform	0.40	\$750.00	\$300.00
JH	04/22/2024	Review file; f/u corresp. with defense counsel re status of longform agreement	0.20	\$750.00	\$150.00
HD	04/22/2024	Draft Stipulation and Proposed Order for Leave to file First Amended Class and Representative Action Complaint. Forward to Attorney Herman for review and finalization.	1.00	\$250.00	\$250.00
TM	04/22/2024	Reviewed and revised Stipulation for Leave to file FAC.	0.60	\$450.00	\$270.00
TM	04/23/2024	Email to co-counsel re Stipulation to File FAC;	0.20	\$450.00	\$90.00
TM	04/24/2024	Email to and from co-counsel re stip to file FAC; Email to OPC re stip to file FAC.	0.60	\$450.00	\$270.00
JH	04/29/2024	Review file and corresp; follow up with defense counsel re longform agreement	0.20	\$750.00	\$150.00

AB	05/02/2024	Review/analyze edits to the long form agreement	2.00	\$895.00	\$1,790.00
JH	05/03/2024	Review/analyze Defendant's proposed revisions to longform agreements; discuss with KN and NBB; circulate assessment to co-counsel and discuss	1.40	\$750.00	\$1,050.00
TM	05/10/2024	Email to and from OPC re class notice.	0.40	\$450.00	\$180.00
JH	05/13/2024	Review Co-Counsel's proposed further revisions to longform; discuss with KN and review his further revisions	1.00	\$750.00	\$750.00
KN	05/13/2024	Review and revise draft agreement; review and research court's prior rulings; review memo from JH; prepare redlines and memo to co-counsel; review and revise class notice	3.75	\$950.00	\$3,562.50
KN	05/15/2024	Review emails; advise JH	0.30	\$950.00	\$285.00
JH	05/15/2024	Discuss with co-counsel re revisions to draft class notice; circulate to defense counsel	0.40	\$750.00	\$300.00
JH	05/21/2024	Review further revised longform; discuss with co-counsel; circulate to defense counsel for review	0.50	\$750.00	\$375.00
JH	05/29/2024	F/u with defense counsel re longform revisions; discuss with co-counsel; discuss FAC with SP	0.30	\$750.00	\$225.00
JH	05/30/2024	Call with co-counsel and defense counsel re settlement agreement	0.50	\$750.00	\$375.00
JH	06/03/2024	Review defendant's further revisions to longform and draft class notice; discuss with KN	0.60	\$750.00	\$450.00
JH	06/05/2024	Review/further revise Defendant's proposed revisions to stip and FAC; discuss with SP	0.70	\$750.00	\$525.00
KN	06/11/2024	Review Def revisions to the Agreement; analysis of remaining issues; emails with JH	1.50	\$950.00	\$1,425.00
JH	06/12/2024	Discuss with co-counsel re Defendant's additional proposed revisions to longform	0.60	\$750.00	\$450.00
JH	06/13/2024	Review file and docket re upcoming CMC; correspondence with defense counsel and co-counsel re status of settlement; circulate further revised draft; discuss with KN: finalize and circulate agreement for execution	1.00	\$750.00	\$750.00
KN	06/13/2024	Review status and review final draft of agreement; analysis of next steps; advise JH	1.00	\$950.00	\$950.00
SP	06/13/2024	Reviewed and revised First Amended Complaint pursuant to Opp counsel revisions. Revised formatting. Sent correspondence to Opp Counsel re formatting issues and further revisions.	2.10	\$675.00	\$1,417.50

NDB	06/13/2024	Review settlement agreement and exhibits for conformity with MOU terms., Send agreement to Plaintiff for signature. Call to discuss terms and approval process.	1.30	\$850.00	\$1,105.00
KN	06/14/2024	Review and revise class notice; review Judge's prior rulings; email Defendant	1.25	\$950.00	\$1,187.50
KN	06/17/2024	Review Def further revisions to the Class notice; respond	0.50	\$950.00	\$475.00
SP	06/17/2024	Reviewed correspondence, related complaint MOU and Defendant's revisions to the FAC. Revised and finalized the FAC from scratch due to formatting issues. Sent to Counsel for approval.	4.30	\$675.00	\$2,902.50
JH	06/19/2024	Correspon. with co-counsel re settlement agreement; combine signature pages; circulate	0.40	\$750.00	\$300.00
KN	06/19/2024	Prepare signed agreement; email Def; memo to staff re next steps	0.50	\$950.00	\$475.00
HD	06/24/2024	Execute and finalize Proof of Service. Process and submit the Joint Stipulation for Leave to File Plaintiff's First Amended Class and Representative Action Complaint to court for filing via One Legal and serve via mail.	0.50	\$250.00	\$125.00
KN	06/25/2024	Review status of settlement and signed agreement; review status of class notice and prior correspondence on the issue; emails with JH	0.50	\$950.00	\$475.00
TM	06/25/2024	Reviewed Court's order granting leave to file FAC.	0.20	\$450.00	\$90.00
HD	06/26/2024	Execute and finalize Proof of Service. Process and submit First Amended Class and Representative Action Complaint to Court for filing via One Legal and serve via email.	0.50	\$250.00	\$125.00
HD	06/26/2024	Obtain and download Filed FAC to the file. Upload to the FAC to the LWDA website.	0.30	\$250.00	\$75.00
HD	06/26/2024	Prepare Request For Dismissal of Entire Action without prejudice as to the Paga Action.	0.50	\$250.00	\$125.00
HD	06/27/2024	Execute and finalize Proof of Service. Process and submit Request For Dismissal without prejudice as to the Paga action to court for filing via One Legal and serve via email.	0.50	\$250.00	\$125.00
GG	08/14/2024	Review email and notice of related case, ROA search for related complaint and save to file.	0.30	\$250.00	\$75.00
AR	08/19/2024	Review and outline file for status; multiple correspondence with PM regarding the same.	0.70	\$550.00	\$385.00
TM	08/21/2024	Reviewed file; planned and prepared for	0.50	\$450.00	\$225.00

		upcoming CMC.			
JH	10/10/2024	Discuss with KN re MPA	0.70	\$750.00	\$525.00
TM	10/10/2024	Email to OPC re settlement agreement; reviewed agreement.	0.40	\$450.00	\$180.00
KN	10/16/2024	Draft motion for preliminary approval; analysis of Kullar valuation and expert report; review documents; revise memorandum; finish draft of motion and circulate to Defendant; draft proposed order and circulate to Defendant; memo to Admin; emails to co-counsel regarding next steps.	4.75	\$950.00	\$4,512.50
JH	10/17/2024	Review draft MPA; discuss with KN	0.50	\$750.00	\$375.00
JH	10/23/2024	Review/analyze Defendant's MPA revisions	0.50	\$750.00	\$375.00
KN	10/23/2024	Review and revise motion for prelim per co-counsel comments; revise motion per Def comments; update proposed order	2.00	\$950.00	\$1,900.00
KN	10/24/2024	Draft declaration ISO motion for prelim.	3.00	\$950.00	\$2,850.00
TM	10/24/2024	Review file; drafted Plaintiff Montoya's Declaration ISO Motion for Preliminary Approval; Email to Client re Declaration ISO Motion for Preliminary Approval.	2.50	\$450.00	\$1,125.00
KN	10/24/2024	Review and revise motion for final; review court procedures; update tables; prepare final motion documents and file and serve motion; serve LWDA; email counsel	2.50	\$950.00	\$2,375.00
TM	10/28/2024	Email to client re declaration ISO Motion for Preliminary Approval.	0.20	\$450.00	\$90.00
TM	10/30/2024	Email to client re dec ISO motion for preliminary approval.	0.20	\$450.00	\$90.00
SP	10/31/2024	Reveiwed correspondence and declaration. Checked rep folder and conducted online search. Communicated with TM re: Skiptrace.	0.40	\$675.00	\$270.00
TM	11/05/2024	Email to TPA re Skip trace.	0.20	\$450.00	\$90.00
TM	11/06/2024	Emails from TPA re skip trace; telephone call with client re declaration ISO preliminary approval; discussed with team; emails to and from client re declaration.	0.90	\$450.00	\$405.00
KN	11/13/2024	Prepare declarations; file and serve documents	1.00	\$950.00	\$950.00
GG	11/13/2024	ROA check to confirm upcoming hearing re Preliminary Approval in Class action.	0.10	\$250.00	\$25.00
JH	11/19/2024	Review tentative ruling on MPA	0.30	\$750.00	\$225.00

KN	11/19/2024	Review tentative and proposed order revisions; emails with counsel	0.50	\$950.00	\$475.00
KN	11/20/2024	Review emails; work on proposed order; file and serve proposed order; prepare for hearing; appear for hearing to make sure no contest	1.00	\$950.00	\$950.00
KN	11/21/2024	Review status and emails; prepare documents; memo to Admin with documents and instructions; email Def re proposed order	0.50	\$950.00	\$475.00
KN	11/25/2024	Review revisions to proposed order' prepare proposed order for final and filing; file and serve proposed order; email to COurt	1.30	\$950.00	\$1,235.00
JH	11/29/2024	Review preliminary approval order; circulate	0.30	\$750.00	\$225.00
KN	12/20/2024	Review emails; review docket; download order and review; memo to Admin	0.50	\$950.00	\$475.00
TM	12/20/2024	Reviewed Court's signed preliminary approval order.	0.20	\$450.00	\$90.00
KN	12/20/2024	Review Admin emails; review formatted notice; review updated formatted notice; review spreadsheet calculations; respond to Admin; double check all figures	0.80	\$950.00	\$760.00
JH	02/17/2025	Review/analyze co-counsel decl. in support of MFA/Fee brief	0.40	\$750.00	\$300.00
JH	02/24/2025	Review preliminary approval order and longform agreement; assess attorney costs and time for loadstar analysis; draft motion for final approval/ fees; circulate to KN and discuss	4.00	\$750.00	\$3,000.00
GG	02/25/2025	Reviewed order deeming case complex, updated discovery chart (stay).	0.20	\$250.00	\$50.00
KN	02/26/2025	Review and revise draft motion for final approval; review co-counsel declarations	2.50	\$950.00	\$2,375.00
JH	02/28/2025	Review KN revisions to MFA/Fee motion; draft supporting declaration; discuss with KN	2.00	\$750.00	\$1,500.00
HD	02/28/2025	Prepare Table of Contents and Table of Authorities for Motion for Final Approval of Settlement.	1.00	\$250.00	\$250.00
JH	03/05/2025	Review/analyze Defendant's proposed revisions to MPA	0.60	\$750.00	\$450.00
KN	03/06/2025	Review and revise declaration ISO motion; finalize exhibits; update figures.	1.00	\$950.00	\$950.00
KN	03/06/2025	Review and revise motion for final approval; update proposed order; file and serve motion; serve LWDA	3.00	\$950.00	\$2,850.00

Services Subtotal **\$202,416.25****Expenses**

Type	Date	Notes	Quantity	Rate	Total
Expense	07/13/2022	PAGA Filing Fee	1.00	\$75.00	\$75.00
Expense	10/13/2022	Court/OneLegal Fees	1.00	\$1,496.17	\$1,496.17
Expense	12/13/2022	Court fees/OneLegal Fees	1.00	\$18.76	\$18.76
Expense	12/14/2022	Court Fee/OneLegal Fee	1.00	\$41.69	\$41.69
Expense	12/19/2022	Onelegal/Court Fee	1.00	\$1,496.17	\$1,496.17
Expense	12/31/2022	KNOX filing and messenger service	1.00	\$156.65	\$156.65
Expense	12/31/2022	KNOX filing and messenger service	1.00	\$228.65	\$228.65
Expense	02/23/2023	Onelegal/Court Fees	1.00	\$19.22	\$19.22
Expense	02/24/2023	Onelegal/Court Fees	1.00	\$42.72	\$42.72
Expense	05/08/2023	court filing via One Legal	1.00	\$20.25	\$20.25
Expense	05/09/2023	court filing via One Legal	1.00	\$42.98	\$42.98
Expense	09/14/2023	Mediation Fees - Mark Rudy.	1.00	\$10,500.00	\$10,500.00
Expense	01/31/2024	Berger Consulting Fee.	1.00	\$5,520.00	\$5,520.00
Expense	02/05/2024	LexisNexis	1.00	\$7.00	\$7.00
Expense	02/23/2024	One Legal Filing fee	1.00	\$21.28	\$21.28
Expense	02/23/2024	One Legal Filing fee	1.00	\$21.28	\$21.28
Expense	05/05/2024	One Legal filing fee	1.00	\$3.09	\$3.09
Expense	05/05/2024	One Legal filing fee	1.00	\$3.09	\$3.09
Expense	06/24/2024	One Legal Invoice No. 06143968	1.00	\$41.95	\$41.95
Expense	06/26/2024	One Legal Invoice No. 06153279	1.00	\$21.28	\$21.28
Expense	06/27/2024	One Legal Invoice No. 06157262	1.00	\$21.28	\$21.28
Expense	09/16/2024	LexisNexis	1.00	\$7.00	\$7.00
Expense	10/25/2024	Filing fee - motion; one legal charge	1.00	\$87.50	\$87.50
Expense	11/13/2024	One legal filing charge	1.00	\$21.42	\$21.42
Expense	11/25/2024	One legal filing charge	1.00	\$24.52	\$24.52
Expense	03/06/2025	Filing fee - motion	1.00	\$60.00	\$60.00

Expenses Subtotal \$19,998.95

Time Keeper	Quantity	Rate	Total
AJ Bhowmik	33.0	\$895.00	\$29,535.00
Scott Blumenthal	18.6	\$450.00	\$8,370.00
Nicholas De Blouw	50.9	\$850.00	\$43,265.00
Ricardo Ehmann	19.15	\$675.00	\$12,926.25
Jeffrey Herman	18.5	\$750.00	\$13,875.00
Charlotte James	36.5	\$550.00	\$20,075.00
Trevor Moran	7.3	\$450.00	\$3,285.00
Piya Mukherjee	20.0	\$750.00	\$15,000.00
Kyle Nordrehaug	33.65	\$950.00	\$31,967.50
Sergio Puche	9.9	\$675.00	\$6,682.50
Victoria Rivapalacio	20.3	\$750.00	\$15,225.00
Andrew Ronan	0.7	\$550.00	\$385.00
Heather Drosi	4.3	\$250.00	\$1,075.00
Gerardo Galaviz	3.0	\$250.00	\$750.00
Subtotal			\$222,415.20
Total			\$222,415.20

Detailed Statement of Account

Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
1	04/05/2025	\$222,415.20	\$0.00	\$222,415.20
Outstanding Balance				\$222,415.20
Total Amount Outstanding				\$222,415.20

Please make all amounts payable to: Blumenthal Nordrehaug Bhowmik DeBlouw LLP

Please pay within 30 days.

EXHIBIT #4

LAFFEY MATRIX

History

Case Law

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Home

			Years Out of Law School *				
Year	Adjustmt Factor**	Paralegal/ Law Clerk	1-3	4-7	8-10	11-19	20 +
6/01/23- 5/31/24	1.059295	\$239	\$437	\$538	\$777	\$878	\$1057
6/01/22- 5/31/23	1.085091	\$225	\$413	\$508	\$733	\$829	\$997
6/01/21- 5/31/22	1.006053	\$208	\$381	\$468	\$676	\$764	\$919
6/01/20- 5/31/21	1.015894	\$206	\$378	\$465	\$672	\$759	\$914
6/01/19- 5/31/20	1.0049	\$203	\$372	\$458	\$661	\$747	\$899
6/01/18- 5/31/19	1.0350	\$202	\$371	\$455	\$658	\$742	\$894
6/01/17- 5/31/18	1.0463	\$196	\$359	\$440	\$636	\$717	\$864
6/01/16- 5/31/17	1.0369	\$187	\$343	\$421	\$608	\$685	\$826
6/01/15- 5/31/16	1.0089	\$180	\$331	\$406	\$586	\$661	\$796
6/01/14- 5/31/15	1.0235	\$179	\$328	\$402	\$581	\$655	\$789
6/01/13- 5/31/14	1.0244	\$175	\$320	\$393	\$567	\$640	\$771
6/01/12- 5/31/13	1.0258	\$170	\$312	\$383	\$554	\$625	\$753
6/01/11- 5/31/12	1.0352	\$166	\$305	\$374	\$540	\$609	\$734
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05-5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04-5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03-6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02-5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01-5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00-5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99-5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98-5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424
6/1/97-5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406
6/1/96-5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389
6/1/95-5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375

6/1/94-5/31/95	1.0237	\$82	\$151	\$185	\$267	\$301	\$363
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The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., *DL v. District of Columbia*, 267 F.Supp.3d 55, 69 (D.D.C. 2017)

* $i_{\frac{1}{2}}$ Years Out of Law School $i_{\frac{1}{2}}$ is calculated from June 1 of each year, when most law students graduate. $i_{\frac{1}{2}}1-3$ " includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). $i_{\frac{1}{2}}4-7$ " applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier $i_{\frac{1}{2}}1-3$ " from June 1, 1996 until May 31, 1999, would move into tier $i_{\frac{1}{2}}4-7$ " on June 1, 1999, and tier $i_{\frac{1}{2}}8-10$ " on June 1, 2003.

** The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.

EXHIBIT #5

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Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

JENNIFER MONTOYA and JUAN
GONTEZ, individually, on behalf of
themselves and on behalf of all persons
similarly situated,

Plaintiffs,

v.

FPR II, L.L.C., dba LEADPOINT BUSINESS
SERVICES, a Limited Liability Company; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: **22CV404499**

**DECLARATION OF JENNIFER
MONTOYA IN SUPPORT OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS SETTLEMENT**

Hearing Date: November 20, 2024
Hearing Time: 1:30 p.m.

Judge: Hon. Theodore C. Zayner
Dept.: 19

Action Filed: October 13, 2022
Trial Date: Not set

DECLARATION OF JENNIFER MONTOYA

1 I, Jennifer Montoya, declare as follows:

2 1. I am over the age of eighteen, a Plaintiff and a proposed Class Representative in the above-
3 entitled matter. I submit this declaration in support of the Motion for Preliminary Approval of
4 Class Settlement and in support of my application for a class representative service award.

5 2. I have personal knowledge of all the facts stated herein. I could and would competently
6 testify under oath to these facts in court if requested to do so.

7 3. I worked for the Defendant Leadpoint Business Services (“Leadpoint”) in California from
8 April of 2020 to June of 2022, and during that time period I was classified by Leadpoint as a non-
9 exempt employee.

10 4. I retained my attorneys who are experienced in both class action and PAGA representative
11 action litigation and claims against employers for violations of the California Labor Code. I have
12 no personal relationship or family ties to my attorneys or any officer of the Court. I am not aware
13 of having any actual or potential conflicts of interest with another class member in this case. I am
14 not aware of any other pending matter or action asserting claims that will be extinguished or
15 adversely affected by this settlement.

16 5. I decided to file this class action lawsuit and be a plaintiff/class representative because I
17 felt that my legal rights as an employee and others like me were violated. For example, Leadpoint
18 rounded my time, resulting in a frequent and uniform underpayment of wages. Further, numerous
19 remunerations were not incorporated into my regular rate for the payment of overtime. I was also
20 not properly reimbursed for required business expenses, including the use of my personal cell
21 phone. Additionally, I rarely received compliant meal breaks which were often late, short or
22 missed entirely, and was not always paid the break penalties I was entitled to.

23 6. I spoke to my attorneys several times and discussed how Leadpoint implemented its
24 company policies and procedures. I also assisted my attorneys in their investigation into my
25 claims by providing them documents and answering their questions. I reviewed the complaint
26 before it was filed and was given access to an electronic file sharing program that alerted me via
27 email when important documents were filed so that I could review them and keep up with the

28
DECLARATION OF JENNIFER MONTOYA

1 developments in the case which I understood was one of my duties as a class representative. I
2 could also access court filings from this case on my attorney's law firm website. Also, I was
3 informed that Leadpoint had the right to take my deposition, and that the preparation and
4 deposition itself could take multiple days. Although my deposition was not taken, I feel I would
5 have been adequately prepared and comfortable to give testimony on my experiences.

6 7. Even though this action is in the process of settling, I was and remain prepared to perform
7 all the duties of a class representative. I understand that as a class representative I have assumed a
8 fiduciary responsibility to prosecute this class action on behalf of the absent class members. I
9 have understood that as a fiduciary, I have a duty to prosecute this action for the benefit of the
10 class members and surrender any right to compromise the group action for an individual gain.

11 8. I understood that being a plaintiff/class representative in this case meant that I was seeking
12 damages not only for myself but also other current and/or former non-exempt employees working
13 for Leadpoint in California who make up the class. I felt that these individuals were not aware of
14 their labor law rights and even if they were they would probably be apprehensive about speaking
15 up or even simply because of the time, effort and risk involved in filing a class action lawsuit.

16 9. I understood that being a part of this lawsuit involved risks. For example, my attorneys
17 explained to me that if the case went to trial and we lost, I could be held responsible to pay for all
18 or part of the attorney fees and costs paid by Leadpoint to defend this lawsuit. Also, I knew there
19 was a risk that future employers, if they ever find out about this lawsuit, could hold it against me
20 or downgrade me as a potential hire. As one of the named Plaintiffs in this case it would not be
21 difficult for a future employer to become aware that I sued a former employer for labor law
22 violations. Ultimately, I decided these risks were worth it and decided to fight for my rights and
23 the rights of others regardless of the risks, time and effort I spent on this case.

24 10. During the lawsuit I stayed in touch with my attorneys by phone and email. I also kept up
25 to date on important developments by reviewing court filings that were made available to me
26 electronically as I described above.

27 11. A mediation took place on January 25, 2024, with Mark S. Rudy, a well-respected and
28

DECLARATION OF JENNIFER MONTOYA

1 experienced mediator of wage and hour class actions. After the mediation the parties were able to
2 come to an agreement to settle the action. I communicated with my attorneys regarding the terms
3 of the settlement which was reached between the parties and understood that I was representing
4 absent class members and therefore wanted the best possible result to be obtained for the class
5 members and I believe a very positive result was in fact achieved via settlement. I closely
6 reviewed and signed the Settlement Agreement on June 13, 2024.

7 12. I have been actively involved with this lawsuit performing the duties described above.
8 Although I did not keep time records, I was in regular contact with my attorneys, reviewed court
9 filings and spent a significant amount of time on the issues presented during the lawsuit and in the
10 settlement process. I estimate that I spent approximately 30-40 hours working on this case up
11 until this point. I believe I have been diligent and have done what is expected of a named plaintiff
12 and a proposed class representative to date, and will continue to do so. I have and always will
13 maintain the best interest of the class members.

14 13. My attorneys explained to me that the settlement process involves a two-step review by
15 the Court to determine whether the settlement is fair before approving the settlement. I know this
16 process also involves notifying all class members of the settlement terms and of their rights to
17 make a claim for their settlement share, to opt out of the settlement or to object to the settlement.

18 14. I believe I did the right thing by filing this case on behalf of the class members who,
19 subject to court approval, are in line to receive monetary payments as a result of this case and
20 settlement. This is money they may never have ever gotten if I did not pursue this action on their
21 behalf. I feel significant personal satisfaction to know that I played a role in the class members
22 being entitled to monetary payments as a result of the filing of this lawsuit. I also believe that the
23 requested class representative service award of \$12,500 from the settlement is fair compensation
24 for the work I performed and the risks I undertook.

25 15. As part of the settlement, it was necessary for me to sign a general release of claims I
26 may have against Leadpoint. I believe the class representative service payment I have requested
27 provides me with some compensation for this agreed release.

28

DECLARATION OF JENNIFER MONTOYA

16. In light of all the time and effort I have spent on this case, the risk I undertook by suing a former employer, the exposure to being responsible for paying Leadpoint costs in the event we did not win the case, the reputational risk that future employers may hold this lawsuit against me, the general release and in light of the size of the settlement, I believe the request for \$12,500 as a class representative service payment is fair and reasonable.

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

Executed on 11/06/2024, at Jennifer montoya.
(city, state)

Jennifer Montoya
JENNIFER V MONTOYA (Nov 6, 2024 14:05 PST)

DECLARATION OF JENNIFER MONTOYA

EXHIBIT #6

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Attorneys for Plaintiffs, JENNIFER MONTOYA
And JUAN GONTEZ, on behalf of themselves
and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SANTA CLARA

JENNIFER MONTOYA and JUAN
GONTEZ, individually, on behalf of
themselves and on behalf of all persons
similarly situated,

Plaintiff,

v.

FPR II, L.L.C., dba LEADPOINT
BUSINESS SERVICES, a Limited Liability
Company; and DOES 1 through 50,
inclusive,

Defendants

Case No.: 22CV404499

[Assigned for all purposes to the Hon.
Theodore C. Zayner in Dept.: 19]

**DECLARATION OF PLAINTIFF JUAN
GONTEZ IN SUPPORT OF MOTION
FOR FINAL APPROVAL OF CLASS
SETTLEMENT**

Action Filed: October 13, 2022
Trial Date: Not set

DECLARATION OF JUAN GONTEZ

1
2 1. I am a party to this action and reside in the State of California. I am fully competent
3 to make this declaration. I have personal knowledge of the facts set forth herein, except for those
4 stated on information and belief, and as to those I am informed and believe them to be true. If
5 called upon to testify, I could and would testify as set forth herein.

6 2. I make this Declaration in support of the Motion for Final Approval of Class
7 Settlement.

8 3. I was employed by FPR II, L.L.C. dba Leadpoint Business Services (“Defendant”),
9 as a non-exempt, hourly paid employee, with duties that included, but not limited to, supervising
10 employees and providing quality assurance for production, in California, from approximately
11 February 2021 through December 15, 2021.

12 4. Throughout my employment with Defendant, I am informed and believe that myself
13 and other non-exempt, hourly paid employees of Defendant were not paid all wages owed because
14 we were not paid for all time under Defendant’s control, or for which we were suffered or
15 permitted to work by Defendant. In addition, I am informed and believe we were not paid all
16 overtime hours worked at the overtime rate of pay owed due to, without limitation, failure to
17 record all time worked and failure to pay for off-the-clock work.

18 5. During my employment with Defendant, I often took meal periods that were after
19 the fifth hour, short or not duty-free. I witnessed other non-exempt, hourly paid employees with
20 my job duties often taking meal periods that were after the fifth hour, short or not duty-free, as
21 well.

22 6. I do not recall receiving any premium pay for the full, timely and uninterrupted
23 meal periods I was not provided an opportunity to take and am informed and believe that my
24 coworkers were not provided premium pay for not being provided with the opportunity to take
25 full, timely and uninterrupted meal periods, either.

26 7. I do not believe I was provided with opportunities to take full, uninterrupted 10-
27 minute rest periods while working with Defendant and am informed and believe my coworkers
28 were often not provided with such an opportunity, either.

1 8. I do not recall receiving any premium pay for the full rest breaks I was not provided
2 an opportunity to take and am informed and believe that my coworkers were not provided
3 premium pay for not being provided with the opportunity to take full, uninterrupted 10-minute
4 rest periods, either.

5 9. Before and during the course of litigation, I was actively involved in assisting my
6 attorneys to support the wage and hour claims asserted. My involvement began before the initial
7 complaint was filed in the action entitled, *Gontez v. Marborg Industries, et al.*, in the Superior
8 Court of California for the County of Santa Barbara, Case No. 22CV04157, wherein, I provided
9 first-hand knowledge and documentation as to Defendant's practices, its ownership and corporate
10 structure, and their wage and hour policies and practices.

11 10. Part of the information I relayed was with regard to Defendant's timekeeping policies
12 and practices and their meal and rest period policies and practices.

13 11. I provided them with all the documentation provided to me by Defendant during my
14 employment.

15 12. I assisted in reviewing time and payroll records with my attorneys and informed them
16 of Defendant's employment policies and whether those policies matched Defendant's practices.

17 13. My attorneys called me to ask me questions over several times throughout the
18 litigation and I contacted my attorneys several times to stay updated on the case and offer my
19 assistance on any matters I could be helpful with. I was also available for mediation by telephone,
20 during which I was available to be called to answer the questions posed by the mediators regarding
21 the asserted claims, as well as arguments raised by Defendant. In addition, I worked with my
22 attorneys over the next several weeks after mediation to understand and execute a long form
23 settlement agreement.

24 14. Over the past few months since the mediation has been resolved, I have stayed in
25 touch with my attorneys to ensure that there was no undue delay in payment for other class
26 members for whom I brought this Action.

27 15. I believe that, through the present, I have spent at least 26 hours in connection with
28 this matter, which included time spent having preliminary calls with my attorneys; doing an intake

1 with my attorneys; time spent searching for documents relating to my employment; time spent
2 reading and understanding the Settlement Agreement; time spent answering calls to discuss
3 Defendant's timekeeping, pay, meal and rest periods, and to review time and payroll records; time
4 spent discussing with my attorneys on Defendant's policies and practices; time spent on-call at
5 mediation; and time spent checking in on the status of the case, among other things. I also spent
6 time preparing this declaration to support the Motion for Final Approval of Class Settlement.

7 16. I feel that by bringing this lawsuit, I could stand up for not only my rights but the
8 rights of other employees who suffered from the same unfair wage practices. I felt that current
9 employees might not want to share their experiences with Defendant since they feared losing their
10 jobs. This is certainly understandable as I, too, have to provide for myself and others.

11 17. By bringing this lawsuit, I have put the interests of the class ahead of my own.

12 18. I understood that I could possibly earn a small enhancement if this case is resolved
13 favorably. I also knew that I could face retaliation from Defendant and backlash from former
14 coworkers who are loyal to Defendant. I have also had to provide a general release of claims and
15 a waiver of rights under California Civil Code Section 1542 to Defendant as part of the settlement.
16 My understanding, in addition, is that if I brought this case individually, I may have earned more
17 compensation individually and on a much quicker timeline than the timeline to resolve this Action.

18 19. My goal in bringing this lawsuit was to obtain a recovery on behalf of the class,
19 and, even more importantly, to put an end to what I believe are illegal practices on the part of
20 Defendant. I believe I have achieved both through this lawsuit and settlement.

21 I declare under penalty of perjury under the laws of the State of California that the
22 foregoing is true and correct this 02/13/2025 at Lompoc, California.

23
24 
E.V. Ana Nunez (Feb 13, 2025 19:09 PST)
25 JUAN GONTEZ
26
27
28