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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA CLARA

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

Plaintiffs,

vs.

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 KYLE NORDREHAUG
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

1 I, Kyle Nordrehaug, declare as follows:

2 1. I am a partner of the law firm of Blumenthal Nordrehaug Bhowmik De Blouw LLP,
3 counsel of record for Plaintiffs Jennifer Montoya and Juan Manso Gontez ("Plaintiffs") in this
4 matter. As such, I am fully familiar with the facts, pleadings and history of this matter. The
5 following facts are within my own personal knowledge, and if called as a witness, I could testify
6 competently to the matters stated herein.

7 2. This declaration is being submitted in support of the Plaintiffs' unopposed motion by
8 for preliminary approval of the proposed class action settlement with Defendant FPR II, LLC, dba
9 Leadpoint Business Services ("Defendant"), which motion seeks entry of an order: (1) preliminarily
10 approving the proposed settlement of this class action; (2) for settlement purposes only,
11 conditionally certifying the Class, which is comprised of "all persons currently or formerly
12 employed by Leadpoint as nonexempt, hourly-paid employees during the period from October 13,
13 2018, through January 25, 2024 ("Class Period") in the State of California"; (3) provisionally
14 appointing Plaintiffs as the representatives of the Class; (4) provisionally appointing Blumenthal
15 Nordrehaug Bhowmik De Blouw LLP and Bibiyan Law Group, P.C. as Class Counsel for the Class;
16 (5) approving the form and method for providing notice to the Class of the proposed settlement;
17 (6) directing that notice of the proposed settlement be given to the Class; (7) appointing ILYM
18 Group as the Settlement Administrator; and (8) scheduling a final approval hearing date for April 2,
19 2025 to consider the Plaintiffs' motion for final approval of the settlement and for approval of
20 attorneys' fees, expenses and the service awards. Plaintiffs and Defendant have reached a full and
21 final settlement of the above-captioned action, which is set forth in the Class Action and PAGA
22 Settlement Agreement (the "Agreement") filed concurrently with the Court. Attached hereto as
23 Exhibit #1 is a copy of the fully executed Joint Stipulation Re: Class Action and Representative
24 Action Settlement ("Settlement," "Agreement" or "Settlement Agreement") along with exhibits
25 thereto. The form of the Agreement is based upon the Los Angeles County Superior Court model
26 form for a class and PAGA settlement. This Declaration incorporates by reference the definitions in
27 the Agreement, and all terms defined therein shall have the same meaning as set forth in the
28

1 Agreement.

2
3 Fairness of Settlement

4 3. As consideration for this Settlement, the Gross Settlement Amount is One Million
5 Five Hundred Thousand Dollars (\$1,500,000.00) to be paid by Defendant, as set forth in the
6 Agreement. The Gross Settlement Amount will settle all issues pending in the Action between the
7 Parties and will be made in full and final settlement of the released claims. The Gross Settlement
8 Amount includes all payments of Individual Settlement Payments to the Participating Class
9 Members, the Settlement Administration Costs to the Settlement Administrator, the Class Counsel
10 Fees Payment and Class Counsel Litigation Expenses Payment to Class Counsel, the Service
11 Awards to Plaintiffs, and the PAGA penalties payment to the California Labor and Workforce
12 Development Agency (the "LWDA") and the Aggrieved Employees. The Gross Settlement Amount
13 does not include the employer's share of payroll taxes which will be separately paid by Defendant.
14 The Settlement is all-in with no reversion to Defendant and no need for Class Members to submit
15 claim forms. The following is a table of the key financial terms of the Settlement and the proposed
16 deductions:

17 **\$1,500,000** (Gross Settlement Amount)

- 18 - \$25,000 (Plaintiffs' proposed service awards not to exceed \$12,500 each)
19 - \$50,000 (Class Counsel Litigation Expenses Payment - not to exceed amount)
20 - \$500,000 (Class Counsel Fees Payment - not to exceed one-third of settlement)
21 - \$75,000 (PAGA Penalties - 75% to LWDA / 25% to Aggrieved Employees)
22 - \$15,000 (Settlement Administration Costs - not to exceed amount)

23 **\$835,000** (Net Settlement Amount)

24 4. The relief provided in the Settlement will benefit all members of the Class. The
25 Settlement does not grant preferential treatment to Plaintiffs or segments of the Class in any way.
26 Payments to the Class Members are all determined under a neutral methodology. Each Participating
27 Class Member will receive the same opportunity to participate in and receive payment through a
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1 neutral formula that is based upon the Workweeks worked by that individual.

2 5. On January 25, 2024, the Parties participated in an all-day mediation session presided
3 over by Mark Rudy, Esq., a respected and experienced mediator of wage and hour class actions. In
4 preparation for the mediation, Defendant provided Class Counsel with necessary information,
5 including the payroll and timekeeping data for the Class. Plaintiffs analyzed the data with the
6 assistance of an expert data analyst, Berger Consulting, and prepared and submitted a mediation
7 brief and damage valuation to the Mediator. Similarly, Defendant also prepared and a submitted a
8 mediation brief. Following the all-day mediation, the Parties agreed to the Settlement, which was
9 memorialized in the form of a Memorandum of Understanding. The final terms of the Settlement
10 were negotiated and set forth in the Agreement now presented for this Court's approval.
11 Importantly, Plaintiffs and Class Counsel believe that this Settlement is fair, reasonable and
12 adequate.

13 6. At mediation, it was represented that there were approximately 1,485 Class Members
14 who collectively worked approximately 58,000 Workweeks. Based on those numbers, the Gross
15 Settlement Amount provides a value of \$1,010 per Class Member and \$25.86 per Workweek and,
16 after deductions, the Net Settlement Amount provides an average recovery of \$562.28 per Class
17 Member and \$14.39 per Workweek. The calculations to compensate for the amount due to the
18 Class Members at the time the Settlement was negotiated were calculated by Plaintiffs' expert,
19 Berger Consulting, in advance of mediation. Class Counsel analyzed the data for putative class
20 members and determined the potential maximum damages for the class claims. For the Class, the
21 maximum value of the claim for unpaid wages due to alleged rounding practices was \$145,718, the
22 maximum value of the claim for unpaid wages due to the alleged miscalculation of the regular rate
23 applicable to overtime pay and sick pay was \$7,790, the maximum value of the claim for unpaid
24 wages due to alleged off-the-clock work was \$1,487,756, the maximum potential damages for
25 alleged meal period violations were estimated to be \$4,519,427 based upon a potential 93.1%
26 violation rate observed in the time records and after deduction of meal premiums already paid by
27 Defendant, the maximum potential damages for alleged rest period violations were estimated to be
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1 \$4,478,470 based upon the same 93.1% potential violation rate observed for meal periods, and the
2 maximum potential damages for the alleged failure to reimburse business expenses were calculated
3 to be \$78,955 based upon \$5 per month. In total, the damages for the Class were calculated to have
4 a maximum potential total value of \$10,718,115. In addition, Plaintiff calculated that the maximum
5 value of the potential waiting time penalties were between \$534,810 and \$5,549,831, depending on
6 the predicate violations, and the maximum value of the potential wage statement penalties were
7 \$2,959,800.¹ Defendant vigorously disputed Plaintiffs' calculations and exposure theories.
8 Consequently, the Gross Settlement Amount represents more than 29% of Plaintiffs' calculation of
9 the potential maximum damages at issue for the Class in this case, assuming these amounts could all
10 be proven in full at trial.² Importantly, the recent decision that good faith belief of compliance by
11 the employer in *Naranjo v. Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1065 (2024), could
12 completely negate the claims for waiting time and wage statement penalties, even if wages were
13 owed to the class. The maximum calculations should then be realistically risk rated in consideration
14 for both the risk of class certification and the risk of establishing class-wide liability on all claims.
15 Given the amount of the Settlement as compared to the potential value of the claims, the Settlement
16 is most certainly fair and reasonable.

17 18 Procedural History of the Litigation

19 7. On July 13, 2022, Plaintiff Jennifer Montoya filed with the LWDA and served on
20 Defendant a notice under Labor Code section 2699.3 identifying the alleged Labor Code violations

21
22 ¹ While Plaintiffs alleged claims for statutory penalties pursuant to Labor Code Sections 203 and
23 226, at mediation Plaintiffs recognized that these claims were subject to additional, separate
24 defenses asserted by Defendant, including but not limited to, a good-faith dispute defense as to
25 whether any premium wages for meal or rest periods or other wages were owed given Defendant's
26 position that Plaintiffs and Class Members were properly compensated. *See Nordstrom Commission*
27 *Cases*, 186 Cal. App. 4th 576, 584 (2010) ("There is no willful failure to pay wages if the employer
28 and employee have a good faith dispute as to whether and when the wages were due.").

29 ² Because the PAGA claim does not provide a recovery to the Class, Plaintiffs did not include
the PAGA claim in this discussion of the class claims valuation. The PAGA claim is addressed in
the Decl. Nordrehaug at ¶ 33.

1 to recover civil penalties on behalf of Aggrieved Employees for various Labor Code violations (the
2 "Montoya PAGA Notice"). A true and correct copy of this Montoya PAGA Notice is attached
3 hereto as Exhibit #3. On October 13, 2022, plaintiff Jennifer Montoya filed a putative
4 wage-and-hour class action, captioned Montoya v. FPR II, LLC, et al., in the Santa Clara County
5 Superior Court, Case Number 22CV404499, alleging causes of action against Defendant, for: (1)
6 Violation of California Business and Professions Code §§ 17200, et seq; (2) Violation of California
7 Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages); (3) Violation of California
8 Labor Code §§ 510 and 1198 (Unpaid Overtime Wages); (4) Violation of California Labor Code §§
9 226.7 and 512(a) (Unpaid Meal Period Premiums); (5) Violation of California Labor Code §§ 226.7
10 and 512(a) (Unpaid Rest Period Premiums); (6) Violation of California Labor Code § 226(a)
11 (Failure to Issue Accurate Wage Statements); (7) Violation of California Labor Code §§ 2800 and
12 2802 (Unreimbursed Business Expenses); (8) Failure to Provide Wages When Due in Violation of
13 California Labor Code §§ 201-203 (Waiting Time Penalties); and (9) Failure to Pay Sick Wages In
14 Violation of California Labor Code §§201-204, 233 and 246. (the "Montoya Class Action"). On
15 December 16, 2022, after sixty-five (65) days had passed without any action by the LWDA with
16 respect to the alleged Labor Code violations, plaintiff Jennifer Montoya filed a separate
17 representative action under PAGA, captioned Montoya v. FPR II, LLC, et al., in the Santa Clara
18 County Superior Court, Case Number 22CV408517, seeking civil penalties pursuant to Labor Code
19 § 2699, et seq. for Violations of Labor Code §§ 201, 202, 203, 204 et seq., 210, 221, 226(a), 226.7,
20 227.3, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations,
21 Title 8, Section 11040, Subdivision 5(A)-(B), and the applicable Wage Order(s).

22 . 8. On October 18, 2022, plaintiff Juan Manso Gontez filed with the LWDA and served
23 on MarBorg Industries and Leadpoint a notice under Labor Code section 2699.3, stating that he
24 intended to serve as a proxy of the LWDA to recover civil penalties on behalf of Aggrieved
25 Employees for alleged Labor Code violations (the "Gontez PAGA Notice"). On October 20, 2022,
26 plaintiff Juan Manso Gontez filed a putative wage-and-hour class action, captioned Gontez v.
27 Marborg Industries, et al., in the Santa Barbara Superior Court, Case Number 22CV408517,
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1 alleging causes of action against MarBorg Industries and Defendant for: (1) Failure to Pay Overtime
2 Wages; (2) Failure to Pay Minimum Wages; (3) Failure to Provide Meal Periods; (4) Failure to
3 Provide Rest Periods; (5) Waiting Time Penalties; (6) Failure to Timely Furnish Accurate Itemized
4 Wage Statements; (7) Failure to Timely Pay Wages During Employment; (7) Failure to Indemnify
5 Business Expenses; and (8) Unfair Competition and Business Practices. (the "Gontez Class
6 Action"). On December 19, 2022, plaintiff Juan Manso Gontez filed an amended PAGA notice,
7 adding MarBorg Recovery Management, LLC, as respondent (the "Gontez Amended PAGA
8 Notice," collectively with the Montoya PAGA Notice and the Gontez PAGA Notice, the "PAGA
9 Notices"). On December 25, 2023, after sixty-five (65) days had passed without any action by the
10 LWDA with respect to the alleged Labor Code violations, plaintiff Juan Manso Gontez filed a
11 separate representative action under PAGA, captioned Gontez v. Marborg Industries, et al. in the
12 Superior Court of the State of California for the County of Santa Barbara, Case No. 23CV00298,
13 seeking civil penalties under California Labor Code sections 210, 226.3, 558, 1174.5, 1197.1 and
14 2699.

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

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

10 11. Class Counsel has extensive experience in litigating wage and hour class actions in
11 California. The Parties have vigorously litigated the Action since inception. During the course of
12 litigation, the Parties each performed analysis of the merits and value of the claims. Plaintiffs and
13 Defendant have engaged in substantial research and investigation in connection with the Action.
14 Class Counsel has thoroughly analyzed the value of the claims during the prosecution of this Action
15 and utilized an expert to perform an analysis of the data and valuation of the alleged class claims.

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

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

13 14. Class Counsel has conducted a thorough investigation into the facts of the class
14 action. Over the course of more than two years, Class Counsel diligently evaluated the Class
15 Members' claims against Defendant. Prior to the settlement negotiations, counsel for Defendant
16 provided Class Counsel with access to necessary documents and information for the Class,
17 including, but not limited to payroll and timekeeping data for the Class. In addition, Class Counsel
18 has previously negotiated settlements with other employers in actions involving nearly identical
19 issues and analogous defenses. Based on the informal discovery and their own independent
20 investigation, evaluation and experience, Class Counsel believes that the settlement with Defendant
21 on the terms set forth in the Agreement is fair, reasonable, and adequate and is in the best interest of
22 the Class in light of all known facts and circumstances, including the risk of significant delay, the
23 risk that the claims would not be allowed to proceed on a class or representative basis, the defenses
24 asserted by Defendant, and potential appellate issues.

25
26 Settlement Terms and Plan of Allocation

27 15. The Gross Settlement Amount is One Million Five Hundred Thousand Dollars
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1 (\$1,500,000). (Agreement at ¶ 1(M).) Under the Settlement, the Gross Settlement Amount consists
2 of the following elements: (i) all Individual Settlement Payments and Individual PAGA Payments;
3 (ii) the LWDA Payment; (iii) the Court-approved amounts for attorneys' fees and reimbursement of
4 litigation costs and expenses to Class Counsel; (iv) the Service Awards; and (v) the Settlement
5 Administration Costs. (Agreement at ¶ 1(M).) The Gross Settlement Amount does not include
6 Defendant's share of payroll taxes. (Agreement at ¶ 1(M).) The Gross Settlement Amount shall be
7 all-in with no reversion to Defendant. (Agreement at ¶ 1(M).)

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

13 17. The amount remaining in the Gross Settlement Amount after the deduction of
14 Court-approved amounts for Individual PAGA Payments, the LWDA Payment, the Service Awards,
15 the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the
16 Settlement Administration Costs (the "Net Settlement Amount") shall be allocated to Participating
17 Class Members as their Individual Settlement Payments. (Agreement at ¶¶ 1(R) and 10.) From the
18 Net Settlement Amount, the Settlement Administrator will determine the aggregate number of
19 Workweeks worked by all Participating Class Members during the Class Period ("Participating
20 Class Workweeks") and use the following formula: Individual Settlement Share = (Participating
21 Class Member's Workweeks worked ÷ Participating Class Workweeks) × Net Settlement Amount.
22 (Agreement at ¶ 10(B).) Workweeks will be calculated based on Defendant's records; however,
23 Class Members will have the right to challenge their number of Workweeks.

24 18. Class Members may choose to opt-out of the Settlement by following the directions
25 in the Class Notice. (Agreement at ¶ 9(C), Ex. A.) All Class Members who do not "opt out" will
26 be deemed Participating Class Members and will be bound by the Settlement and will be entitled to
27 receive an Individual Settlement Payment. (Agreement at ¶ 9(C).) All Aggrieved Employees,
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1 including any who submit an opt-out request, still will receive an Individual PAGA Payment and
2 will release the Released PAGA Claims regardless of their request for exclusion. (Agreement at ¶¶
3 7(B) and 9(C)) Finally, the Class Notice will advise the Class Members of their right to object to
4 the Settlement and/or dispute their Workweeks. (Agreement at ¶¶ 9(B) and 9(D), Ex. A.)

5 19. A Participating Class Member must cash the check for his or her Individual
6 Settlement Payment (and, if applicable, Individual PAGA Payment) within 180 days after it is
7 mailed. (Agreement at ¶ 5.2.) Any settlement checks not cashed within 180 days will be voided
8 and any funds represented by such checks sent to Child Advocates of Silicon Valley, the cy pres
9 recipient, pursuant to California Code of Civil Procedure Section 384, subd. (b). (Agreement at ¶
10 11(A).)

11 20. Subject to Court approval, the Parties have agreed on ILYM Group to administer the
12 settlement in this action (the “Settlement Administrator”). (Agreement at ¶ 8(A).) The Settlement
13 Administrator will be paid for settlement administration in an amount not to exceed \$15,000.
14 (Agreement at ¶ 8(A).) Decl. Nordrehaug at ¶20. A Declaration from ILYM Group is submitted
15 herewith.

16 21. Subject to Court approval, the Agreement provides for Class Counsel to be awarded
17 a sum not to exceed one-third of the Gross Settlement Amount for their attorneys’ fees. (Agreement
18 at ¶ 12.) Class Counsel will also be allowed to apply for an award of litigation expenses in an
19 amount not to exceed \$50,000. (Agreement at ¶ 12.) Subject to Court approval, the Agreement
20 provides for a payment of no more than \$12,500 each to Plaintiffs as the Service Awards.
21 (Agreement at ¶ 13.)

22 22. Subject to Court approval, \$75,000 will be paid from the Gross Settlement Amount
23 in settlement of Plaintiffs’ claim for civil penalties under the California Labor Code Private
24 Attorneys General Act (“PAGA”), Cal. Labor Code Section 2698, *et seq.* Pursuant to the express
25 requirements of Labor Code § 2699(i), seventy-five percent (75%) of the amount allocated toward
26 PAGA penalties (\$56,250.00) will be paid to the LWDA and twenty-five percent (25%) or
27 \$18,750.00 will be distributed to Aggrieved Employees on a *pro rata* basis based upon their
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1 respective Pay Periods worked as Aggrieved Employees during the PAGA Period. (Agreement at ¶
2 15) As set forth in the accompanying proof of service, the LWDA has been served with this motion
3 and the Agreement.
4

5 Risks of Continued Litigation and Standards for Approval

6 23. Plaintiffs and Class Counsel recognize the expense and length of continuing to
7 litigate and trying this Action against Defendant and then litigating a possible appeal that could take
8 several years. Class Counsel has also taken into account the uncertain outcome and risk of
9 litigation, especially in complex class actions such as this Action. Class Counsel is also mindful of
10 and recognizes the inherent problems of proof under, and alleged defenses to, the claims asserted in
11 the Action. Based upon their evaluation, Plaintiffs and Class Counsel have determined that the
12 Settlement set forth in the Agreement is in the best interest of the Class Members.

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

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

20 26. This settlement is therefore certainly entitled to preliminary approval. Were this
21 case to go to trial, the Plaintiffs and the other class members would need to prove, among other
22 things, that wages were owed on a class-wide basis. This was and is a substantial risk. This
23 Settlement provides a recovery to all non-exempt employees of the Defendant, which is a result that
24 would not be possible if liability was not imposed on a class-wide basis.

25 27. Plaintiffs will apply to the Court for Service Awards in consideration for their service
26 and for the risks undertaken on behalf of the Class. (Agreement at ¶ 13.) Plaintiffs performed their
27 duties admirably by working with Class Counsel. For purposes of this preliminary approval stage,
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1 the requested service award amount is within the accepted range of awards for purposes of
2 preliminary approval, subject to the Court's determination of the amount at final approval. *See,*
3 *e.g., Andrews v. Plains All Am. Pipeline L.P.*, 2022 U.S. Dist. LEXIS 172183, at *11 (C.D. Cal.
4 2022) (finding that the requested service awards of \$15,000 each are appropriate); *Reynolds v.*
5 *Direct Flow Med., Inc.*, 2019 U.S. Dist. LEXIS 149865, at *19 (N.D. Cal. 2019) (granting request
6 for \$12,500 service award); *Mathein v. Pier 1 Imps. (U.S.), Inc.*, 2018 U.S. Dist. LEXIS 71386
7 (E.D. Cal. 2018) (awarding \$12,500 where average class member payment was \$351); *Louie v.*
8 *Kaiser Foundation Health Plan, Inc.*, 2008 WL 4473183, *7 (S.D. Cal. Oct. 06, 2008) (awarding
9 \$25,000 service award to each of six plaintiffs in overtime class action); *Glass v. UBS Fin. Servs.*,
10 2007 WL 221862, *16-17 (N.D. Cal. 2007) (awarding \$25,000 service award in overtime class
11 action and a pool of \$100,000 in enhancements). Below, I provide a long list of similar Court-
12 approved service awards.

13 28. The stage of the proceedings at which the Settlement was reached also militates in
14 favor of preliminary approval and, ultimately, final approval of the Settlement. Class Counsel has
15 conducted a thorough investigation into the facts of the class action. Class Counsel began
16 investigating the Class Members' claims before the Action was filed. Class Counsel engaged in an
17 investigation of the claims and conducted a review and analysis of the relevant documents and data.
18 Class Counsel was also experienced with the claims at issue here, as Class Counsel previously
19 litigated and settled similar claims in other actions. Accordingly, the agreement to settle did not
20 occur until Class Counsel possessed sufficient information to make an informed judgment regarding
21 the likelihood of success on the merits and the results that could be obtained through further
22 litigation.

23 29. Based on the informal discovery of data and documents, and their own independent
24 investigation and evaluation, Class Counsel is of the opinion that the Settlement with Defendant for
25 the consideration and on the terms set forth in the Agreement is fair, reasonable, and adequate and is
26 in the best interest of the Class in light of all known facts and circumstances, including the risk of
27 significant delay, defenses asserted by Defendant, and numerous potential appellate issues. There
28 can be no doubt that counsel for both Parties possessed sufficient information to make an informed

1 judgment regarding the likelihood of success on the merits and the results that could be obtained
2 through further litigation.

3
4 Class Certification Issues

5 30. Plaintiffs contend that the Settlement meets all of the requirements for certification
6 of a settlement class under California Code of Civil Procedure § 382 as demonstrated below, and
7 therefore, the Court may appropriately approve the Class as defined in the Agreement. This Court
8 should conditionally certify the Class, for settlement purposes only, defined as follows:

9 All persons currently or formerly employed by Leadpoint as nonexempt, hourly-paid
10 employees during the Class Period in the State of California.

11 (Agreement at ¶ 1(D).)

12 The “Class Period” is from October 13, 2018, through January 25, 2024. (Agreement at ¶ 1(E).)

13 a. **Ascertainability And Numerosity** - Here, Plaintiffs assert that the 1,485
14 individuals who comprise the Class can be identified based on Defendant’s records and are
15 sufficiently numerous for class certification.

16 b. **Predominance of Common Issues Of Law and Fact** - Here, Plaintiffs
17 contend that common questions of law and fact are present, and specifically the common questions
18 of whether Defendant’s practices were lawful, whether Class members were lawfully compensated
19 for all hours worked, whether Defendant properly calculated wages, whether the Defendant failed to
20 provide all legally required meal and rest periods to Class Members, whether Defendant failed to
21 provide required expense reimbursement, and whether Class Members are entitled to damages and
22 penalties as a result of these alleged practices. Plaintiffs contend that certification of this Class is
23 appropriate because Defendant allegedly engaged in uniform practices with respect to the Class
24 Members. As a result, these common questions of liability could be answered on a class wide basis.

25 c. **Typicality** - In the Action, Plaintiffs contend that there can be little doubt
26 that the typicality requirement is satisfied. Plaintiffs worked for Defendant in California as non-
27 exempt, hourly employees during the Class Period. Plaintiffs contend that, like every other member
28 of the Class, they was subjected to the same practices and policies of Defendant and is subject to the

1 same defenses. Thus, Plaintiffs assert that the claims of Plaintiffs and the Class Members arise from
2 the same course of conduct by the Defendant, involve the same employment policies and practices
3 of Defendant, and are based on the same legal theories.

4 d. **Adequacy** - Plaintiffs contend that the Class Members are adequately
5 represented here because Plaintiffs and Class Counsel (a) do not have any conflicts of interest with
6 other Class members, and (b) will prosecute the case vigorously on behalf of the Class. First,
7 Plaintiffs are well aware of their duties as the representatives of the Class and have actively
8 participated in the prosecution of this case to date. Plaintiffs effectively communicated with
9 counsel, provided documents to counsel, and participated in the investigation and negotiations in the
10 Action. Second, Plaintiffs retained competent counsel who are experienced in employment class
11 actions and who have no conflicts Third, there is no antagonism between the interests of the
12 Plaintiffs and those of the Class. Both Plaintiffs and the Class Members seek monetary relief under
13 the same set of facts and legal theories.

14 31. Class Counsel's Adequacy of Representation and Absence of Conflict: Blumenthal
15 Nordrehaug Bhowmik De Blouw LLP is experienced in prosecuting class action lawsuits and can
16 competently represent the Class. Other lawyers at my firm and I have extensive class litigation
17 experience. We have handled a number of class actions and complex cases and have acted both as
18 counsel and as lead and co-lead counsel in a variety of these matters. We have successfully
19 prosecuted and obtained significant recoveries in numerous class action lawsuits and other lawsuits
20 involving complex issues of law and fact. My firm is particularly experienced in wage and hour
21 employment law class actions, including claims for misclassification, overtime, expense
22 reimbursement, unlawful deduction of wages, and missed rest and meal periods. Blumenthal
23 Nordrehaug Bhowmik De Blouw LLP has been involved as class counsel in over hundreds of wage
24 and hour class actions. Blumenthal Nordrehaug Bhowmik De Blouw LLP has been found to be
25 adequate counsel by the courts throughout California. We have been approved as experienced class
26 counsel by both state and federal courts in California in contested class certification proceedings. A
27 true and correct copy of the resume of my firm is attached hereto as Exhibit #2. The Class in this
28 settlement is defined as "all persons currently or formerly employed by Leadpoint as nonexempt,

1 hourly-paid employees during the Class Period in the State of California.” I have reviewed my
2 firm’s cases and representation of other plaintiffs and there is no conflict or representation which
3 would prevent my firm from representing the interests of the Class this case. My firm only
4 represents employees, and not employers. My firm has never represented Defendant nor any
5 affiliate of the Defendant. My firm’s only interest in the subject matter of this litigation is to ensure
6 a recovery to the Class and to maximize that recovery. Finally, our allegiance to the Class and the
7 claims of the Class is not inconsistent with our allegiance to pursue the claims on behalf of other
8 employees and classes as the claims are all against different and distinct employers. I can think of
9 no conflict that would arise in our representation of the Class and our adequate representation of the
10 Class is evidenced by the successful prosecution of the class claims to reach an excellent recovery
11 for the Class. Moreover, neither the Plaintiffs nor Class Counsel have any affiliation with the
12 Administrator for this settlement. Thus, the adequacy requirement for my firm is satisfied.

13 32. The Class Notice, drafted jointly and agreed upon by the Parties through their
14 respective counsel and to be approved by the Court, is based upon the Los Angeles County Superior
15 Court’s model form and includes all relevant information. (*See Exhibit “A” to the Agreement.*)
16 The Class Notice will include a Spanish translation. (*Agreement at ¶ 9(A)(1).*) The Class Notice
17 will include, among other information: (i) information regarding the Action; (ii) the impact on the
18 rights of the Class Members if they do not opt out, including a description of the applicable release;
19 (iii) information to the Class Members regarding how to opt out and how to object to the
20 Settlement; (iv) the estimated Individual Settlement Payment (and, if applicable, Individual PAGA
21 Payment) for each of the Class Members and how to dispute the information used to calculate the
22 payment; (iii) the amount of attorneys’ fees and expenses to be sought; (v) the amount of the
23 Plaintiffs’ service award request; and (vi) the anticipated expenses of the Settlement Administrator.
24 (*Agreement at ¶9(A)(2) and Exhibit A.*) The Class Notice will state that the Class Members shall
25 have sixty (60) days from the date that the Notice is mailed to them (the “Response Deadline”) to
26 request exclusion (opt-out), and that the Response Deadline. (*Agreement at ¶¶ 1(Y), 9(C).*) Class
27 Members shall be given the opportunity to object to the Settlement and/or requests for attorneys’
28 fees and expenses and to appear at the Final Approval Hearing. (*Agreement at ¶ 9(B).*) Class

1 Members who do not submit a timely and proper request to opt out will automatically receive a
2 payment of their Individual Class Payment (and, if applicable, their Individual PAGA Payment).
3 This notice program was designed to meaningfully reach the Class Members and it advises them of
4 all pertinent information concerning the Settlement.

5
6 33. The PAGA Claim -

7 a. **Approval of PAGA Settlements.** The decision in *O'Connor v. Uber*, 201
8 F.Supp.3d 1110, 1133 (N.D. Cal. 2016), and the LWDA's Response therein is illustrative. The
9 LWDA first states that "when viewing the monetary relief allocated to PAGA claims under a
10 settlement, the LWDA recognizes that the PAGA sum need not necessarily be viewed through the
11 same lens as the relief obtained by absent class members on other claims (i.e., the percentage of
12 recovery-to-exposure on the PAGA claims need not necessarily equal the percentage of recovery on
13 the other claims)." (LWDA Response at p.3). The LWDA also indicated that the payment of
14 money to the aggrieved employees furthers the purposes of PAGA and that the Court considers that
15 primary consideration. "The LWDA recognizes that this Court does not review the PAGA
16 allocation in isolation, but rather reviews the settlement as a whole, to determine whether it is
17 fundamentally fair, reasonable and adequate, with primary consideration for the interests of absent
18 class members." (LWDA Response at p.4).

19 b. **Valuation of the PAGA Claim.** For mediation, Plaintiff calculated the
20 value of the alleged PAGA claim as to the Aggrieved Employees for civil penalties to be between
21 \$1,669,500 and \$3,339,000 for a single violation in every one of the estimated 33,390 pay periods at
22 issue in the PAGA Period, depending on whether the violation was \$50 per pay period as in the case
23 of Labor Code § 558(a)(1) or the standard amount of \$100 per pay period for violation of Labor
24 Code § 1198. This valuation assumed that PAGA civil penalties would be awarded at the maximum
25 rate per pay period but without stacking.³ The PAGA allocation in the Settlement is \$75,000. This
26

27 ³ Stacking is where more than one civil penalty is imposed in a pay period for the same conduct.
28 The valuation of between \$1,669,500 and \$3,339,000 is the civil penalty amount without stacking.
If stacking is permitted, then the valuation increases with each additional penalty added to each pay

1 allocation is justified by several important considerations. First, the PAGA claim was subject to the
2 same risks as the underlying class claims. Second, Defendant asserted additional defenses to the
3 PAGA claim, not only as to liability but also as to the amount of the penalties. Defendant could
4 also argue that no penalties prior to the PAGA notification should be awarded, and I am aware of
5 one Court which has so ruled. These additional defenses present a risk to the PAGA claim and the
6 potential that some or all of the PAGA penalties sought may not be awarded. Second, in *Carrington*
7 *v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), the Court affirmed a judgment which only
8 provided for a PAGA penalty of \$5 per violation. Therefore, at trial, any PAGA penalties awarded
9 could be significantly less than Plaintiffs' calculation even where Plaintiff prevailed on the PAGA
10 claim. Even if we assume that violations for all 33,390 pay periods were established, using the
11 valuation from *Carrington* results in a potential recovery of only \$166,950 under PAGA. This
12 means that the PAGA allocation in the Agreement is a reasonable percentage of this potential
13 PAGA recovery. Fourth, the interests of PAGA are also served by the Class recovery under the
14 reasoning of the LWDA in *O'Connor v. Uber*.

15 c. **Comparable PAGA Settlements.** In reaching the settlement of the PAGA
16 claim, Class Counsel was also aware of what allocations other Courts have approved for similar
17 PAGA settlements as compared to the total settlement amount. A class settlement that allocates
18 approximately 5% of the total settlement value to resolve the PAGA claims applicable to the class is
19 also supported by what has been approved in other wage-and-hour class settlements. Indeed, Courts
20 typically approve PAGA settlement amounts in the range of between 0.27 to 2 percent of the total
21 settlement. See *Davis v. Brown Shoe Co.*, 2015 U.S. Dist. LEXIS 149010 (E.D. Cal. 2015) (PAGA
22 Payment of \$5,000 in a \$1.5 million class settlement); *Zamora v. Ryder Integrated Logistics, Inc.*,
23 2014 U.S. Dist. LEXIS 184096 (S.D. Cal. 2014) (\$7,500 payment to LWDA for PAGA on a \$1.5
24 million class settlement); *Lusby v. Gamestop Inc.*, 2015 U.S. Dist. LEXIS 42637 (N.D. Cal. 2015)
25 (PAGA Payment of \$5,000 in a \$500,000 class settlement); *Cruz v. Sky Chefs, Inc.*, 2014 U.S. Dist

26 _____
27 period. Plaintiffs, however, are not aware of any PAGA award which permitted stacking and in the
28 cases cited herein, only one penalty per pay period was assessed. In fact, the new amendment to
PAGA would expressly prohibit stacking in many circumstances.

1 Lexis 17693 (N.D. Cal. 2014) (approving payment of \$10,000 to the LWDA for PAGA out of
2 \$1,750,000 class settlement); *Chu v. Wells Fargo Investments, LLC*, 2011 WL 672645, *1 (N.D.
3 Cal. 2011) (approving PAGA payment of \$7,500 to the LWDA out of \$6.9 million common-fund
4 settlement); *Franco v. Ruiz Food Products, Inc.*, 2012 WL 5941801, *13 (E.D. Cal. 2012)
5 (approving PAGA payment of \$7,500 to the LWDA out of \$2.5 million common-fund settlement);
6 *Hopson v. Hanesbrands Inc.*, 2009 WL 928133, *9 (N.D. Cal. 2009) (approving PAGA allocation
7 that was .49% of \$408,420.32 gross settlement); *Garcia v. Gordon Trucking, Inc.*,
8 10-cv-00324-AWI-SKO, Dkt. 149-3, 165 (E.D. Cal.) (approving a class settlement of \$3,700,000,
9 with \$10,000 allocated to the PAGA claim); *McKenzie v. Federal Express Corp.*, CV 10-02420
10 GAF (PLAx), Dkt. 139 & 141 (C.D. Cal.) (court approved a settlement in an amount of \$8.25
11 million, with \$82,500 allotted to the PAGA claim); *DeStefan v Frito-Lay*, 8:10-cv-00112-DOC
12 (C.D. Cal.) (court approved a class settlement of \$2 million, with \$10,000 allocated to PAGA);
13 *Martino v. Ecolab Inc.*, No. 3:14CV04358 (N.D. Cal. 2017) (\$100,000 allotted as PAGA penalties
14 or 0.48% of \$21,000,000 settlement amount); *East v. Comprehensive Educational Services Inc.*,
15 Fresno Superior Court Case No. 11-CECG-04226 (2015) (\$10,000 allotted as PAGA penalties or
16 0.13% of \$7,595,846 settlement amount); *Bararsani v. Coldwell Banker Residential Brokerage*
17 *Company*, Los Angeles Superior Court Case No. BC495767 (2016) (\$10,000 allotted as PAGA
18 penalties or 0.22% of \$4,500,000 settlement amount); *Moppin v. Los Robles Medical Center*, No.
19 5:15CV01551 (C.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or 0.40% of \$3,775,000
20 settlement amount); *Scott-George v. PVH Corporation*. No., 2:13CV00441 (E.D. Cal. 2017)
21 (\$15,000 allotted as PAGA penalties or 0.46% of \$3,250,000 settlement amount); *Nehrlich v. RPM*
22 *Mortgage Inc.*, Orange County Superior Court Case No. 30-2013-00666783-CU-OE-CXC (2017)
23 (\$10,000 allotted as PAGA penalties or 0.40% of \$2,500,000 settlement amount); *Rubio v. KTI*
24 *Incorporated*, San Bernardino Superior Court Case No. CIVDS-14-06132 (2015) (\$1,000 allotted as
25 PAGA penalties or 0.18% of \$550,000 settlement amount); *Gray v. Mountain View Child Care Inc.*,
26 San Bernardino Superior Court Case No. CIVDS-14-02285 (2016) (\$2,500 allotted as PAGA
27 penalties or 0.37% of \$675,000 settlement amount); *Perez v. West Coast Liquidators Inc. d/b/a Big*
28 *Lots*, San Bernardino Superior Court Case No. CIVDS-14-17863 (2016) (\$3,000 allotted as PAGA

1 penalties or 0.33% of \$900,000 settlement amount); *Penaloza vs. PPG Industries Inc.*, Los Angeles
2 Superior Court No. BC471369 (2013) (\$5,000 allotted as PAGA penalties or 0.38% of \$1,300,000
3 settlement amount); *Mejia v. DHL Express (USA) Inc.*, No. 2:15CV00890 (C.D. Cal. 2017) (\$5,000
4 allotted as PAGA penalties or 0.34% of \$1,450,000 settlement amount).

5
6 34. Attorneys' Fees - The Class Counsel Fees Payment is capped at one-third of the
7 Gross Settlement Amount. A fee award that is capped at one-third of the common fund is fair and
8 reasonable, and at the time of final approval, my firm will present lodestar to further support the
9 reasonableness of the requested fee award. My firm has been regularly awarded attorney's fees
10 equal to one-third of the common fund in Court-approved wage and hour class settlements. Some
11 of the class action awards obtained by Class Counsel in similar employment actions throughout the
12 state bear out the reasonableness of a fee and costs award equivalent to one-third (1/3) of the total
13 settlement value: On December 4, 2018, in *Panda Express Wage and Hour Cases* (Los Angeles
14 Superior Court, Case No. JCCP 4919), Judge Carolyn Kuhl awarded Class Counsel a one-third fee
15 award in a wage and hour class settlement. On February 1, 2019, in *Solarcity Wage and Hour*
16 *Cases* (San Mateo Superior Court, Case No. JCCP 4945), Judge Marie Weiner awarded Class
17 Counsel a one-third fee award in a wage and hour class settlement. On July 30, 2019, in *Erickson v.*
18 *John Muir Health*, (Contra Costa Superior Court Case No. MSC18-00307), Judge Edward Weil
19 awarded Class Counsel a one-third fee award in a wage and hour class settlement. On December
20 18, 2019, in *Velasco v. Lemonade Restaurant Group*, (Los Angeles Superior Court Case No.
21 BC672235), Judge William Highberger awarded Class Counsel a one-third fee award in a wage and
22 hour class settlement. On January 31, 2020, in *El Pollo Loco Wage and Hour Cases* (Orange
23 County Superior Court Case No. JCCP 4957), Judge William Claster awarded Class Counsel a one-
24 third award in a wage and hour class settlement. On October 23, 2020, in *Ontiveros v. Baker*
25 *Concrete*, (Santa Clara Superior Court Case No. 18CV328679), Judge Brian Walsh awarded Class
26 Counsel a one-third fee award in a wage and hour class settlement. On December 3, 2020, in
27 *Blackshear v. California Fine Wine & Spirits* (Sacramento Superior Court Case No. 34-2018-
28 00245842), Judge Christopher Krueger awarded BNBD a one-third fee award in a wage and hour

1 class settlement. On June 2, 2021, in *Pacia v. CIM Group, L.P.* (Los Angeles Superior Court Case
2 No. BC709666), Judge Amy D. Hogue awarded Class Counsel a one-third fee award in a wage and
3 hour class settlement. On September 24, 2021, in *Prologistics Wage and Hour Cases* (Los Angeles
4 Superior Court Case No. JCCP 4881), Judge William Claster awarded Class Counsel a one-third fee
5 award in a wage and hour class settlement. On November 8, 2021, in *Securitas Wage and Hour*
6 *Cases* (Los Angeles Superior Court Case No. JCCP4837), Judge David Cunningham awarded a
7 one-third fee award in a wage and hour class settlement. On March 17, 2022, in *See's Candies*
8 *Wage and Hour Cases* (Los Angeles Superior Court Case No. JCCP5004), Judge Maren Nelson
9 awarded a one-third fee award in a wage and hour class action settlement. On April 12, 2022, in
10 *O'Donnell v. Okta, Inc.*, (San Francisco Superior Court Case No. CGC-20-587665), Judge Richard
11 Ulmer awarded a one-third fee award in a wage and hour class action settlement. On May 23, 2022,
12 in *Ettegui v. WB Studio Enterprises Inc.*, (United States District Court, Central District of
13 California Case No. 2:20-cv-08053-MCS-JDE), District Judge Mark C. Scarsi awarded a one-third
14 fee award in a wage and hour class action settlement. On June 30, 2022, in *Armstrong, et al. v.*
15 *Prometric LLC* (Los Angeles Superior Court Case No. 20STCV29967), Judge Maren E. Nelson
16 awarded a one-third fee award in a wage and hour class action. On July 13, 2022, in *Crum v. S&D*
17 *Carwash Management LLC*, (Sacramento Superior Court Case No. 2019-00251338), Judge
18 Christopher E. Krueger awarded a one-third fee award in a wage and hour class action settlement.
19 On August 10, 2022, in *Spears, et al. v. Health Net of California, Inc.*, (Sacramento Superior Court
20 Case No. 34-2017-00210560-CU-OE-GDS), Judge Christopher E. Krueger awarded a one-third fee
21 award in a wage and hour class action settlement. On September 7, 2022, in *Lucchese, et al. v.*
22 *Kone, Inc.*, (San Francisco Superior Court Case No. CGC-20-588225), Judge Richard B. Ulmer, Jr.
23 awarded a one-third fee award in a wage and hour class action settlement. On November 4, 2022, in
24 *Infinity Energy Wage and Hour Cases* (San Diego Superior Court, Case No. JCCP5139), Judge Keri
25 Katz awarded a one-third fee award in a wage and hour class action settlement. On February 1,
26 2023, in *Hogan v. AECOM Technical Services, Inc.* (Los Angeles Superior Court Case No.
27 19STCV40072), Judge Stuart Rice awarded a one-third fee award in a wage and hour class
28 settlement. On February 28, 2023, in *Farthing v. Milestone Technologies* (San Francisco Superior

1 Court Case No. CGC-21-591251), Judge Richard B. Ulmer, Jr. awarded a one-third fee award in a
2 wage and hour class action settlement. On March 2, 2023, in *Leon v. Calaveras Materials* (Kings
3 County Superior Court Case No. 21C-0105), Judge Melissa D'Morias awarded a one-third fee
4 award in a wage and hour class settlement. On June 20, 2023, in *Gonzalez v. Pacific Western Bank*
5 (San Bernardino County Superior Court Case No. CIVSB2127657) Judge David Cohn awarded a
6 one-third fee award in a wage and hour class settlement, On June 30, 2023, in *Aguirre v. Headlands*
7 *Ventures* (Sacramento County Superior Court Case No. 34-2021-00297290), Judge Jill Talley
8 approved a one-third fee award in a wage and hour class settlement. On September 15, 2023, in
9 *Moran v. Sharp Healthcare* (San Diego County Superior Court Case No. 37-2019-00050203), Judge
10 Richard Whitney awarded a one-third fee award in a wage and hour class settlement. On October
11 10, 2023, in *Arango v. Schlumberger Technology*, (Orange County Case No.
12 30-2019-01056839-CU- OE-CXC), Judge William Claster approved a one-third fee award in a
13 wage and hour class action. On October 16, 2023, in *Flores v. Walmart*, (San Bernardino County
14 Superior Court Case No. CIVDS2023061) Judge Joseph T. Ortiz awarded a one-third fee award in a
15 wage and hour class settlement. On November 17, 2023, in *Silva v. Woodward HRT* (Los Angeles
16 County Superior Court Case No. 21STCV42692), Judge Maren Nelson awarded a one-third fee
17 award in a wage and hour class settlement. On November 29, 2023, in *Ochoa-Andrade v. See's*
18 *Candies* (San Mateo County Superior Court Case no. 22-CIV-02481), Judge Marie Weiner
19 approved a one-third fee award in a wage and hour class settlement. A fee award equal to one-third
20 of the common fund is therefore reasonable in light of the fees that have been awarded in other
21 similar cases.

22
23 35. Class Representative Service Payment - The reasonableness of the requested service
24 award is also established by reference to the amounts that other California courts have found to be
25 reasonable in wage and hour class action settlements since 2010: *Zamora v. Balboa Life &*
26 *Casualty, LLC*, Case No. BC360036, Los Angeles County Superior Court (Mar. 7, 2013)(awarding
27 \$25,000 service award); *Aguiar v. Cingular Wireless, LLC*, Case No. CV 06-8197 DDP
28 (AJWx)(C.D. Cal. Mar. 17, 2011)(awarding \$14,767 service award); *Magee v. American*

1 *Residential Services, LLC*, Case No. BC423798, Los Angeles County Superior Court (Apr. 21,
2 2011)(awarding \$15,000 service award); *Mares v. BFS Retail & Commercial Operations, LLC*,
3 Case No. BC375967, Los Angeles County Superior Court (June 24, 2010)(awarding \$15,000
4 service award); *Baker v. L.A. Fitness Int'l, LLC*, Case No. BC438654, L.A. County Superior Court
5 (Dec. 12, 2012)(awarding \$10,000 service awards to three named plaintiffs); *Blue v. Coldwell*
6 *banker Residential Brokerage Co.*, Case No. BC417335, Los Angeles County Superior Court (Mar.
7 21, 2011)(awarding \$10,000 service award); *Buckmire v. Jo-Ann Stores, Inc.*, Case No. BC394795,
8 Los Angeles County Superior Court (June, 11, 2010)(awarding \$10,000 service awards); *Coleman*
9 *v. Estes Express Lines, Inc.*, Case No. BC429042, Los Angeles County Superior Court (Oct. 3,
10 2013)(awarding \$10,000 service award); *Ethridge v. Universal Health Services, Inc.*, Case No.
11 BC391958, Los Angeles County Superior Court (May 27, 2011)(awarding \$10,000 service award);
12 *Hickson v. South Coast Auto Ins. Marketing, Inc.*, Case No. BC390395, Los Angeles County
13 Superior Court (Mar. 27, 2012)(awarding \$10,000 service award); *Hill v. sunglass Hut Int'l, Inc.*,
14 Case No. BC422934, Los Angeles County Superior Court (July 2, 2012)(awarding \$10,000 service
15 award); *Kambamba v. Victoria's Secret Stores, LLC*, Case No. BC368528, Los Angeles County
16 Superior Court, (Aug. 19, 2011)(awarding \$10,000 service award together with additional
17 compensation for their general release); *Nevarez v. Trader Joe's Co.*, Case No. BC373910, Los
18 Angeles County Superior Court (Jan. 29, 2010)(awarding \$10,000 service award); *Ordaz v. Rose*
19 *Hills Mortuary, L.P.*, Case No. BC386500, Los Angeles County Superior Court, (Mar. 19,
20 2010)(awarding \$10,000 service award); *Sheldon v. AHMC Monterey Park Hosp. LP*, Case No.
21 BC440282, Los Angeles County Superior Court (Feb. 22, 2013)(awarding \$10,000 service award);
22 *Silva v. Catholic Mortuary Services, Inc.*, Case No. BC408054, Los Angeles County Superior Court
23 (Feb. 8, 2011)(awarding \$10,000 enhancement award); *Weisbarth v. Banc West Investment Services,*
24 *Inc.*, Case No. BC422202, Los Angeles County Superior Court (May 24, 2013)(awarding \$10,000
25 service award); *Lazar v. Kaiser Foundation Health Plan*, Case No. 14-cv-273289, Santa Clara
26 County Superior Court (Dec. 28, 2015) (awarding \$10,000 service award); *Acheson v. Express,*
27 *LLC*, Case No. 109CV135335, Santa Clara County Superior Court (Sept. 13, 2011)(awarding
28 \$10,000 service award); *Bejarano v. Amerisave Mortgage Corp.*, Case No. EDCV 08-00599 SGL

(Opx)(C.D. Cal. June 22, 2010)(awarding \$10,000 service award); *Carbajal v. Sally Beauty Supply LLC*, Case No. CIVVS 1004307, San Bernardino County Superior Court (Aug. 6, 2012)(awarding \$10,000 service award); *Contreras v. Serco Inc.*, Case No. 10-cv-04526-CAS-JEMx (C.D. Cal. Sep. 10, 2012)(awarding \$10,000 service award); *Guerro v. R.R. Donnelley & Sons Co.*, Case No. RIC 10005196, Riverside County Superior Court (July 16, 2013)(awarding \$10,000 service award); *Kisliuk v. ADT Security Services Inc.*, Case No. CV08-03241 DSF (RZx)(C.D. Cal. Jan. 10, 2011)(awarding \$10,000 service award); *Morales v. BCBG Maxazria Int'l Holdings, Inc.*, Case No. JCCP 4582, Orange County Superior Court (Jan. 24, 2013)(awarding \$10,000 service award); *Barrett v. Doyon Security Services, LLC*, Case No. BS900199, BS900517, San Bernardino County Superior Court (Apr. 23, 2010)(awarding \$10,000 service award); *Zirpolo v. UAG Stevens Creek II*, Santa Clara Superior Court Case no. 17CV313457 (July 10, 2018) (awarding \$10,000 service award); *Taylor v. TIC - The Industrial Company*, U.S.D.C. Central District of California Case No. EDCV 16-186-VAP (Aug. 1, 2018) (awarding \$10,000 service award).

36. Administration - The estimate from ILYM Group was selected, as it provided for a capped estimate of \$13,350 to perform settlement administration for a class of 1,485, with any difference between the actual expenses and the budget of \$15,000 to be retained in the Net Settlement Amount for distribution to the Class. Submitted herewith is a true and correct copy of the Declaration of Anthony Rogers from ILYM Group, which includes their estimate for administration. I have used ILYM Group successfully as the administrator in more than twenty class settlements in the last couple years and know them to be competent and experienced. My firm has no relationship or connection with ILYM Group, and thus no conflict of interest exists.

Service on the LWDA:

38. At the same time as the filing and service of this declaration, I am also serving the LWDA with the entire motion for preliminary approval which includes the Settlement Agreement. This service is verified by the accompanying proof of service.

1 I declare under penalty of perjury under the laws of the State of California that the foregoing
2 is true and correct. Executed this 24th day of October, 2024, at La Jolla, California.

3
4 /s/ Kyle Nordrehaug
5 Kyle Nordrehaug
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EXHIBIT #1

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

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Attorneys for Plaintiffs, JENNIFER MONTOYA
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
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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.
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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”).
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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

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

14 **D. Disputes Regarding Settlement Class Members’ Workweek Data**

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

22 **10. INDIVIDUAL SETTLEMENT PAYMENTS AND INDIVIDUAL**
23 **PAGA PAYMENTS**

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

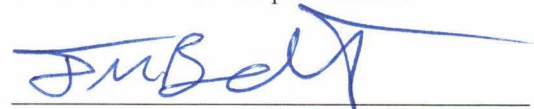
16
17 Dated: _____, 2024

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
17 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: _____

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 Dated: **06/17**
20 _____, 2024


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

JUAN MANSO GONTEZ
Plaintiff and Class Representative

21
22
23 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 #2

Blumenthal Nordrehaug Bhowmik De Blouw LLP

2255 Calle Clara, La Jolla, California 92037

Tel: (858) 551-1223

Fax: (858) 551-1232

FIRM RESUME

Areas of Practice: Employee, Consumer and Securities Class Actions, Wage and Hour Class Actions, Civil Litigation, Business Litigation.

ATTORNEY BIOGRAPHIES

Norman B. Blumenthal

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

Kyle R. Nordrehaug

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

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

Admitted: 1999, California

Biography: Associate, Blumenthal, Ostroff & Markham, 1999-2001. Associate, Blumenthal & Markham, 2001-2007. Partner, Blumenthal & Nordrehaug, 2007. Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2017

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

Aparajit Bhowmik

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

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

Admitted: 2006, California

Educated: University of California at San Diego (B.A., 2002); University of San Diego School of Law (J.D. 2006)

Biography: Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2017

Awards: Rising Star 2015

Nicholas J. De Blouw

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

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

Admitted: 2011, California

Educated: Wayne State University (B.A. 2008); California Western School of Law (J.D. 2011)

Piya Mukherjee

Associate Attorney

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

Admitted: 2010, California

Educated: University of California, San Diego (B.S. 2006); University of Southern California, Gould School of Law (J.D. 2010)

Victoria Rivapalacio

Associate Attorney

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

Admitted: 2011, California

Educated: University of California at San Diego (B.A., 2003); George Washington University Law School (J.D. 2010)

Ricardo Ehmann

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2018, California; 2004, Nevada

Educated: University of California, San Diego (B.A. 1998); Loyola Law School (J.D. 2001)

Jeffrey S. Herman

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2011, California; 2016 Arizona

Educated: University of Michigan (B.A. 2008); California Western School of Law (J.D. 2011)

Charlotte James

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2016, California

Educated: San Diego State University; California Western School of Law

Christine Levu

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2012, California

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

Andrew Ronan

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2016, California

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

Scott Blumenthal

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2020, New Mexico

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

Sergio Julian Puche

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2013, California

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

Trevor Moran

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2020, California

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

4G Wireless Wage Cases, Orange County Superior Court, JCCP No. 4736; Classic Party Rentals Wage & Hour Cases, Los Angeles Superior Court, Case No. JCCP No. 4672; Abu-Arafeh v. Norco Delivery Service, Inc., San Francisco County Superior Court, Case No. CGC-14-540601; Aburto v. Verizon, U.S. District Court, Southern District California, Case No. 11-cv-0088; Adkins v. Washington Mutual Bank, Class Certification Granted, San Diego County Superior Court, Case No. GIC819546; Agah v. CompUSA, U.S. District Court, Central District of California, Case No. SA CV05-1087 DOC (Anx); Akers v. The San Diego Union Tribune, San Diego County Superior Court, Case No 37-2010-00088571; Altman v. SolarCity Corporation, San Diego County Superior Court, Case No. 37-2014-00023450-CU-OE-CTL; Aquino v. Macy's West Stores, Orange County Superior Court, Case No. 30-2010-00395420; Baker v. Advanced Disability Management, Inc., Sacramento County Superior Court, Case No. 34-2014-00160711; Barcia v. Contain-A-Way, U.S. District Court, Southern District California, Case No. 07 cv 0938; Bates v. Verengo, Inc., Orange County Superior Court, Case No. 30-2012-00619985-CU-OE-CXC; Battle v. Charming Charlie Inc., San Diego County Superior Court, Case No. 37-2014-00005608; Behar v. Union Bank, Orange County Superior Court, Case No. 30-2009-00317275; Bell v. John Stewart Company, Alameda County Superior Court, Case No. RG14728792; Bennett v. Custom Built Personal Training Monterey County Superior Court, Case No. M127596; Bermant v. Bank of America, Investment Services, Inc., Los Angeles Superior Court, Civil Action No. BC342505; Bethley v. Raytheon Company, United States District Court, Central District of California, Case No. SACV10-01741; Betorina v. Randstad US, L.P., U.S. District Court Northern District of California, Case No. 3:15-cv-03646-MEJ; Beverage v. Edcoa Inc., Sacramento County Superior Court, Case No. 2013-00138279; Bova v. Washington Mutual Bank / JP Morgan Chase, U.S. District Court, Southern District California, Case No. 07-cv-2410; Bowden v. Sunset Parking Services, LLC & LAZ Parking California, LLC - Settled San Diego County Superior Court, Case No. 37-2012-00101751-CU-OE-CTL; Briseno v. American Savings Bank, Class Certification Granted, Orange County Superior Court, Case No. 774773; Brueske v. Welk Resorts, San Diego Superior Court, Case No 37-2010-00086460; Bueche v. Fidelity National Management Services, U.S. District Court, Eastern District of California, Case No. 13-cv-01114; Bunch v. Pinnacle Travel Services, LLC, Los Angeles County Superior Court, Case No. BC552048; Butler v. Stericycle, Inc & Appletree Answering Services of California, Inc., Sacramento County Superior Court, Case No. 34-2015-00180282; Cabral v. Creative Communication Tech., Class Certification Granted, Los Angeles Superior Court, Case No. BC402239; Cardoza v. Wal-Mart Associates, Inc., U.S. District Court Northern District of California, Case No. 4:15-cv-01634-DMR; Castro v. Vivint Solar, Inc., San Diego County Superior Court, Case No. 37-2014-00031385-CU-OE-CTL; Cavazos v. Heartland Automotive Services, Inc., Riverside County Superior Court, Case No. PSC 1401759; Cohen v. Bosch Tool, San Diego Superior Court, Case No. GIC 853562; Comstock v. Washington Mutual Bank - Class Certification Granted, San Diego County Superior Court, Case No. GIC820803; Conley v. Norwest, San Diego County Superior Court, Case No. N73741; Connell v. Sun Microsystems, Alameda Superior Court, Case No. RG06252310; Corrente v. Luxe Valet, Inc., San Francisco County Superior Court, Case No. CGC-15-545961; Cruz v. Redfin Corporation, U.S. District Court Northern District of California, Case No. 3:14-cv-05234-THE; Culley v. Lincare Inc. & Alpha Respiratory Inc., U.S. District Court eastern District of California, Case No. 2:15-cv-00081-GEB-CMK; Cunningham v. Leslie's Poolmart, Inc., U.S. District Court, Central District of California, Case No. 13-cv-02122-CAS; Curry v. California Testing Bureau/McGraw Hill, U.S. District Court, Northern District of California, Case No. C-05-4003 JW; Daniels, et al. v. Philip Morris, (In Re Tobacco Cases II) – Class Certification Granted, San Diego Superior Court, Case No. JCCP 4042; Davis v. Genex

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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No. 37-2018-00047639-CU-OE-CTL; Erickson v. Erickson – Contra Costa County Superior Court, Case No. MSC18-00307; Martin v. Menzies Aviation (USA) Inc. – San Francisco County Superior Court, Case No. CGC-18-566072; Mortimer v. Healthsouth Bakersfield Rehabilitation Hospital, LLC – Kern County Superior Court, Case No. BCV-18-102761; Alcaraz v. Red Lion Hotels Corporation – San Francisco County Superior Court, Case No. CGC-18-570310; Calhoun v. Total Transportation and Distribution, Inc. – San Diego County Superior Court, Case No. 37-2018-00058681-CU-OE-CTL; Rataul v. Overton Security Services, Inc. – Alameda County Superior Court, Case No. RG18891882; Beltran v. Compass Bank – San Diego County Superior Court, Case No. 37-2019-00024475-CU-OE-CTL; Kirshner v. Touchstone Golf, LLC – San Diego County Superior Court, Case No. 37-2018-00028865-CU-OE-CTL; Pizarro v. The Home Depot, Inc. – U.S. District Court for the Northern District of Georgia-Atlanta Division; Hatanaka v. Restore Rehabilitation, LLC – San Diego County Superior Court, Case No. 37-2018-00034780-CU-OE-CTL; Faria v. Carriage Funeral Holdings, Inc. – Contra Costa County Superior Court, Case No. MSC18-00606; Ontiveros v. Baker Concrete Construction, Inc. – Santa Clara County Superior Court, Case No. 18CV328679; Morales v. Redlands Automotive Services, Inc. – San Bernardino County Superior Court, Case No. CIVDS1807525; Ramirez v. Carefusion Resources, LLC – U.S. District Court, Southern District of California; Amster v. Starbucks Corporation – San Bernardino Superior Court, Case No. CIVDS1922016; Kutzman v. Derrel's Mini Storage, Inc. – U.S. District, Eastern District of California, Case No. 1:18-cv-00755-AWI-JLT; Marks v. Universal Propulsion Company, Inc. – Solano County Superior Court, Case No. FCS051608; Martinez v. Geil Enterprises, Inc. – Fresno County Superior Court, Case No. 17CECG01480; Teniente v. Cirrus Asset Management, Inc. – Los Angeles County Superior Court, Case No. 20STCV16302; Blackshear v. California Fine Wine & Spirits LLC – Sacramento County Superior Court, Case No. 34-2018-00245842; Warnick v. Golden Gate America West LLC – Los Angeles County Superior Court, Case No. BC714176; Bennett v. Dnata Aviation USA, Inc. – San Francisco County Superior Court, Case No. CGC-18-566911; George v. PF Stockton Fitness LLC – Sacramento County Superior Court, Case No. 34-2019-00261113-CU-OE-GDS; Oshana v. Farmers and Merchants Bank of Central California – Stanislaus County Superior Court, Case No. CV-19-003427; Vasquez v. Packaging Corporation of America – U.S. District Court, California Central District, Case No. 2:19-cv-01935-PSG-PLA; Palomino v. Zara USA Inc. – Orange County Superior Court, Case No. 30-2018-00992682-CU-OE-CXC; Simmons v. Joe & The Juice LA, LLC – San Francisco County Superior Court; Pacia v. CIM Group, L.P. – Los Angeles County Superior Court, Case No. BC709666; Flores v. Plastic Express – Los Angeles County Superior Court, Case No. BC71971; Madera v. William Warren Properties, Inc. – Orange County Superior Court, Case No. 30-2019-01055704-CU-OE-CXC; Hernandez v. Quality Custom Distribution – Orange County Superior Court, Case No. 30-2018-01010611-CU-OE-CXC; Arango v. Schlumberger Technology Corporation – Orange County Superior Court, Case No. 30-2019-01056839-CU-OE-CXC; Dandoy v. West Coast Convenience, LLC – Alameda County Superior Court, Case No. HG20051121; Ramirez v. J E H Enterprises, Inc. – San Francisco County Superior Court, Case No. CGC-19-574691; Sullen v. First Service Residential California, LLC – San Francisco County Superior Court, Case No. CGC-19-575131; Valentino v. East Bay Tire Co. – Solano County Superior Court, Case No. FCS053067; Murphy v. Rockler Retail Group, Inc. – Sacramento Superior Court, Case No. 34-2019-00251220; Shahbazian v. Onewest Bank – Los Angeles County Superior Court, Case No. 19STCV23722; Bruemmer v. Tempur Retail Stores LLC – Marin County Superior Court, Case No. CIV1803646; Antonios v. Interface Rehab, Inc. – Orange County Superior, Case No. 30-2019-01067547-CU-OE-CXC; Tavallodi v. DC Auto, Inc. – San Bernardino, Case No. CIVDS1833598; Miranda v. The Lloyd Pest Control Co. – San Diego County Superior Court, Case No. 37-2018-00052510-CU-OE-CTL; Soenardi v. Magnussen Imports, Inc. – Santa Clara County Superior Court, Case No. 18CV340003; Thai v. Team Industrial Services, Inc. – Los Angeles County Superior Court, Case No. 19STCV21953; Castillo v. A.J. Kirkwood & Associates, Inc. – Los Angeles County Superior Court, Case No. 19STCV04435; Moss v. Jabil Inc. – Alameda County Superior Court, Case No. HG20050536; Billosillo, Jr. v. Crown Energy Services, Inc. – San Diego County Superior Court,

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. Lifesaver 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 Court, 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 #3

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

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WRITERS E-MAIL:
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WRITERS EXT:
1004

July 13, 2022
CA2690

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency FPR II, L.L.C.
Online Filing Certified Mail #70220410000153343744
INCORP SERVICES, INC.
5716 CORSA AVE SUITE 110
WESTLAKE VILLAGE, CA 91362

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by FPR II, L.L.C. and/or Leadpoint Business Services in California, including any employees staffed with FPR II, L.L.C. and/or Leadpoint Business Services by a third party, and classified as non-exempt employees during the time period of July 13, 2021 until a date as determined by the Court. Our offices represent Plaintiff Jennifer Montoya (“Plaintiff”) and other Aggrieved Employees in a lawsuit against FPR II, L.L.C. and/or Leadpoint Business Services (“Defendant”). Plaintiff was employed by Defendant in California as a non-exempt employee from April of 2020 until June of 2022 and entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App.

5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to her, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Further, Defendant failed to list the correct legal entity that was the employer of Plaintiff and other Aggrieved Employees in violation of Cal. Lab. Code Section 226(a)(8). Also, Defendant failed to list the hours worked and the hourly rate for the “Miscellaneous” wage payments in violation of Cal. Lab. Code Section 226(a)(9). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiff against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency’s reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiff and all Aggrieved Employees.

Your earliest response to this notice is appreciated. If you have any questions of concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

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WRITERS EXT:
1004

July 13, 2022
CA2690

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency Leadpoint Business Services
Online Filing Certified Mail #70220410000153343751
5310 E. High Street, Suite 300
Phoenix, Arizona 85054

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by FPR II, L.L.C. and/or Leadpoint Business Services in California, including any employees staffed with FPR II, L.L.C. and/or Leadpoint Business Services by a third party, and classified as non-exempt employees during the time period of July 13, 2021 until a date as determined by the Court. Our offices represent Plaintiff Jennifer Montoya (“Plaintiff”) and other Aggrieved Employees in a lawsuit against FPR II, L.L.C. and/or Leadpoint Business Services (“Defendant”). Plaintiff was employed by Defendant in California as a non-exempt employee from April of 2020 until June of 2022 and entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely

provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to her, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Further, Defendant failed to list the correct legal entity that was the employer of Plaintiff and other Aggrieved Employees in violation of Cal. Lab. Code Section 226(a)(8). Also, Defendant failed to list the hours worked and the hourly rate for the “Miscellaneous” wage payments in violation of Cal. Lab. Code Section 226(a)(9). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

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This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiff and all Aggrieved Employees.

Your earliest response to this notice is appreciated. If you have any questions of concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.

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WRITERS EXT:

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July 13, 2022

CA2690

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

Leadpoint Business Services
Certified Mail #702204100001533343768
INCORP SERVICES, INC.
5716 CORSA AVE SUITE 110
WESTLAKE VILLAGE, CA 91362

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by FPR II, L.L.C. and/or Leadpoint Business Services in California, including any employees staffed with FPR II, L.L.C. and/or Leadpoint Business Services by a third party, and classified as non-exempt employees during the time period of July 13, 2021 until a date as determined by the Court. Our offices represent Plaintiff Jennifer Montoya (“Plaintiff”) and other Aggrieved Employees in a lawsuit against FPR II, L.L.C. and/or Leadpoint Business Services (“Defendant”). Plaintiff was employed by Defendant in California as a non-exempt employee from April of 2020 until June of 2022 and entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App.

5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to her, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Further, Defendant failed to list the correct legal entity that was the employer of Plaintiff and other Aggrieved Employees in violation of Cal. Lab. Code Section 226(a)(8). Also, Defendant failed to list the hours worked and the hourly rate for the “Miscellaneous” wage payments in violation of Cal. Lab. Code Section 226(a)(9). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiff against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency’s reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiff and all Aggrieved Employees.

Your earliest response to this notice is appreciated. If you have any questions of concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.

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6 Attorneys for Plaintiff

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

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

9
10 JENNIFER MONTOYA, an individual, on
11 behalf of herself and on behalf of all persons
similarly situated,

12
13 Plaintiff,

14 vs.

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

18
19 Defendants.

Case No. _____

CLASS ACTION COMPLAINT 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;
3. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq.*;
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 PERIODS 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;
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 AND 203; and,
9. FAILURE TO PAY SICK WAGES IN VIOLATION OF CAL. LAB CODE §§201-204, 233, 246.

DEMAND FOR A JURY TRIAL