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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF SANTA CLARA**

JEREMY LEGARDE, an individual, on  
behalf of the State of California, as a private  
attorney general,

PLAINTIFF,

v.

SPECTRA360, INC. DBA RASO  
SOLUTIONS; and DOES 1 thru 50,  
inclusive,

DEFENDANTS.

Case No. 22CV402965

[Case Assigned for All Purposes to Hon.  
Judge Theodore C. Zayner in Dept. 19]

**DECLARATION OF LIANE  
KATZENSTEIN LY IN SUPPORT OF  
MOTION FOR APPROVAL OF  
REPRESENTATIVE ACTION  
SETTLEMENT**

*[Filed concurrently with Motion for Approval  
of Representative Action Settlement,  
Declarations of Jeremy Legarde and Sean  
Hartranft, [Proposed] Order, and Judgment]*

Date: TBD

Time: TBD

Dept.: 19

Complaint Filed: September 12, 2022

Trial Date: None Set

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I, Liane Katzenstein Ly, declare as follows:

1. I am an attorney licensed to practice before all of the courts of the State of California. I am the attorney of record for Plaintiff Jeremy Legarde in the above-entitled action. I have personal knowledge of the facts set forth herein, and if called upon as a witness, I could and would testify competently thereto.

2. I graduated from Florida State University in 2005 with a degree in English. I graduated from University of California, Davis School of Law in 2008. I am admitted to practice before the following Courts: United States District Court, Northern, Southern, Eastern, and Central of California; all of California State Courts.

3. I make this declaration in support of Plaintiff's Motion for Approval of Representative Action in the above-captioned case.

4. I have been involved in all of the settlement discussions leading to the present settlement as embodied in the PAGA Settlement Agreement ( “Settlement” or “Agreement”). A true and correct copy of the PAGA Settlement Agreement is attached hereto as Exhibit “1”.

## BACKGROUND OF THE CASE AND RELEVANT PROCEDURAL HISTORY

5. On July 8, 2022, and in compliance with Labor Code § 2699.3(a)(1), written notice to Defendant and the Labor and Workforce Development Agency (“LWDA”) was provided seeking civil penalties under PAGA for violation of Labor Code §§201, 202, 203, 226(a), 226.7, and 2802, and mailed by certified mail to Defendant setting forth the specific facts and theories of the violations alleged against Defendant.

6. Pursuant to Labor Code §2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA evidencing its intention to investigate within 65 calendar days of the postmark date of the notice.

7. Therefore, Plaintiff was entitled to commence a civil action as though the LWDA has chosen not to investigate.

8. Plaintiff has complied with all of the requirements set forth in Labor Code § 2699.3 to commence a representative action under PAGA.

1           9.       On September 12, 2022, Plaintiff Jeremy Legarde filed a representative action  
2 complaint against Defendant in Santa Clara County Superior Court, Case No. 22CV402965, entitled  
3 *JEREMY LEGARDE, an individual, on behalf of the State of California, as a private attorney*  
4 *general, PLAINTIFF, v. SPECTRA360, INC. DBA RASO SOLUTIONS; and DOES 1 thru 50,*  
5 *inclusive, DEFENDANTS.* (the “Action”), alleging a single cause of action for penalties pursuant to  
6 Labor Code §2699, et seq. for violations of Labor Code §§201, 202, 203, 226(a), 226.7, and 2802.

7           10.       On April 5, 2023, Defendant moved the court to compel Plaintiff’s individual PAGA  
8 claims to arbitration and dismiss the representative PAGA claims in the case. The Parties’ agreement  
9 stated, in pertinent part, that the Parties “agree to resolve any disputes exclusively through recourse  
10 to arbitration or mediation either of which shall take place in California.”

11           11.       Plaintiff opposed the motion, arguing that the agreement required that the Parties  
12 either use mediation or arbitration to resolve their disputes, but does not specifically require  
13 arbitration.

14           12.       On May 18, 2023, Defendant’s motion was denied in its entirety, finding that under  
15 the agreement, “the aggrieved party has the option to initiate whichever procedure it prefers” and  
16 that the agreement did not have any conditions requiring that either mediation or arbitration be  
17 invoked in certain circumstances.

18           13.       On July 12, 2023, Defendant appealed the Court’s order regarding the Motion to  
19 Compel Arbitration.

20           14.       Prior to mediation, Defendant produced sample time and pay data for the Aggrieved  
21 Employees, as well as Plaintiff’s personnel records.

22           15.       Based on Defendant’s records, the data reveals that there are an estimated 53  
23 Aggrieved Employees (including Plaintiff) who worked a total of 1,139 PAGA Pay Periods at issue.

24           16.       On September 18, 2023, the Parties participated in an all-day mediation presided over  
25 by experienced mediator Alan Berkowitz, Esq., which led to this formal PAGA Settlement  
26 Agreement that is subject to the approval of the Court.

27           17.       Although Defendant denies that it violated any pertinent law, it recognized the risks  
28 and attendant costs of litigation, and the Parties were able to reach a tentative settlement subject to

1 finalization of a formal PAGA Settlement Agreement and the approval of the Court. The Parties  
2 negotiated the terms and conditions of the Agreement and now present the agreed-upon Settlement  
3 to the Court for Approval.

#### 4 THE SETTLEMENT

5 18. Defendant will pay the total sum of \$95,000.00 in full and final settlement of the  
6 PAGA claims alleged.

7 19. Per the Agreement, the amount is allocated as follows:

|                                             |                                                                                      |
|---------------------------------------------|--------------------------------------------------------------------------------------|
| 8 Gross Settlement Amount                   | \$95,000.00                                                                          |
| 9 PAGA Counsel Fees Payment                 | \$31,666.66                                                                          |
| 10 PAGA Counsel Litigation Expenses Payment | \$8,500.00                                                                           |
| 11 Administrator Expenses Payment           | \$3,000.00                                                                           |
| Enhancement Payment                         | \$5,000.00                                                                           |
| <b>PAGA Penalties</b>                       | <b>\$41,833.34 (\$31,375.00 to the LWDA;<br/>\$10,458.34 to Aggrieved Employees)</b> |

12 20. The Agreement provided for counsel to receive cost reimbursement up to \$8,500.00.  
13 However, counsel's final costs come to \$6,723.01. The extra \$1,776.99 will remain in the net  
14 settlement fund, causing the net amount for distribution to the LWDA and Aggrieved Employees to  
15 be slightly higher than the \$41,833.34 contemplated in the settlement agreement.

16 21. Each aggrieved employee shall receive a pro-rata portion of the remaining amount in  
17 PAGA penalties by dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties  
18 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the  
19 PAGA Period, and then multiplying the result by each Aggrieved Employee's PAGA Period Pay  
20 Periods.

21 22. The PAGA Period means the period from July 8, 2021 through September 18, 2023.

22 23. For settlement purposes, the Aggrieved Employees are defined as: "all employees  
23 who are employed or have been employed as an hourly employee by SPECTRA360, INC. DBA  
24 RASO SOLUTIONS, in the State of California who worked one or more pay periods since July 8,  
25 2021 to the present."

#### 26 RISKS AND EVALUATION OF THE SETTLEMENT

27 24. To help the Court evaluate the fairness of the Settlement, a discussion of the risk  
28 evaluation and discount taken follows.

1           25.     Plaintiff believed that Defendant may persuasively argue that the Court should  
2 exercise its discretion under PAGA to significantly reduce or altogether waive any penalties under  
3 PAGA.

4           26.     Pursuant to Labor Code §226.3, the Labor Commissioner has the discretion to  
5 “decide not to penalize an employer for a first violation when that violation was due to a clerical  
6 error or inadvertent mistake.”

7           27.     PAGA Counsel anticipated that, at trial, Counsel for Defendant could make a  
8 potentially persuasive argument that Defendant (1) provided all Aggrieved Employees with the  
9 opportunity to take rest breaks in compliance with California law; (2) all Aggrieved Employees were  
10 properly paid and/or reimbursed in accordance with Defendant’s lawful policies and practices, and  
11 that any alleged failure to compensate Aggrieved Employees was the result of inadvertence and  
12 clerical error; (3) until this Action was filed, no employees had complaints about any alleged failure  
13 to provide rest breaks, reimburse expenses, issue accurate itemized wage statements, and issue all  
14 wages due at the time of termination; (4) none of Defendant’s employees suffered any harm from or  
15 actual damage as a result of the conduct that forms the basis for Plaintiff’s allegations. All of which,  
16 Counsel for Defendant would argue, should mitigate in factor of significantly reducing or waiving  
17 any PAGA penalties.

18           28.     While Plaintiff disagrees that this analysis is legal correct or persuasive, PAGA  
19 Counsel had to consider the foregoing facts and arguments and how they might impact any judgment  
20 ultimately awarded to Aggrieved Employees if the Court were persuaded by them.

21           29.     Plaintiff alleges Defendant failed to provide Plaintiff and the aggrieved employees  
22 with uninterrupted rest breaks of not less than ten (10) minutes per four (4) hour work period, or  
23 major fraction thereof.

24           30.     Instead, Plaintiff contends that while Defendant would seemingly enforce rest  
25 periods, Plaintiff’s supervisors and coworkers would continue messaging Plaintiff about work while  
26 on break.

1           31.     Because Plaintiff was required to have the messaging application downloaded onto  
2 his phone, even if Plaintiff would step away from his workstation, he would still receive message  
3 notifications.

4           32.     Moreover, Plaintiff contends he was required to message his coworkers that he was  
5 taking his break in the group message. Thus, Defendant knew that Plaintiff would be on his break,  
6 and would continue to message him about work.

7           33.     Occasionally, Plaintiff contends that Defendant would also cut Plaintiff's breaks  
8 short by telling him to go back to work so that he could finish his workload for the day.

9           34.     Defendant raised the defense that employees received their rest breaks and presented  
10 evidence that employees would testify as such.

11          35.     Plaintiff alleges that he and all aggrieved employees were required to incur  
12 substantial expenses in direct consequent of the discharge of their duties for Defendant without  
13 reimbursement.

14          36.     Specifically, Defendant has failed to reimburse Plaintiff and the aggrieved employees  
15 the cost of using their personal cell phones and wi-fi for business related purposes.

16          37.     Defendant required Plaintiff and other aggrieved employees to use their cell phones  
17 and wi-fi to perform their job duties while working.

18          38.     As stated above, Plaintiff was required to download a specific messaging application  
19 to communicate with supervisors and coworkers. This was necessary to perform their job duties as  
20 it is not possible for Plaintiff and other aggrieved employees to perform or commence their job duties  
21 without the use of cell phones or wi-fi.

22          39.     While Defendant provided a computer to work from home, Defendant did not  
23 provide cell phones or reimburse for use of its employees' home wi-fi. Thus, Defendant failed to  
24 reimburse Plaintiff and the aggrieved employees for the costs associated with using these personal  
25 cell phones and wi-fi.

26          40.     Plaintiff has acknowledged the risks posed and that the damages were relatively  
27 small.

41. Plaintiff alleges that Defendant has failed to furnish accurate itemized wage statements that show all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee under Labor Code Section 226(a).

42. Plaintiff and the aggrieved employees are issued wage statements by Defendant that do not include rest premiums as a result of the claims alleged above.

43. As this is a derivative claim, the same risks present for the above claims were present for this claim.

44. Plaintiff Legarde and numerous aggrieved employees are no longer employed by Defendant. They allege that Defendant failed to pay all wages owed and due upon their termination and/or resignation.

45. Plaintiff factored in the risk of establishing that any violation was “willful” and the fact that this claim is derivative.

46. In light of all these significant risks and given that PAGA gives the Court broad discretion to reduce any penalties ultimately awarded, PAGA Counsel determined that the Gross Settlement Amount of \$95,000.00 was fair and reasonable.

## ATTORNEY COMPETENCE

47. Kingsley & Kingsley is experienced in prosecuting employment litigation, and since 2000 we have focused our practice on wage, hour, and working condition violations. My firm is well versed in class action litigation and has diligently and aggressively pursued this action. Kingsley & Kingsley currently serves as class counsel for several dozens of pending class action lawsuits in Northern, Central, Eastern, and Southern California in both State and Federal Court. Below is a small, but representative sampling of wage and hour cases handled by my firm:

a. *Goodman v. Crystal Ventures, Inc.* (No. BC245561, L.A. Super. Ct.) In January 2002, Hon. Anthony Mohr granted final approval of settlement in the gross amount of \$255,000 and the court approved the attorneys' fee request of 33 1/3%.

b. *Johnston v. The Cheesecake Factory* (No. BC316180, L.A. Super. Ct.) In December 2005, Honorable Rita Miller granted final approval of Settlement in the gross amount of \$4,000,000 and the court granted attorneys' fees request of 30%.

- 1 c. *Tumino v. HOB Entertainment* (No. BC327962, L.A. Super. Ct.) In May 2006, the  
2 Honorable Conrad R. Aragon granted final approval of Settlement in the gross  
3 amount of \$1,000,000 and the court granted attorneys' fees request of 30%.
- 4 d. *Ryan v. Hilton Hotels Corporation*, (No. BC364260, L.A. Super. Ct.) In March  
5 2008, the Honorable Mary Thornton House granted final approval of Settlement in  
6 the gross amount of \$1,675,000.00 and the court granted attorneys' fees request of  
7 33 1/3%.
- 8 e. *Gerritson v. Styles For Less, Inc.*, (No. BC402921, L.A. Super. Ct.) In September  
9 2010, the Hon. Kenneth R. Freeman granted final approval of Settlement in the  
10 gross amount of \$2,000,000.00, and the court granted attorneys' fees request of  
11 33.3%.
- 12 f. *Lewis v. Collabrus, Inc., et al.*, (No. 109CV-142927, Santa Clara Super. Ct.) In  
13 March 2012, the Honorable James P. Kleinberg granted final approval of Settlement  
14 in the gross amount of \$2,000,000.00, and the court granted attorneys' fees request  
15 of 33.3%.
- 16 g. *Hirschinger v. Blue Cross of California*, Los Angeles Superior Court (No.  
17 BC402739, L.A. Super. Ct.) In June 2013, the Honorable Lee Smally Edmund  
18 granted final approval of Settlement in the gross amount of \$4,700,000.00, and the  
19 court granted attorneys' fees request of 38%.
- 20 h. *Anderson v. Total Renal Care, Inc.*, (No. BC388335, L.A. Super. Ct.) In January  
21 2014, the Honorable William F. Highberger granted final approval of Settlement in  
22 the gross amount of \$1,500,000.00 and the court granted attorneys' fees request of  
23 33.33%.
- 24 i. *Rojas, et al. v. Sunview Vineyards of California, Inc.*, Eastern District (1:09-cv-  
25 00705 AWIJLT). This certified class action was approved for final settlement by  
26 the Honorable Anthony W. Ishii in October 2015, in the gross amount of  
27 \$4,550,000.00, with attorneys' fees approved in the amount of \$1,137,500.00.
- 28 j. *Westbrook v. International Surfacing Systems*, (No. RG10510015, Alameda Super.

1 Ct.) In August 2015, the Hon. Wynne Carvill granted final approval of Settlement  
2 in the gross amount of \$995,000.00, and the court granted attorney's fees request  
3 of 33.33%.

4 k. *Kane et al. v. Valley Slurry Seal*, (No. CV08-2483, Yolo Super. Ct.) In March 2016  
5 after a class trial with a verdict in the class's favor, the Honorable Daniel P.  
6 Maguire, awarded Kingsley & Kingsley and co-counsel \$996,232.72 in attorney's  
7 fees.

8 l. *Aparacio v. Abercrombie & Fitch Stores, Inc.*, (No. BC499281, L.A. Super. Ct.) In  
9 June 2016, the Hon. Kenneth Freeman granted final approval of Settlement in the  
10 gross amount of \$2,000,000.00, and the court granted attorney's fees request of  
11 33.33%.

12 m. *Isaguirre v. Guess?, Inc., Los Angeles Superior Court (BC357631)*. The matter was  
13 proposed for final settlement by the Honorable Richard L. Fruin on February 19,  
14 2016, in the gross amount of \$5,250,000.

15 n. *Hirschinger v. Blue Cross of California*, Los Angeles Superior Court (BC402739).  
16 The matter was approved for final settlement by the Honorable Lee Smally Edmund  
17 in June 2013, in the gross amount of \$4,700,000.00, with attorney's fees request of  
18 38%.

19 o. *Munoz, et al. v. Giumarra Vineyards Corporation*, United States District Court for  
20 the Eastern District of California (Case No.: 1:09-cv-00703 - AWI – JLT). The  
21 matter was approved for final settlement by the Honorable Anthony W. Ishii in  
22 November 2017, in the gross amount of \$6,100,000.00, plus interest, with  
23 attorney's fees benchmark award of \$1,525,000.

24 p. *Pineda, et al. v. Grimmway Enterprises, Inc.*, Kern County Superior Court (BCV-  
25 15-101333). The matter was approved for final settlement before the Hon. Stephen  
26 D. Schuett, Dept. 10, in January 2018, in the gross amount of \$9,000,000 with  
27 attorneys' fees request of 33.33%.

28 48. Kingsley & Kingsley, APC filed its first class certification motion in the year 2000

1 and since that time has been appointed class counsel on dozens of wage and hour class actions that  
2 have been approved for class certification. Since 2012, Kingsley & Kingsley, APC has moved for  
3 class certification in 15 matters and has successfully obtained class certification in 15 of those  
4 cases. A brief sampling of which includes:

- 5 a. *Lewis v. Collabrus, Inc., Santa Clara County Superior Court (109CV-142927),*  
6 *approved for Class Certification in 2011.*
- 7 b. *Melendrez v. JK Communications*, No. BC497692, (L.A. Super. Ct., filed  
8 December 19, 2012) (court granted contested class certification and appointed  
9 Kingsley & Kingsley as class counsel).
- 10 c. *Amaro, et al v. Gerawan Farming, Inc.*, No. 1:14-cv-00147-DAD-SAB (E.D. Cal.,  
11 filed February 3, 2014) (court granted contested class certification and appointed  
12 Kingsley & Kingsley as class counsel).
- 13 d. *Suarez v. Mazatlan, Inc.*, No. 37-2015-00002978-CU-OE-CTL (S.D. Super. Ct.,  
14 filed January 27, 2015) (court granted contested class certification and appointed  
15 Kingsley & Kingsley as class counsel).
- 16 e. *Ruiz v. Daniel C. Salas Harvesting, Inc.*, Kings County Superior Court (16 C 0214),  
17 contested class certification granted in June 2020.
- 18 f. *Weldon v. Geo Corrections & Detentions, LLC*, Kern County Superior Court (BCV-  
19 16-102833), contested class certification granted in 2018.
- 20 g. *Patton v. Skyler Electric*, Nevada County Superior Court, (CU17-082544),  
21 contested class certification granted in June 2020.
- 22 h. *Hameister v. Jaco Oil Company*, Kern County Superior Court (BCV-17-102876),  
23 contested class certification granted in August 2020.

24 49. PAGA Counsel is experienced in the handling of wage and hour class and  
25 representative actions and supports this Settlement. Based on its analysis, PAGA Counsel believes  
26 that this settlement is fair and reasonable and in the best interest of the aggrieved employees.

27 50. After factoring in the risks explained above, I believe that the proposed settlement  
28 is fair and reasonable. I am not aware of any other pending matter or action asserting claims that

1 will be extinguished or adversely affected by this Settlement.

2 **REQUESTS FOR ATTORNEYS' FEES AND COSTS**

3 51. As detailed fully in the Agreement, the settlement provides for Defendant to create a  
4 Gross Settlement Amount of \$95,000.00. From that fund, Plaintiff requests an award of attorneys'  
5 fees for PAGA Counsel in the amount of \$31,666.66, or 33.33% of the Gross Settlement Amount,  
6 and \$6,723.01 in reimbursement for litigation costs.

7 52. In addition to the complexity of this case, PAGA Counsel has borne the entire risk  
8 and costs of this litigation during the entire time that it has been pending, all on a pure contingency  
9 basis. Through the investment of substantial effort and resources, PAGA Counsel has secured an  
10 outstanding Settlement of behalf of the Aggrieved Employees. Defendant vigorously contested  
11 liability, the amount of claimed damages, and the propriety of class certification. It is this kind of  
12 situation, involving complex issues, that has been recognized as justifying a substantial attorney  
13 fee award.

14 53. I am very familiar with the contingent fee market throughout California and in the  
15 Santa Clara area, particularly as it pertains to complex employment, wage and hour, and class  
16 action litigation. On behalf of my firm, I have negotiated numerous contingency fee agreements  
17 with plaintiffs, both as individuals and as representatives in class action suits. Many of those  
18 agreements provided that counsel will receive a fee that is between 33% and 40% of any  
19 recovery that is obtained, and, in addition, that counsel be reimbursed for the costs they incurred  
20 out of the recovery amount. The named Plaintiff in this action signed a contingency fee  
21 agreement that stated that counsel would be able to make a fee of up to 40% of any recovery if the  
22 case settles. These are typical and standard percentages in employment-related contingency  
23 agreements throughout California. Indeed, in my opinion, the Aggrieved Employees in this  
24 complex wage and hour case could not have retained competent counsel in California,  
25 particularly with the considerable skill and expertise of my firm, for any amount significantly  
26 less than the contingency fee percentage provided in this retainer agreement. PAGA Counsel has  
27 never been paid any money for attorneys' fees in this case and has advanced all costs.

28 54. There are always risks attendant to billing cases on a contingency basis. Those risks

are even higher in the current economic climate. Kingsley & Kingsley bills the vast majority of its cases on contingency, and has been affected by recent bankruptcy filings. In three separate cases, *Lozoya v. Shore House Café, Inc.*, No. 30-2008-00082103-CU-OE-CJC (Orange Super. Ct. filed Mar. 7, 2008) and *Davis v. Crossfire Marketing Group, LLC*, No. CIVRS1207797 (San Bernardino Super. Ct. filed October 5, 2012), the defendants both filed for bankruptcy protection in June 2011 and January 2015 after years of litigation. My firm advanced costs and incurred thousands of dollars in fees that will never be recovered.

55. Additionally, there are cases where PAGA Counsel takes on the extreme risk of attempting to certify a class case, often times turning down class or individual settlement offers that PAGA Counsel feels are not in the best interest of the Aggrieved Employees, only to lose class certification and the costs and fees associated with the litigation. *See e.g., Prosad v. Del Taco Restaurant Services, Inc.*, No. BC426538 (L.A. Super. Ct. filed Nov. 2009); *Perez v. Safelite Group, Inc.*, CV-10-8653-RGK(FFMx) (C.D. Cal. filed October 5, 2010).

56. When PAGA Counsel's motions for class certification are denied, PAGA Counsel often appeals the orders. Sometimes, these denials are overturned (*Perez v. Safelite Group, Inc.*, 553 Fed.Appx. 667 (9th Cir. 2015); *Anderson v. Total Renal Care, Inc.*, No. B236207 (Cal. Ct. App. 2012)) and other times PAGA Counsel is unsuccessful (*Prosad v. Del Taco Restaurant Services, Inc.*, No. B238605 (CA. Ct. App. 2012)).

57. In addition to appealing class certification denials, Kingsley & Kingsley has been involved in numerous lengthy and protracted appeals process before the California Court of Appeal, the Ninth Circuit, the Seventh Circuit, and the United States Supreme Court. Our firm specifically has taken and lost some issues on appeal that required the write-off of significant legal fees. Also, our firm has been successful on appeal and overturned unfavorable lower court rulings or successfully fought to have successful rulings affirmed. Below is just a sample of some of these appeals:

- a. *D'Este v. Bayer Corp.*, 565 F.3d 1119 (9th Cir. 2009) (lower court ruling that pharmaceutical sales representatives are exempt employees affirmed);
- b. *Budrow v. Dave & Buster's of California, Inc.*, 171 Cal. App. 4th 875 (2009) (lower

- 1 court ruling in employer's favor that certain employees can share in mandatory tip  
2 pool affirmed);
- 3 c. *Etheridge v. Reins Int'l California, Inc.*, 172 Cal. App. 4th 908 (2009) (lower court  
4 ruling in employer's favor that certain employees can share in mandatory tip pool  
5 affirmed);
- 6 d. *Areso v. CarMax, Inc.*, 195 Cal. App. 4th 996 (2011) (lower court ruling in  
7 employer's favor approving employer's commission pay plan affirmed) ;
- 8 e. *Christopher v. SmithKline Beecham Corp.*, 132 S. Ct. 2156, 183 L. Ed. 2d 153  
9 (2012) (lower court ruling that pharmaceutical sales representatives are exempt  
10 employees affirmed);
- 11 f. *Schaefer-LaRose v. Eli Lilly & Co.*, 679 F.3d 560 (7th Cir. 2012) (lower court ruling  
12 that pharmaceutical sales representatives are exempt employees affirmed);
- 13 g. *Fowler v. Carmax, Inc.*, No. B238426, 2013 WL 1208111 (Cal. Ct. App. Mar. 26,  
14 2013), cert. granted, judgment vacated sub nom. *CarMax Auto Superstores  
15 California, LLC v. Fowler*, 134 S. Ct. 1277, 188 L. Ed. 2d 290 (2014) (lower court  
16 granted employer's motion to compel arbitration, Court of Appeal reversed, U.S.  
17 Supreme Court affirmed lower court);
- 18 h. *Salazar v. Apple Am. Grp., LLC*, No. E059562, 2015 WL 314703 (Cal. Ct. App.  
19 Jan. 26, 2015), review denied (Apr. 22, 2015), cert. denied, 136 S. Ct. 688, 193 L.  
20 Ed. 2d 519 (2015) (lower court ruling in employee's favor on motion to compel  
21 arbitration affirmed);
- 22 i. *Anaya v. J's Maint. Serv., Inc.*, No. B261662, 2016 WL 519867 (Cal. Ct. App. Feb.  
23 9, 2016) (lower court ruling in employee's favor on motion to compel arbitration  
24 affirmed);
- 25 j. *Cortez v. Doty Bros. Equipment Company, Inc.* (2017) 15 Cal.App.5th 1 (reversing  
26 in part and affirming in part trial courts order compelling arbitration);
- 27 k. *Lopez v. Friant & Associates, L.L.C.* (2017) 15 Cal.App.5th 773 (reversing  
28 summary judgement in favor of employer on wage statement claim);

1           1. *Kane v. Valley Slurry Seal Company*, Case No. C079558, Cal. Ct. App. May 8,  
2           2018) (affirming judgement for employees after bench trial);

3           m. *Kim v. Reins International California*, Case No. S246911. Oral argument was held  
4           before the California Supreme Court on January 6, 2020 and a decision was  
5           published in March 2020.

6           58. Unlike plaintiffs' firms, which bear the risk of loss on contingency cases, defense  
7           firms are able to bill their clients for time spent on a case. As verified by a survey conducted by  
8           the National Law Journal nearly a decade ago, six California firms provided their hourly billing  
9           rates and of the six firms, five regularly charged in excess of \$500 for their partners. In fact, four  
10          of these firms charged as high as \$600, \$620, \$650 and up to \$850 per hour. These firms are  
11          located in Orange County, Los Angeles County, San Francisco County, and San Diego County.  
12          This survey is attached hereto as Exhibit 2.

13          59. While plaintiff's firms strive to take on cases that are meritorious (for ethical as  
14          well as monetary reasons), as this Court knows, many of these cases hinge on the decision of  
15          class certification. Recently, there has been a renewed effort by defense counsel and/or their  
16          clients to challenge these cases and to push back, especially on certification motions. In addition,  
17          many novel legal issues have gone up on appeal, which has complicated the landscape for  
18          settlement.

19               **PAGA COUNSEL'S HOURS AND HOURLY RATES ARE REASONABLE**

20          60. Here, a lodestar cross-check confirms that the percentage requested is reasonable.  
21          PAGA Counsel have an aggregate lodestar in the amount of \$32,482.50 which represents 46.90  
22          hours of attorney work on this litigation from its inception through the date of this filing of Plaintiff's  
23          instant Motion, and five future hours.

24          61. As such, PAGA Counsel has billed more hours than the fee, and no multiplier is  
25          requested.

26          62. The amount of time spent on this case (46.9 hours), which culminated in a very  
27          favorable proposed Settlement for the Aggrieved Employees, is reasonable given the complexity and  
28          novelty of the issues involved, the vigorous defense, the length and intensity of the litigation, and the

1 exceptional results obtained.

2 63. PAGA Counsel litigated this action with great efficiency in light of the amount of  
3 work required to achieve the Settlement.

4 64. The requested hourly rates in this case range from \$415.00 per hour to \$990.00.

5 65. PAGA Counsel's hourly rates are fully supported by their experience and reputation  
6 in handling complex employment litigation, including wage and hour class actions.

7 66. Mr. Kingsley is a 24-year attorney with expertise in wage and hour class action  
8 lawsuits.

9 67. He has litigated several hundred such cases, including at the appellate level at the  
10 U.S. Supreme Court, California Supreme Court, the Ninth Circuit, and the California Court of  
11 Appeal.

12 68. He is also a prolific speaker at various seminars on employment law and has  
13 contributed to legal publications on employment topics.

14 69. In light of the impending increase of experienced lawyers in specialized practice, I  
15 believe that the hourly rates charged by my firm are fair and reasonable and are comparable to or  
16 less than those charged by my colleagues in California and the national market for prosecuting or  
17 defending class actions.

18 70. My office billed for the following four attorneys for work performed on this case:  
19 Eric Kingsley, Jessica Bulaon, and me.

20 71. I am a partner at Kingsley & Kingsley, APC, have a billing rate of \$715 per hour. I  
21 am an honors graduate of Florida State University, and received my JD from the University of  
22 California Davis School of Law in 2008, where I was an editor of the Environmental Law Journal  
23 and a board member of the King Hall Negotiations Team.

24 72. Ari J. Stiller, a senior associate at Kingsley & Kingsley, APC, has a billing rate of  
25 \$625 per hour. Mr. Stiller is a 9-year attorney whose practice focuses on employment litigation,  
26 including wage and hour class actions, discrimination, harassment, and wrongful termination claims.  
27 Mr. Stiller graduated Phi Beta Kappa with a B.A. from Colorado College in 2006 and received his  
28 J.D. from University of Colorado School of Law in 2013, where he was an associate editor of the

1 law review and president of his class. Mr. Stiller formerly practiced on the motions and appeals team  
2 at a prominent Los Angeles law firm and served as a judicial fellow to Judge Paul Watford in the  
3 U.S. Court of Appeals for the Ninth Circuit.

4 73. Jessica Bulaon is an Associate Attorney at Kingsley & Kingsley, APC. Ms. Bulaon  
5 is a graduate of UCLA where she obtained her Bachelor of Arts in Sociology. In 2021, she earned  
6 her J.D. from Southwestern Law School, where she was a member on the Law Review and the  
7 Dean's List. While at Southwestern, she was awarded the Exceptional Achievement Award in  
8 Employment Law Survey course and Witkin Award in her Labor Law course. Ms. Bulaon also  
9 clerked at a plaintiff-side employment law firm for 1.5 years until she was admitted to practice in  
10 December of 2021. She is billed at \$415 per hour.

11 74. An article in the Wall Street Journal on February 9, 2016 titled *Legal Hours Cross*  
12 *New Mark: \$1,500 an Hour* states that "a review of filings over the past three months in about two  
13 dozen bankruptcy cases shows that senior partners routinely charge between \$1,200 and \$1,300 an  
14 hour, with top rates at several large law firms exceeding \$1,400." The article also explains that  
15 "despite low inflation and weak demand for legal services, rates at large corporate law firms have  
16 risen by 3% to 4% a year since the economic downturn." Finally, the article notes that "the average  
17 highest rate paid for law-firm partners was \$875 an hour in 2015." This article is attached hereto as  
18 Exhibit 3.

19 75. PAGA Counsel's charged rates are commensurate with the prevailing market rates  
20 in Tulare County for attorneys of comparable experience and skill handling complex litigation.

21 76. Furthermore, PAGA Counsel's rates in calculating the lodestar are the same rates  
22 charged to non-contingent hourly clients and thus necessarily reflect the current market value of  
23 counsel's legal services.<sup>1</sup>

24 77. PAGA Counsel has made all reasonable attempts to avoid duplication of assignments  
25 and to assign tasks to timekeepers at the appropriate billing rates.

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26  
27 <sup>1</sup> The Court should also note that other California courts approved many of these same rates over  
28 15 years ago. (*See, e.g., Bihun v. AT&T Info. Sys., Inc.* (1993) 13 Cal.App.4th 976, 997,  
disapproved on other grounds, 6 Cal.4th 644, 664 [\$450 hourly rate was a reasonable fee based  
on counsel's knowledge, skill, experience and reputation].)

78. Finally, PAGA Counsel's rates are in line with the 2023-2024 Laffey Matrix, which is a fee scale that courts often consult in determining the reasonableness of hourly rates. Under the adjusted Laffey Matrix, a reasonable rate for an attorney with 20+ years of experience, such as Mr. Kingsley, is \$1057, a reasonable rate for an attorney with 12 years of experience, such as myself, is \$878, a reasonable rate for an attorney with 9 years experience, such as Mr. Stiller is \$777, and a reasonable rate for an attorney with 3 or less years of experience, such as Ms. Bulaon is \$437. A true and correct copy of the 2023-2024 Adjusted Laffey Matrix is attached hereto as Exhibit 4.

79. Kingsley & Kingsley's attorneys' fees in the present case are broken down as follows:

| <u>ATTORNEY</u>                           | <u>HOURS</u>       | <u>HOURLY RATE</u> | <u>TOTALS</u>      |
|-------------------------------------------|--------------------|--------------------|--------------------|
| Eric B. Kingsley                          | 11.20              | \$990.00           | \$11,088.00        |
| Liane Katzenstein Ly                      | 19.90 <sup>2</sup> | \$715.00           | \$14,228.50        |
| Ari J. Stiller                            | 2.90               | \$625.00           | \$1,812.50         |
| Jessica Bulaon                            | 12.90              | \$415.00           | \$5,353.50         |
| <b>KINGSLEY TOTAL<br/>ATTORNEYS' FEES</b> | <b>46.90</b>       |                    | <b>\$32,482.50</b> |

66. Kingsley & Kingsley, APC has spent significant time extensively investigating, researching, and litigating this matter, including but not limited to the following:

- a. intake and interviewing Plaintiff and witnesses and flushing out facts and issues;
- b. researching employer and related causes of action;
- c. researching other pending and former matters against Defendant;
- d. fact development and investigating Defendant's ownership structure;
- e. researching and analyzing relevant claims under B&P 17200;
- f. investigation and discussion regarding job functions, duties, compensation, policies, and procedures, etc.;
- g. regular meetings and or communicating with the named Plaintiff;

<sup>2</sup> PAGA Counsel's current hours are 41.90. However, PAGA Counsel also anticipates an additional five hours of future time through the hearing and the administration process. As such, PAGA Counsel is reporting a total of 46.90 hours.

- h. drafting pleadings (Complaints, Motion for Preliminary Approval, various documents related to Preliminary Approval, etc.);
- i. researching private right of action and various impact on class actions;
- j. preparing for and attending mediation;
- k. discussing issues related to damage model calculations;
- l. preparing and analyzing damage models;
- m. negotiating the terms of the settlement;
- n. reviewing and making changes to the Settlement Agreement;
- o. drafting and editing all documents for Settlement Approval;
- p. coordinating and overseeing all aspects of the administration of the Settlement (review documentation, approve form and content, etc.); and multiple communications with defense counsel.

80. Here, PAGA Counsel is not requesting a multiplier.

81. I believe the request for attorneys' fees in the amount of \$31,666.66 is fair and reasonable given the complexity and novelty of the issues involved, the vigorous defense, and the exceptional results obtained. As explained above, PAGA Counsel's diligent litigation efforts and experience led to an outstanding settlement.

**THE COURT SHOULD APPROVE THE REQUEST FOR REIMBURSEMENT OF COSTS**

82. In addition to their request for fees, PAGA Counsel further request reimbursement of the reasonable out-of-pocket expenses advanced and/or incurred by them in connection with this litigation, in the amount of \$8,500.00.

83. To date, Kingsley and Kingsley has incurred \$6,465.26 in costs.

84. PAGA Counsel anticipates incurring an additional \$257.75 in costs to file and serve this motion.

85. As such, counsel is requesting a cost reimbursement of \$6,723.01.

86. All of the requested costs are reasonable in amount and were necessarily incurred by PAGA Counsel in prosecuting this litigation.

1 87. All of these costs have been incurred in the course of this litigation, and all costs  
2 advanced have already been paid by PAGA Counsel, with the exception of the anticipated cost of  
3 filing the present motion.

4 88. Accordingly, the requested reimbursement of the reasonable out-of-pocket expenses  
5 advanced and/or incurred is appropriate and justified as part of the overall settlement and the Court  
6 should approve the request for reimbursement in the amount of \$6,723.01.

7 **THE COURT SHOULD APPROVE THE PROPOSED ENHANCEMENT TO**  
8 **PLAINTIFF**

9 89. The Agreement calls for an enhancement payment of \$5,000.00 to the named  
10 Plaintiff, to be paid from the Gross Settlement Amount.

11 90. The time spent by Jeremy Legarde includes identifying competent counsel, providing  
12 information to PAGA Counsel regarding his relevant employment experiences, compiling  
13 documents, meeting with PAGA Counsel frequently to discuss the status of the case and the theories  
14 of liability, reviewing settlement documents, and making himself available for a full day of  
15 mediation.

16 91. PAGA Counsel considers this to be a fair and reasonable enhancement.

17 92. The enhancement takes into consideration the time, effort, risks, and expense  
18 incurred by Plaintiff in coming forward to litigate this matter on behalf of all Aggrieved Employees.  
19 Accordingly, Plaintiff should be awarded the agreed-upon enhancement of \$5,000.00.

20 **PROOF OF SUBMISSION TO THE LABOR AND WORKFORCE DEVELOPMENT**  
21 **AGENCY**

22 93. As indicated on the Proof of Service, Plaintiff's accompanying Motion for Approval  
23 of Representative Action Settlement ("Motion") was uploaded to the Labor and Workforce  
24 Development Agency's ("LWDA") website on the date this Motion was filed. Proof of submission  
25 of Plaintiff's Motion, all related documents, and copy of the email from the LWDA confirming  
26 receipt is attached hereto as Exhibit "7".

27 **EXHIBITS**

28 94. Attached hereto as Exhibit "1" is a true and correct copy of the fully-executed PAGA

1 Settlement Agreement.

2 95. Attached hereto as Exhibit “2” is a true and correct copy of the ALM Research 2007  
3 NLJ Billing Survey.

4 96. Attached hereto as Exhibit “3” is a true and correct copy of Wall Street Journal on  
5 February 9, 2016 titled *Legal Hours Cross New Mark: \$1,500 an Hour*.

6 97. Attached hereto as Exhibit “4” is a true and correct copy of the 2023-2024 Adjusted  
7 Laffey Matrix.

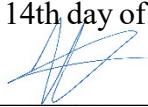
8 98. Attached hereto as Exhibit “5” is a true and correct copy of the Kingsley & Kingsley,  
9 APC costs ledger reflecting costs incurred in this matter.

10 99. Attached hereto as Exhibit “6” is a true and correct copy of the Administrator’s, Apex  
11 Class Action Administrators, bid.

12 100. Attached hereto as Exhibit “7” is a true and correct copy of the proof of submission  
13 to the LWDA as referenced in paragraph 93 above.

14  
15 I declare under penalty of perjury under the laws of the State of California that the foregoing  
16 is true and correct.

17 This declaration was executed this 14th day of December, 2023, in Los Angeles, California.

18  
19   
\_\_\_\_\_  
Liane Katzenstein Ly

# **EXHIBIT "1"**

## **PAGA SETTLEMENT AGREEMENT**

This PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff Jeremy Legarde (“Plaintiff”) and Defendant Spectra360, Inc. dba Raso Solutions (“Defendant” or “Spectra”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

### **1. DEFINITIONS.**

- 1.1. “Action” means the Plaintiff’s PAGA lawsuit alleging wage and hour violations against Spectra360, Inc. dba Raso Solutions captioned JEREMY LEGARDE, an individual, on behalf of the State of California, as a private attorney general, PLAINTIFF, v. SPECTRA360, INC. DBA RASO SOLUTIONS,, Case No. 22CV402965 initiated on September 12, 2022 and pending in Superior Court of the State of California, County of Santa Clara.
- 1.2. “Administrator” means Apex Class Action Administration the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.
- 1.4. “Aggrieved Employee” means all employees who are employed or have been employed as an hourly employee by SPECTRA360, INC. DBA RASO SOLUTIONS, in the State of California who worked one or more pay periods since July 8, 2021 and continuing to the present. (“aggrieved employees”)
- 1.5. “Aggrieved Employee Data” means Aggrieved Employee identifying information in Defendant’s possession including the Aggrieved Employee’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.
- 1.6. “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.
- 1.7. “Court” means the Superior Court of California, County of Los Angeles.
- 1.8. “Defense Counsel” means Dillingham & Murphy, LLP.
- 1.9. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the

Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) the day the Court enters Judgment, or (b) the time for any person or entity to appeal that judgment has expired with no appeal being filed, or, if an appeal has been filed, when the appeal has been resolved and the judgment approving the PAGA Settlement is final.

- 1.10. “Gross Settlement Amount” means \$95,000.00 which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator’s Expenses Payment.
- 1.11. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.
- 1.12. “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.13. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.14. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.15. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees as Individual PAGA Payments.
- 1.16. “PAGA Counsel” means Kingsley & Kingsley, APC, the attorneys representing the Plaintiff in the Action.
- 1.17. “PAGA Counsel Fees Payment” and “PAGA Counsel Litigation Expenses Payment” mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.18. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for XYZ for at least one day during the PAGA Period.
- 1.19. “PAGA Period” means the period from July 8, 2021 to September 18, 2023.
- 1.20. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.21. “PAGA Notice” means Plaintiff’s July 8, 2022 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

- 1.22. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$10,458.34) and the 75% to LWDA (\$31,375.00) in settlement of PAGA claims.
- 1.23. "Plaintiff" means Jeremy Legarde, the named plaintiff in the Action.
- 1.24. "Approval Order" means the proposed Court Order Granting Approval of PAGA Settlement.
- 1.25. "Released PAGA Claims" means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.
- 1.26. "Released Parties" means: Defendant and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates, including but not limited to North Coast Medical Supply, LLC, dba Advanced Diabetes Supply.
- 1.27. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

## **2. RECITALS.**

- 2.1. On September 12, 2022, Plaintiff commenced this Action by filing a Representative Action Complaint alleging causes of action against Defendant for penalties pursuant to Labor Code § 2699, et seq. for violation of Labor Code §§ 201, 202, 203, 226(a), 226.7, and 2802. The Complaint is the operative complaint in the Action (the "Operative Complaint.") Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.
- 2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.
- 2.3. On September 18, 2023, the Parties participated in an all-day mediation presided over by Alan Berkowitz, Esq. which led to this Agreement to settle the Action.
- 2.4. Prior to mediation, Plaintiff obtained, through informal discovery, Plaintiff's personnel file, pay stubs, and PAGA data.
- 2.5. The Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

### 3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay \$95,000.00 and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 6.1 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:
- 3.2.1. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than 33.33% which is currently estimated to be \$31,666.66 and PAGA Counsel Litigation Expenses Payment of not more than \$8,500.00. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.
- 3.2.2. To the Named Plaintiff: An enhancement to the Named Plaintiff not to exceed \$5,000.00. To the extent the court approves an enhancement of a lesser amount, the Administrator will retain the remainder in the Net Settlement Amount.
- 3.2.3.
- 3.2.4. To the Administrator: An Administrator Expenses Payment not to exceed \$3,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$3,000.00 the Administrator will retain the remainder in the Net Settlement Amount.
- 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$41,833.34 to be paid from the Gross Settlement Amount, with 75% (\$31,375.00)

allocated to the LWDA PAGA Payment and 25% (\$10,458.34) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$10,458.34) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. The funds paid by Defendant to resolve this action are specifically intended to be inclusive of any and all federal and state income and payroll taxes due on account of these Individual PAGA payments.

3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

#### **4. SETTLEMENT FUNDING AND PAYMENTS.**

4.1. Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant estimates there are 53 Aggrieved Employees who worked a total of 1,139 of PAGA Pay Periods.

4.2. Aggrieved Employee Data. Within 15 days, Defendant will simultaneously deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employee' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

4.3. Funding of Gross Settlement Amount. Provided that Defendant has received a Form W9 from PAGA counsel, Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than 14 days after the Effective Date. Plaintiff shall file a Notice of Satisfaction of Judgment in Full in the Action within ten (10) days after Defendant has fully funded the Gross Settlement Amount.

- 4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Expenses Payment. Disbursement of the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.
- 4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
- 4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.
- 4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.
- 4.4.4. The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.
5. **RELEASES OF CLAIMS.** Effective on the date when Defendant fully funds the entire Gross Settlement Amount Plaintiff and PAGA Counsel will release claims against all Released Parties as follows:
- 5.1 Release by Plaintiff and Aggrieved Employees:
- All Aggrieved Employees, including Plaintiff, are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

**6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT.** The Parties agree to jointly prepare and file an application or motion for approval of this Settlement.

6.1 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2)) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; (iii) a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator.

6.2 Responsibilities of PAGA Counsel. PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than 30 days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

6.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

**7. SETTLEMENT ADMINISTRATION.**

7.1 Selection of Administrator. The Parties have jointly selected Apex to serve as the Administrator and verified that, as a condition of appointment, Apex agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or

otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

- 7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports to state and federal tax authorities.
- 7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.
- 7.4 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

**8. AGGRIEVED EMPLOYEE SIZE ESTIMATES and ESCALATOR CLAUSE** Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, (1) there are 53 Aggrieved Employees who worked 1,139 Pay Periods during the PAGA Period.

8.1 Increase in Eligible PAGA Periods. As detailed in Paragraph 4.2 above, upon receipt of the PAGA List, the Settlement Administrator shall confirm to Plaintiff that the data is consistent with the terms of this Settlement Agreement. To the extent the number of Eligible PAGA Periods at issue increases by more than 5%, Defendants may increase the Maximum Settlement Amount by a proportionate amount. For example, if the number of Eligible PAGA Periods increased by 6%, Defendants may increase the Maximum Settlement Amount by 6%. If Defendant fails to increase the Maximum Settlement Amount proportionately, Plaintiff shall have the right to terminate this Settlement Agreement and the Parties will be restored to their positions prior to the Settlement and the Settlement shall be null and void.

**9. CONTINUING JURISDICTION OF THE COURT.** The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

- 9.1 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be

suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

## **10. ADDITIONAL PROVISIONS.**

**10.1 No Admission of Liability or Representative Manageability for Other Purposes.** This Agreement represents a compromise and settlement of highly disputed claims.

Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

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

**10.3 Attorney Authorization.** PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

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

**10.5 No Prior Assignments.** The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

- 10.6 No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 10.7 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 10.8 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 10.9 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 10.10 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 10.11 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 10.12 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 10.13 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 10.14 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Kingsley & Kingsley, APC  
Eric B. Kingsley  
eric@kingsleykingsley.com  
Liane Katzenstein Ly  
liane@kingsleykingsley.com

16133 Ventura Blvd., Suite 1200  
Encino, CA 91436

To Defendant:

DILLINGHAM & MURPHY, LLP  
William F. Murphy  
wfm@dillinghammurphy.com  
Chauncey X, McNeill  
cxm@dillinghammurphy.com  
155 Sansome Street, Suite 700  
San Francisco, CA 94104

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

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

DATED: November 15, 2023

By:   
34A3C3876B6640D...  
PLAINTIFF Jeremy Legarde

DATED: November 16, 2023

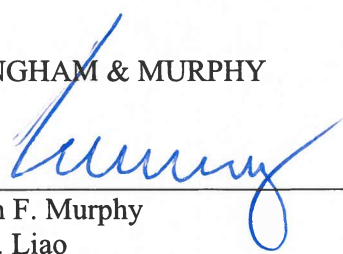
By:   
DEFENDANT Spectra360, Inc. dba Raso Solutions

DATED: November 15, 2023

KINGSLEY & KINGSLEY, APC  
By:   
Liane Katzenstein Ly  
Attorneys for Plaintiff and the aggrieved employees

DATED: Nov. 17, 2023

DILLINGHAM & MURPHY

By: 

William F. Murphy

Jenny J. Liao

Attorneys for Defendant

# **EXHIBIT "2"**

|    | A                                                                                 | C                         | D                        | E                           | F                          | G                              | H                            | I                             | J                          | K                        | L                         |
|----|-----------------------------------------------------------------------------------|---------------------------|--------------------------|-----------------------------|----------------------------|--------------------------------|------------------------------|-------------------------------|----------------------------|--------------------------|---------------------------|
| 1  |  |                           |                          |                             |                            |                                |                              |                               |                            |                          |                           |
| 2  |                                                                                   |                           |                          |                             |                            |                                |                              |                               |                            |                          |                           |
| 3  |                                                                                   |                           |                          |                             |                            |                                |                              |                               |                            |                          |                           |
| 4  |                                                                                   |                           |                          |                             |                            |                                |                              |                               |                            |                          |                           |
| 5  |                                                                                   |                           |                          |                             |                            |                                |                              |                               |                            |                          |                           |
| 6  | Firm Name                                                                         | Partner Billing Rate High | Partner Billing Rate Low | Associate Billing Rate High | Associate Billing Rate Low | Associate Billing Rate Average | Partner Billing Rate Average | Firmwide Billing Rate Average | Associate Billing Rate Med | Partner Billing Rate Med | Firmwide Billing Rate Med |
| 7  | Adams and Reese                                                                   | \$500                     | \$225                    | \$255                       | \$165                      | \$198                          | \$305                        | \$278                         | \$197                      | \$300                    | \$275                     |
| 8  | Andrews Kurth                                                                     | \$795                     | \$400                    | \$460                       | \$210                      |                                |                              |                               |                            |                          |                           |
| 9  | Arent Fox                                                                         | \$675                     | \$395                    | \$440                       | \$240                      |                                |                              |                               |                            |                          |                           |
| 10 | Armstrong Teasdale                                                                | \$450                     | \$295                    | \$295                       | \$165                      |                                |                              |                               |                            |                          |                           |
| 11 | Baker, Donelson, Bearman, Caldwell & Berkowitz                                    | \$525                     | \$230                    | \$315                       | \$160                      | \$205                          | \$325                        | \$280                         | \$200                      | \$320                    | \$270                     |
| 12 | Barnes & Thornburg                                                                | \$485                     | \$265                    | \$295                       | \$180                      | \$225                          | \$350                        | \$302                         | \$220                      | \$355                    | \$310                     |
| 13 | Bass, Berry & Sims PLC                                                            | \$575                     | \$300                    | \$285                       | \$180                      |                                |                              |                               |                            |                          |                           |
| 14 | Best Best & Krieger                                                               | \$495                     | \$290                    | \$350                       | \$160                      | \$203                          | \$275                        | \$212                         | \$235                      | \$390                    | \$265                     |
| 15 | Bond, Schoeneck & King                                                            | \$435                     | \$200                    | \$250                       | \$140                      | \$179                          | \$294                        | \$253                         | \$175                      | \$295                    | \$300                     |
| 16 | Bradley Arant Rose & White                                                        | \$520                     | \$240                    | \$280                       | \$180                      | \$211                          | \$335                        | \$258                         | \$205                      | \$330                    | \$260                     |
| 17 | Briggs and Morgan                                                                 | \$500                     | \$250                    | \$325                       | \$195                      | \$233                          | \$391                        | \$344                         | \$230                      | \$395                    | \$350                     |
| 18 | Brinks Hofer Gilson & Lione                                                       | \$650                     | \$300                    | \$410                       | \$180                      | \$273                          | \$479                        | \$365                         | \$250                      | \$485                    | \$350                     |
| 19 | Broad and Cassel                                                                  | \$450                     | \$250                    | \$310                       | \$165                      | \$232                          | \$361                        | \$294                         | \$225                      | \$360                    | \$275                     |
| 20 | Brownstein Hyatt Farber Schreck                                                   | \$675                     | \$260                    | \$270                       | \$170                      | \$219                          | \$373                        | \$308                         | \$218                      | \$390                    | \$325                     |
| 21 | Bryan Cave                                                                        | \$695                     | \$320                    | \$495                       | \$165                      | \$295                          | \$493                        | \$394                         | \$295                      | \$490                    | \$375                     |
| 22 | Buchanan Ingersoll & Rooney                                                       | \$750                     | \$320                    | \$460                       | \$150                      |                                |                              |                               |                            |                          |                           |
| 23 | Bullivant Houser Bailey                                                           | \$500                     | \$225                    | \$350                       | \$150                      | \$240                          | \$285                        | \$260                         | \$220                      | \$275                    | \$250                     |
| 24 | Burr & Forman                                                                     | \$470                     | \$250                    | \$305                       | \$175                      | \$235                          | \$340                        |                               |                            |                          |                           |
| 25 | Butzel Long                                                                       | \$575                     | \$210                    | \$350                       | \$155                      |                                |                              |                               |                            |                          |                           |
| 26 | Carlton Fields                                                                    | \$600                     | \$280                    | \$375                       | \$190                      | \$243                          | \$406                        | \$312                         | \$245                      | \$405                    | \$300                     |
| 27 | Cooley Godward Kronish                                                            | \$875                     | \$470                    | \$555                       | \$250                      |                                |                              |                               |                            |                          |                           |
| 28 | Covington & Burling                                                               | \$800                     | \$510                    | \$525                       | \$240                      |                                |                              |                               |                            |                          |                           |
| 29 | Cozen O'Connor                                                                    | \$750                     | \$230                    | \$530                       | \$155                      | \$283                          | \$420                        | \$350                         | \$280                      | \$425                    | \$340                     |
| 30 | Curtis, Mallet-Prevost, Colt & Mosle                                              | \$735                     | \$635                    | \$560                       | \$280                      | \$361                          | \$666                        | \$396                         | \$360                      | \$685                    | \$480                     |
| 31 | Davis Wright Tremaine                                                             | \$695                     | \$300                    | \$390                       | \$170                      | \$257                          | \$430                        | \$375                         | \$250                      | \$423                    | \$375                     |
| 32 | Day Pitney                                                                        | \$650                     | \$350                    | \$525                       | \$210                      | \$306                          | \$472                        | \$374                         | \$310                      | \$465                    | \$375                     |
| 33 | Dickinson Wright                                                                  | \$530                     | \$260                    | \$275                       | \$170                      |                                |                              |                               |                            |                          |                           |
| 34 | Dickstein Shapiro Morin & Oshinsky                                                | \$825                     | \$425                    | \$440                       | \$225                      | \$336                          | \$552                        | \$438                         | \$360                      | \$550                    | \$425                     |
| 35 | Dinsmore & Shohl                                                                  | \$475                     | \$235                    | \$285                       | \$155                      | \$199                          | \$342                        | \$275                         | \$190                      | \$340                    | \$250                     |
| 36 | Dorsey & Whitney                                                                  | \$750                     | \$220                    | \$470                       | \$145                      | \$274                          | \$463                        | \$375                         | \$260                      | \$463                    | \$365                     |
| 37 | Duane Morris                                                                      | \$705                     | \$315                    | \$465                       | \$150                      | \$310                          | \$475                        | \$416                         | \$305                      | \$470                    | \$415                     |
| 38 | Dykema Gossett                                                                    | \$625                     | \$245                    | \$390                       | \$185                      | \$272                          | \$403                        |                               |                            |                          |                           |
| 39 | Edwards Angell Palmer & Dodge                                                     | \$700                     | \$350                    | \$450                       | \$170                      | \$293                          | \$515                        | \$407                         | \$280                      | \$513                    | \$400                     |
| 40 | Epstein Becker & Green                                                            | \$675                     | \$280                    | \$440                       | \$155                      | \$290                          | \$471                        | \$380                         | \$280                      | \$475                    | \$395                     |
| 41 | Fenwick & West                                                                    | \$775                     | \$500                    | \$500                       | \$245                      | \$360                          | \$590                        | \$395                         | \$370                      | \$600                    | \$410                     |
| 42 | Foley & Lardner                                                                   | \$855                     |                          |                             | \$185                      | \$387                          | \$550                        | \$476                         | \$375                      | \$550                    | \$475                     |
| 43 | Ford & Harrison                                                                   | \$560                     | \$325                    | \$395                       | \$210                      |                                |                              |                               |                            |                          |                           |
| 44 | Fowler White Boggs Banker                                                         | \$500                     | \$230                    | \$325                       | \$150                      | \$217                          | \$345                        | \$303                         | \$210                      | \$340                    | \$300                     |
| 45 | Fox Rothschild                                                                    | \$595                     | \$240                    | \$440                       | \$190                      |                                |                              |                               |                            |                          |                           |

|    | A                                                     | C                         | D                        | E                           | F                          | G                              | H                            | I                             | J                          | K                        | L                         |
|----|-------------------------------------------------------|---------------------------|--------------------------|-----------------------------|----------------------------|--------------------------------|------------------------------|-------------------------------|----------------------------|--------------------------|---------------------------|
|    | Firm Name                                             | Partner Billing Rate High | Partner Billing Rate Low | Associate Billing Rate High | Associate Billing Rate Low | Associate Billing Rate Average | Partner Billing Rate Average | Firmwide Billing Rate Average | Associate Billing Rate Med | Partner Billing Rate Med | Firmwide Billing Rate Med |
| 46 |                                                       |                           |                          |                             |                            |                                |                              |                               |                            |                          |                           |
| 47 | Frost Brown Todd                                      | \$455                     | \$225                    | \$255                       | \$145                      | \$180                          | \$303                        | \$256                         | \$170                      | \$295                    | \$255                     |
| 48 | Gardere Wynne Sewell                                  | \$715                     | \$350                    | \$425                       | \$220                      | \$292                          | \$472                        | \$405                         | \$265                      | \$475                    | \$405                     |
| 49 | GrayRobinson, PA                                      | \$500                     | \$175                    | \$250                       | \$250                      | \$198                          | \$319                        | \$224                         |                            |                          |                           |
| 50 | Greenberg Traurig, PA                                 | \$850                     | \$300                    | \$505                       | \$175                      | \$311                          | \$490                        | \$407                         | \$310                      | \$500                    | \$415                     |
| 51 | Harris Beach                                          | \$475                     | \$250                    | \$275                       | \$140                      |                                |                              |                               |                            |                          |                           |
| 52 | Hiscock & Barclay LLP                                 | \$375                     | \$220                    | \$250                       | \$160                      | \$185                          | \$278                        | \$245                         | \$180                      | \$280                    | \$250                     |
| 53 | Hodgson Russ                                          | \$645                     | \$215                    | \$395                       | \$155                      | \$219                          | \$337                        | \$254                         | \$205                      | \$350                    | \$250                     |
| 54 | Hogan & Hartson                                       | \$850                     | \$300                    | \$525                       | \$150                      | \$385                          | \$600                        | \$490                         | \$370                      | \$590                    |                           |
| 55 | Holland & Hart                                        | \$585                     | \$275                    | \$345                       | \$165                      | \$269                          | \$388                        | \$335                         | \$275                      | \$385                    | \$335                     |
| 56 | Holme Roberts & Owen                                  | \$635                     | \$285                    | \$420                       | \$195                      | \$284                          | \$412                        | \$353                         | \$265                      | \$410                    | \$345                     |
| 57 | Howard, Rice, Nemerovski, Canady, Falk & Rabkin       | \$775                     | \$495                    | \$485                       | \$275                      |                                |                              |                               |                            |                          |                           |
| 58 | Hughes Hubbard & Reed                                 | \$825                     | \$595                    | \$560                       | \$240                      |                                |                              |                               |                            |                          |                           |
| 59 | Husch & Eppenberger                                   | \$425                     | \$190                    | \$260                       | \$130                      | \$179                          | \$297                        | \$248                         | \$175                      | \$295                    | \$245                     |
| 60 | Jackson Lewis                                         | \$575                     | \$235                    | \$450                       | \$210                      |                                |                              |                               |                            |                          |                           |
| 61 | Jenner & Block LLP                                    | \$900                     | \$450                    | \$425                       | \$275                      | \$327                          | \$562                        |                               | \$325                      | \$525                    |                           |
| 62 | Jones, Walker, Waechter, Poitevent, Carrere & Denegre | \$600                     | \$210                    | \$225                       | \$150                      |                                |                              |                               |                            |                          |                           |
| 63 | Kelley Drye & Warren                                  | \$800                     | \$400                    | \$500                       | \$255                      |                                |                              |                               |                            |                          |                           |
| 64 | Knobbe, Martens, Olson & Bear                         | \$645                     | \$340                    | \$420                       | \$215                      |                                |                              |                               |                            |                          |                           |
| 65 | Lane Powell Moss & Miller                             | \$515                     | \$300                    | \$300                       | \$205                      | \$255                          | \$370                        | \$345                         | \$255                      | \$370                    | \$345                     |
| 66 | Lathrop & Gage                                        | \$450                     | \$225                    | \$300                       | \$140                      | \$185                          | \$300                        | \$215                         | \$185                      | \$300                    | \$260                     |
| 67 | Leonard, Street and Deinard                           | \$500                     | \$300                    | \$300                       | \$185                      |                                |                              |                               |                            |                          |                           |
| 68 | Lewis, Rice & Fingersh                                | \$425                     | \$240                    | \$295                       | \$130                      |                                |                              |                               |                            |                          |                           |
| 69 | Lindquist & Vennum                                    | \$500                     | \$260                    | \$260                       | \$165                      |                                |                              |                               |                            |                          |                           |
| 70 | Locke, Lord, Bissell & Liddell                        | \$900                     | \$375                    | \$390                       | \$190                      | \$281                          | \$488                        | \$399                         | \$280                      | \$490                    | \$425                     |
| 71 | Loeb & Loeb                                           | \$875                     | \$425                    | \$500                       | \$240                      | \$384                          | \$606                        | \$505                         | \$400                      | \$600                    | \$500                     |
| 72 | Lord, Bissell & Brook                                 | \$690                     | \$335                    | \$410                       | \$200                      | \$299                          | \$473                        | \$410                         | \$300                      | \$475                    | \$415                     |
| 73 | Lowenstein Sandler                                    | \$725                     | \$380                    | \$395                       | \$205                      |                                |                              |                               |                            |                          |                           |
| 74 | Luce, Forward, Hamilton & Scripps                     | \$725                     | \$325                    | \$450                       | \$220                      | \$281                          | \$465                        | \$381                         | \$280                      | \$475                    | \$395                     |
| 75 | Manatt, Phelps & Phillips                             | \$785                     | \$520                    | \$480                       | \$265                      | \$395                          | \$600                        | \$518                         | \$415                      | \$590                    | \$550                     |
| 76 | Marshall, Dennehey, Warner, Coleman & Goggin          | \$400                     | \$135                    | \$300                       | \$120                      |                                |                              |                               |                            |                          |                           |
| 77 | McCarter & English LLP                                | \$650                     | \$325                    | \$395                       | \$205                      |                                |                              |                               |                            |                          |                           |
| 78 | McElroy Deutsch, Mulvaney & Carpenter                 | \$450                     | \$295                    | \$225                       | \$135                      | \$180                          | \$250                        | \$195                         | \$165                      | \$235                    | \$215                     |
| 79 | McKee Nelson                                          | \$920                     | \$635                    | \$595                       | \$375                      | \$446                          | \$760                        | \$489                         | \$455                      | \$755                    | \$475                     |
| 80 | Michael Best & Friedrich                              | \$550                     | \$225                    | \$300                       | \$185                      | \$234                          | \$363                        | \$321                         | \$235                      | \$350                    | \$325                     |
| 81 | Miles & Stockbridge                                   | \$535                     | \$315                    | \$405                       | \$205                      | \$260                          | \$397                        |                               |                            |                          |                           |
| 82 | Miller & Martin                                       | \$580                     | \$230                    | \$295                       | \$160                      | \$201                          | \$338                        | \$306                         | \$195                      | \$340                    | \$320                     |
| 83 | Miller, Canfield, Paddock and Stone, PLC              | \$595                     | \$265                    | \$340                       | \$160                      | \$225                          | \$400                        | \$285                         | \$220                      | \$400                    | \$335                     |
| 84 | Montgomery, McCracken, Walker & Rhoads                | \$575                     | \$320                    | \$320                       | \$195                      | \$260                          | \$419                        | \$360                         |                            |                          |                           |
| 85 | Moore & Van Allen                                     | \$765                     | \$265                    | \$330                       | \$175                      |                                |                              |                               |                            |                          |                           |
| 86 | Morgan, Lewis & Bockius                               | \$850                     | \$375                    | \$575                       | \$200                      |                                |                              |                               |                            |                          |                           |
| 87 | Morris, Manning & Martin                              | \$625                     | \$350                    | \$400                       | \$180                      | \$285                          | \$436                        | \$380                         | \$310                      | \$395                    | \$440                     |
| 88 | Nexsen Pruet Jacobs & Pollard                         | \$420                     | \$220                    | \$250                       | \$150                      |                                |                              |                               |                            |                          |                           |
| 89 | Ogletree, Deakins, Nash, Smoak & Stewart              | \$575                     | \$270                    | \$360                       | \$200                      | \$256                          | \$348                        | \$312                         |                            |                          |                           |
| 90 | Patton Boggs                                          | \$920                     | \$320                    | \$520                       | \$205                      | \$375                          | \$536                        | \$456                         | \$385                      | \$525                    | \$455                     |
| 91 | Pepper Hamilton                                       | \$750                     | \$335                    | \$425                       | \$200                      |                                |                              |                               |                            |                          |                           |
| 92 | Perkins Coie                                          | \$805                     | \$205                    | \$500                       | \$145                      |                                |                              |                               |                            |                          |                           |

|     | A                                     | C                         | D                        | E                           | F                          | G                              | H                            | I                             | J                          | K                        | L                         |
|-----|---------------------------------------|---------------------------|--------------------------|-----------------------------|----------------------------|--------------------------------|------------------------------|-------------------------------|----------------------------|--------------------------|---------------------------|
|     | Firm Name                             | Partner Billing Rate High | Partner Billing Rate Low | Associate Billing Rate High | Associate Billing Rate Low | Associate Billing Rate Average | Partner Billing Rate Average | Firmwide Billing Rate Average | Associate Billing Rate Med | Partner Billing Rate Med | Firmwide Billing Rate Med |
| 93  |                                       |                           |                          |                             |                            |                                |                              |                               |                            |                          |                           |
| 94  | Phelps Dunbar                         | \$450                     | \$170                    | \$205                       | \$130                      | \$174                          | \$243                        | \$184                         | \$175                      |                          |                           |
| 95  | Phillips Lytle                        | \$435                     | \$245                    | \$300                       | \$140                      | \$205                          | \$309                        | \$223                         | \$205                      | \$300                    | \$215                     |
| 96  | Polsinelli Shalton Welte Suelthaus    | \$600                     | \$250                    | \$250                       | \$175                      |                                |                              |                               |                            |                          |                           |
| 97  | Quarles & Brady                       | \$575                     | \$260                    | \$335                       | \$185                      | \$233                          | \$377                        | \$319                         | \$235                      | \$375                    | \$325                     |
| 98  | Reed Smith                            | \$825                     | \$350                    | \$510                       | \$200                      | \$374                          | \$558                        | \$395                         | \$350                      | \$525                    | \$385                     |
| 99  | Robinson & Cole                       | \$575                     | \$340                    | \$325                       | \$200                      | \$295                          | \$424                        | \$328                         | \$280                      | \$420                    | \$330                     |
| 100 | Roetzel & Andress                     | \$460                     | \$210                    | \$275                       | \$110                      | \$198                          | \$302                        | \$264                         | \$200                      | \$300                    | \$260                     |
| 101 | Rutan & Tucker                        | \$600                     | \$335                    | \$350                       | \$210                      |                                |                              |                               |                            |                          |                           |
| 102 | Saul Ewing                            | \$750                     | \$315                    | \$485                       | \$180                      | \$273                          | \$426                        | \$357                         | \$255                      | \$415                    | \$365                     |
| 103 | Schnader Harrison Segal & Lewis       | \$750                     | \$240                    | \$385                       | \$175                      |                                |                              |                               |                            |                          |                           |
| 104 | Schulte Roth & Zabel                  | \$850                     | \$650                    | \$585                       | \$235                      | \$435                          | \$724                        |                               | \$440                      | \$745                    |                           |
| 105 | Sheppard, Mullin, Richter & Hampton   | \$795                     | \$425                    | \$550                       | \$260                      |                                |                              |                               |                            |                          |                           |
| 106 | Shughart Thomson & Kilroy             | \$475                     | \$235                    | \$225                       | \$160                      |                                |                              |                               |                            |                          |                           |
| 107 | Shumaker, Loop & Kendrick             | \$465                     | \$200                    | \$360                       | \$180                      | \$221                          | \$311                        | \$289                         | \$220                      | \$305                    | \$300                     |
| 108 | Sills Cummis Epstein & Gross          | \$650                     | \$350                    | \$375                       | \$195                      |                                |                              |                               |                            |                          |                           |
| 109 | Smith, Gambrell & Russell             | \$575                     | \$250                    | \$345                       | \$175                      |                                |                              |                               |                            |                          |                           |
| 110 | Snell & Wilmer                        | \$675                     | \$275                    | \$390                       | \$170                      | \$248                          | \$390                        |                               |                            |                          |                           |
| 111 | Steptoe & Johnson PLLC                | \$325                     | \$200                    | \$250                       | \$170                      |                                |                              |                               |                            |                          |                           |
| 112 | Stinson Morrison Hecker               | \$600                     | \$230                    | \$250                       | \$175                      | \$207                          | \$333                        | \$295                         | \$225                      | \$365                    | \$285                     |
| 113 | Stoel Rives                           | \$500                     | \$275                    | \$350                       | \$160                      | \$231                          | \$379                        | \$324                         | \$230                      | \$375                    | \$330                     |
| 114 | Strasburger & Price                   | \$560                     | \$225                    | \$395                       | \$200                      | \$234                          | \$367                        | \$326                         | \$223                      | \$363                    | \$322                     |
| 115 | Sullivan & Worcester                  | \$700                     | \$415                    | \$420                       | \$245                      | \$309                          | \$550                        | \$438                         | \$290                      | \$540                    | \$440                     |
| 116 | Sutherland Asbill & Brennan           | \$715                     | \$375                    | \$415                       | \$215                      | \$292                          | \$511                        | \$335                         | \$280                      | \$500                    | \$305                     |
| 117 | Thacher Proffitt & Wood               | \$785                     | \$525                    | \$495                       | \$275                      | \$353                          | \$674                        | \$428                         | \$365                      | \$700                    | \$395                     |
| 118 | Thompson & Knight                     | \$730                     | \$370                    | \$370                       | \$205                      | \$295                          | \$496                        | \$415                         | \$310                      | \$485                    | \$400                     |
| 119 | Thompson Coburn                       | \$580                     | \$265                    | \$370                       | \$170                      |                                |                              |                               |                            |                          |                           |
| 120 | Ulmer & Berne                         | \$470                     | \$240                    | \$290                       | \$165                      | \$212                          | \$343                        | \$280                         |                            |                          |                           |
| 121 | Vedder, Price, Kaufman & Kammholz     | \$650                     | \$335                    | \$410                       | \$205                      | \$281                          | \$430                        | \$372                         | \$370                      | \$425                    | \$365                     |
| 122 | Wiggin and Dana                       | \$590                     | \$295                    | \$350                       | \$195                      |                                |                              |                               |                            |                          |                           |
| 123 | Williams Mullen                       | \$600                     | \$300                    | \$425                       | \$205                      |                                |                              |                               |                            |                          |                           |
| 124 | Wilmer Cutler Pickering Hale and Dorr | \$1,000                   | \$475                    | \$495                       | \$215                      |                                |                              |                               |                            |                          |                           |
| 125 | Winstead Sechrest & Minick            | \$620                     | \$345                    | \$360                       | \$180                      |                                |                              |                               |                            |                          |                           |
| 126 | Winston & Strawn                      | \$845                     | \$400                    | \$590                       | \$200                      | \$365                          | \$608                        | \$455                         | \$395                      | \$640                    | \$523                     |
| 127 | Womble Carlyle Sandridge & Rice       | \$575                     | \$290                    | \$370                       | \$195                      | \$268                          | \$426                        | \$355                         | \$265                      | \$425                    | \$360                     |

# **EXHIBIT "3"**

# THE WALL STREET JOURNAL.

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<http://www.wsj.com/articles/legal-fees-reach-new-pinnacle-1-500-an-hour-1454960708>

BUSINESS | LAW

## Legal Fees Cross New Mark: \$1,500 an Hour

Billing rates for partners at elite corporate law firms keep rising, despite low inflation, weak demand



Documents filed in chapter 11 bankruptcy cases offer a rare public glimpse at the mounting hourly fees of law partners at elite corporate law firms. Above, the U.S. Bankruptcy Court in New York. PHOTO: BRENDAN MCDERMID/REUTERS

By **SARA RANDAZZO** and **JACQUELINE PALANK**

Updated Feb. 9, 2016 10:11 a.m. ET

The day of the \$1,500-an-hour lawyer has arrived.

Partners at some of the nation's top law firms are approaching—and, in a few cases, surpassing—that watershed billing rate, making the \$1,000-an-hour legal fees that once seemed so steep look quaint by comparison.

Despite low inflation and weak demand for legal services, rates at large corporate law firms have risen by 3% to 4% a year since the economic downturn, according to Citi Private Bank's Law Firm Group.

“We just raise them every year,” said John Altorelli, a finance lawyer at DLA Piper LLP in New York, who says the firm has set his rate at more than \$1,500 an hour. Mr. Altorelli, who filed for personal bankruptcy in 2014 to halt a legal battle with the estate of his former law firm, Dewey & LeBoeuf LLP, cracked the \$1,000-an-hour mark a decade ago. His fees have risen steadily ever since.

To soften the blow to clients, Mr. Altorelli does more than half his work on some kind of fixed-fee basis. “Using hourly rates is really anachronistic, but we still do it,” he said.

Raising rates ensures that law firms keep up with the competition and helps them wrest more money from clients, who routinely demand discounts for all but the most sensitive work.

“If you think of the rules of supply and demand, how in the world can they keep raising their rates?” said Jeff Carr, a former general counsel of oil-and-gas services and equipment company FMC Technologies who for years has been an outspoken opponent of hourly legal rates.

The rate creep has boosted law firms’ revenue at a time when many of them are under pressure from lower-cost legal-service providers and corporate clients that are keeping more legal work in-house. Revenue at law firms rose 4% last year, according to Wells Fargo Private Bank’s Legal Specialty Group, though demand rose just 0.5%.

“Lots of law firms will charge whatever the market can bear,” said the head of one of the nation’s 200 largest law firms.

Documents filed in chapter 11 bankruptcy cases offer a rare public glimpse at mounting fees. These court filings show the rates of partners specializing in corporate restructuring, as well as those with specialties like tax, litigation and corporate law.

A review of filings over the past three months in about two dozen bankruptcy cases shows that senior partners routinely charge between \$1,200 and \$1,300 an hour, with top rates at several large law firms exceeding \$1,400.

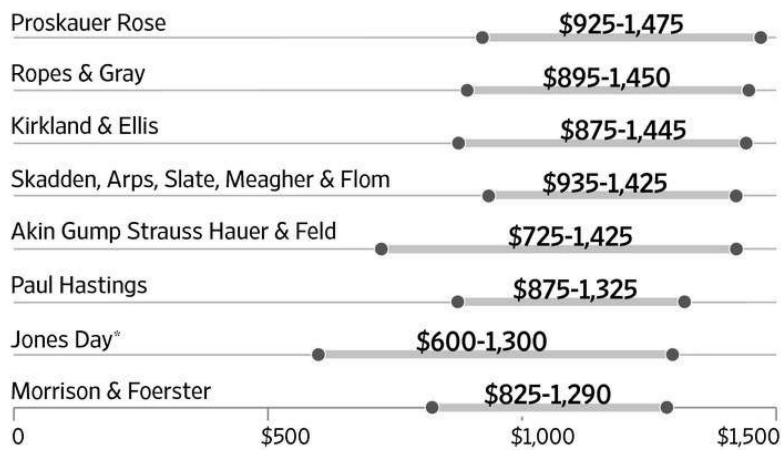
Proskauer Rose LLP’s hourly partner billing rate has climbed as high as \$1,475, while Ropes & Gray LLP’s tops out at \$1,450, court papers show.

Kirkland & Ellis LLP’s top hourly billing rate is now \$1,445. And rates at two firms—Akin Gump Strauss Hauer & Feld LLP and Skadden, Arps, Slate, Meagher & Flom LLP—peak at \$1,425 an hour.

Representatives of the law firms declined to comment.

## Top Billers

Hourly rates of partners at top U.S. law firms now approach \$1,500.



\*Includes partners and of counsel

Source: Bankruptcy court filings

THE WALL STREET JOURNAL.

Martin Bienenstock, who leads Proskauer's restructuring practice, called the \$1,225 an hour he billed clients last year "a market rate similar to my peers at other firms," and said he charges the same rate for nonbankruptcy work.

"The clients have kept coming back and growing during my 38-year career," he

said in an email, adding that clients generally prefer dealing directly with senior lawyers versus younger associates with lower rates.

In disclosing their firmwide rate increases, many firms tell the courts it is a standard way of keeping pace with "economic and other conditions." These include rising fixed costs, such as real estate and salaries.

In theory, a law-firm partner's pay rises and falls with the success of the firm. But, as competition for top talent increases, many firms feel the need to guarantee salaries or ensure a partner's pay doesn't fall, even in down years.

Still, only elite lawyers can charge \$1,400 an hour or more. Such rates are found almost exclusively in New York and other major markets, and only in the least price-sensitive fields like mergers and acquisitions, restructuring, tax, antitrust and high-stakes litigation and appeals.

For lawyers at the very top of those fields, hourly rates can hit \$1,800 or even \$1,950.

"You have a very few people at the very top where price is almost no object," said legal consultant Bruce MacEwen, who likens it to the way celebrities, sports stars and best-selling authors are paid. "It is a talent market."

Most lawyers in the U.S. fall well below those high marks. In a survey of in-house legal departments by BTI Consulting Group, the average highest rate paid for

law-firm partners was \$875 an hour in 2015, up more than 27% from three years earlier. Of the respondents, 38% had paid more than \$1,000 an hour for a lawyer, and the highest rate those in the survey paid was \$1,600 an hour.

For many firms, the stated rate is simply a starting point in discussions with corporate law departments. As a result, said legal consultant Ward Bower of Altman Weil, “sophisticated” law firms tend to implement annual rate increases to offset clients’ requests for discounts.

Such discounts are becoming more commonplace. A decade ago, law firms could typically get clients to pay around 92% of their stated rates, according to Thomson Reuters Peer Monitor. Last year, that fell to less than 83%.

Smaller companies can get squeezed the most on fees, because they don’t send enough work to any one law firm to get the best deals.

Companies with \$4 billion or more in annual revenue were twice as likely as those with less than \$100 million in revenue to use some form of alternative fee, according to a survey from industry trade group the Association of Corporate Counsel.

Some industry watchers view the raise-and-discount approach with skepticism.

“If clients are pushing back on rates, the answer isn’t to raise them” and then ask for a discount, Mr. MacEwen said. “The answer is to provide better total value.”

**Write to** Sara Randazzo at [sara.randazzo@wsj.com](mailto:sara.randazzo@wsj.com) and Jacqueline Palank at [jacqueline.palank@wsj.com](mailto:jacqueline.palank@wsj.com)

# **EXHIBIT "4"**

# LAFFEY MATRIX

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

|                |        |      |       |       |       |       |       |
|----------------|--------|------|-------|-------|-------|-------|-------|
| 6/1/94-5/31/95 | 1.0237 | \$82 | \$151 | \$185 | \$267 | \$301 | \$363 |
|----------------|--------|------|-------|-------|-------|-------|-------|

The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., *DL v. District of Columbia*, 267 F.Supp.3d 55, 69 (D.D.C. 2017)

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

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

# **EXHIBIT "5"**

Spectra360, Inc. dba Raso Solutions adv. Legarde, Jeremy

Jeremy Legarde • •

## Historic Cost

**\$6,465.26**

## Postage Cost

**\$5.80**

*Created: 12/1/2023 at 2:31 PM*

**Trialworks TaskCode**

Postage Cost

**Payee**

DocuSign

**Date Incurred**

11/10/2023

**Notes**

PAGA & Indiv SA + w9

## Postage Cost

**\$5.80**

*Created: 9/5/2023 at 7:39 PM*

**Trialworks TaskCode**

Postage Cost

**Payee**

DocuSign

**Date Incurred**

8/22/2023

**Notes**

ntc of mediation to client

## Mediation Cost

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*Created: 8/2/2023 at 10:26 AM*

**Trialworks TaskCode**

costs

**Payee**

Judicate West

**Date Incurred**

8/2/2023

**Description**

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8.2.23

Docs

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Created: 7/28/2023 at 11:16 AM

Trialworks TaskCode

filing fee

Date Incurred

7/27/2023

Payee

True Filing

Description

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- Case No. H051217

Docs

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Filing Fee

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Created: 7/24/2023 at 4:00 PM

Trialworks TaskCode

filing fee

Date Incurred

7/24/2023

Payee

True Filing

Description

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- Case No. H051217

Docs

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Court Cost

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Created: 7/24/2023 at 1:55 PM

**Trialworks TaskCode**

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**Date Incurred**

7/24/2023

**Payee**

True Filing

**Description**

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- Case No. H051217 service only

Filing Fee

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**Trialworks TaskCode**

filing fee

**Date Incurred**

7/19/2023

**Payee**

One Legal

**Description**

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**Docs**

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filing fee

**Date Incurred**

7/18/2023

**Payee**

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**Date Incurred**

5/3/2023

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filing fee

**Date Incurred**

5/3/2023

**Payee**

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**Description**

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**Trialworks TaskCode**

costs

**Date Incurred**

4/5/2023

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**Description**

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**Docs**

 Invoice 572382 - 2023-04-05 Delay pay.pdf ▾

Filing Fee

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filing fee

**Date Incurred**

4/3/2023

**Payee**

One Legal

**Description**

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4/3/2023

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**Date Incurred**

3/13/2023

**Payee**

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**Description**

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**Trialworks TaskCode**

filing fee

**Date Incurred**

3/13/2023

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**Trialworks TaskCode**

filing fee

**Date Incurred**

3/2/2023

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filing fee

**Date Incurred**

3/2/2023

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**Description**

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**Docs**

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Filing Fee

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filing fee

**Date Incurred**

3/1/2023

**Payee**

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filing fee

**Date Incurred**

2/16/2023

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**Docs**

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**Date Incurred**

2/16/2023

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filing fee

**Date Incurred**

1/10/2023

**Payee**

One Legal

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**Docs** OLINV#04661406 Spectra 1.10.23.pdf ▾

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**Date Incurred**

1/10/2023

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10/18/2022

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**Docs** OCVN#287268A Spectra paid 10.18.22.pdf ▾

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costs

**Date Incurred**

10/6/2022

**Payee**

OnCall

**Description**

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**Docs**



OCINV#287268B Spectra paid 10.6.22.pdf



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**Trialworks TaskCode**

costs

**Date Incurred**

10/6/2022

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**Docs**



OCINV#287268A Spectra paid 10.6.22.pdf



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Created: 10/5/2022 at 12:53 PM

**Trialworks TaskCode**

costs

**Date Incurred**

10/5/2022

**Payee**

postage

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Created: 10/5/2022 at 12:53 PM

**Trialworks TaskCode**

costs

**Date Incurred**

10/5/2022

|                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                      |
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**Trialworks TaskCode**

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**Date Incurred**

8/19/2022

**Notes**

PAGA Letters re-served via cert mailing to Def's CA addresses and the Boston address

Created: 8/2/2022 at 11:19 AM

\$0.60

**Trialworks TaskCode**

Copies

**Date Incurred**

8/2/2022

**Payee**

PaperCut

**Notes**

PAGA Letter Re-Served

Postage Cost

\$15.64

Created: 8/2/2022 at 11:18 AM

**Trialworks TaskCode**

Postage Cost

**Date Incurred**

8/2/2022

**Notes**

PAGA Letter Re-Served via Cert Mailing

Created: 7/8/2022 at 11:39 AM

\$0.60

**Trialworks TaskCode**

Copies

**Date Incurred**

7/8/2022

**Payee**

Paper Cut

**Notes**

PAGA Letter to Def

Postage Cost

\$14.66

Created: 7/8/2022 at 11:39 AM

**Trialworks TaskCode**

Postage Cost

**Date Incurred**

7/8/2022

**Notes**

PAGA Letter to Def via cert mailing

Filing Fee

\$75.00

Created: 7/8/2022 at 10:36 AM

**Trialworks TaskCode**

filing fee

**Date Incurred**

7/8/2022

**Payee**

LWDA

**Description**

State of California - Department of Industrial Relations  
Customer Receipt \_ Purchase Confirmation

**Docs**



State of California - Department of Industrial Relation...



Postage Cost

\$5.80

**Trialworks TaskCode**

Postage Cost

**Date Incurred**

6/24/2022

**Payee**

DocuSign

Filing Fee

\$51.48

Created: 8/24/2023 at 8:36 AM

**Trialworks TaskCode**

filing fee

**Payee**

One Legal

**Description**

OLINV#05218055 Spectra 8.9.23

**Docs**

 OLINV#05218055 Spectra 8.9.23.pdf ▼

# **EXHIBIT "6"**

**Quotation Request:**

Liane Katzenstein Ly  
Kingsley & Kingsley, APLC  
liane@kingsleykingsley.com  
818.990.8300

**Case Name:****Spectra Matter****Date:**

Friday, October 20, 2023

**RFP Number:**

83000002

**Prepared By:**

Sean Hartranft  
Apex Class Action LLC  
Sean@apexclassaction.com  
949.878.3676

**Settlement Specifications**

|                                  |     |
|----------------------------------|-----|
| Number of Aggrieved Employees    | 60  |
| Certified Language Translation:  | No  |
| Static Settlement Website        | No  |
| Percentage of Undeliverable Mail | 20% |

| Professional Services | Fee Calculation | Rate(s) | Quantity | Estimated Cost |
|-----------------------|-----------------|---------|----------|----------------|
|-----------------------|-----------------|---------|----------|----------------|

**Data Analytics and Standardization**

|                                                                                                                    |          |          |   |          |
|--------------------------------------------------------------------------------------------------------------------|----------|----------|---|----------|
| Import and Standardize Data*                                                                                       | Per Hour | \$125.00 | 1 | \$125.00 |
| Data Analyst                                                                                                       | Per Hour | \$150.00 | 1 | \$150.00 |
| *Data provided must be in a workable format. Apex can standardize provided data at an additional cost of \$150/hr. |          |          |   |          |
| Sub Total:                                                                                                         |          |          |   | \$275.00 |

**Project Management**

|                            |          |          |   |          |
|----------------------------|----------|----------|---|----------|
| Project Management         | Per Hour | \$150.00 | 2 | \$300.00 |
| Project Coordinator        | Per Hour | \$90.00  | 1 | \$90.00  |
| Data Analyst and Reporting | Per Hour | \$140.00 | 0 | \$0.00   |
| Sub Total:                 |          |          |   | \$390.00 |

**Toll-Free Contact Center, Website, Reporting & Pre-Distribution**

|                                    |             |          |   |          |
|------------------------------------|-------------|----------|---|----------|
| Form Set Up                        | Per Hour    | \$120.00 | 1 | \$120.00 |
| Bilingual Toll-Free Contact Center | Static Rate | \$20.00  | 1 | \$20.00  |
| NCOA Address Update (USPS)         | Static Rate | \$15.00  | 1 | \$15.00  |
| Settlement Status Reports          | Static Rate | \$750.00 | 1 | Waived   |
| Sub Total:                         |             |          |   | \$155.00 |



| Professional Services | Fee Calculation | Rate(s) | Quantity | Estimated Cost |
|-----------------------|-----------------|---------|----------|----------------|
|-----------------------|-----------------|---------|----------|----------------|

| Distribution & Settlement Fund Management             |           |            |            |            |
|-------------------------------------------------------|-----------|------------|------------|------------|
| Settlement Calculations (Preliminary and Final)       | Per Hour  | \$120.00   | 2          | \$240.00   |
| Account Management and Reconciliation                 | Per Hour  | \$140.00   | 2          | \$280.00   |
| Print & Mail Distribution Settlement Check (W-2/1099) | Per Piece | \$1.50     | 60         | \$90.00    |
| USPS First Class Postage                              | Per Piece | \$0.66     | 60         | \$39.60    |
| Remail Distribution to Updated Address (Skip Trace)   | Per Piece | \$2.15     | 6          | \$12.90    |
| Individual Income Tax Preparation & Reporting         | Per Hour  | \$100.00   | 5          | \$500.00   |
| QSF Income Tax Reporting (per calendar year)          | Per Year  | \$1,250.00 | 1          | \$1,250.00 |
|                                                       |           |            | Sub Total: | \$2,412.50 |

| Post Distribution Reconciliation  |          |          |            |          |
|-----------------------------------|----------|----------|------------|----------|
| Bank Account Reconciliation       | Per Hour | \$135.00 | 1          | \$135.00 |
| Project Management Reconciliation | Per Hour | \$100.00 | 1          | \$100.00 |
| Declarations                      | Per Hour | \$120.00 | 1          | \$120.00 |
|                                   |          |          | Sub Total: | \$355.00 |

|  |  |  |  |                             |
|--|--|--|--|-----------------------------|
|  |  |  |  | <b>FLAT FEE: \$3,500.00</b> |
|--|--|--|--|-----------------------------|

Thank you for your business!



## Terms & Conditions

The following Terms and Conditions govern the provision of all services to be provided by Apex Class Action and its affiliates ("Apex") to the Client. These terms and conditions are binding and shall apply to all services provided by Apex in relation to any related services or products.

1. **Services:** Apex commits to providing the Client with the administrative services detailed in the attached Proposal (the "Services").

2. **Payment Terms:** As compensation for the legal services to be provided, the Client agrees to pay Apex all fees detailed in the Proposal. The fees quoted in the Proposal (and any subsequent proposals for additional services) are estimates based on the information provided to Apex by the Client. Apex makes no representation that the estimated fees in the Proposal or any subsequent proposals for additional services shall equal the actual fees charged by Apex to the Client, which fees (including individual line items) may be greater or less than estimated. If additional services are requested on an hourly basis and are not specifically detailed in the Proposal, Apex will prepare estimates for such services subject to approval by the Client. In the performance of such additional services, Apex will charge standard hourly fees which shall apply.

3. **Incurred Expenses:** In relation to the provision of services outlined in this agreement, the Client agrees to reimburse Apex for all reasonable out-of-pocket expenses incurred. Such expenses may include, but are not limited to, costs associated with postage, media production or publication, banking fees, brokerage fees, messenger and delivery service expenses, travel expenses, filing fees, office supplies, meals, staff overtime expenses, and other related costs and expenses. If not otherwise specified in writing, fees for print notice and certain expenses, such as media publication and postage, must be paid immediately upon invoicing and, in certain cases, at least ten (10) days prior to the date on which such expenses will be incurred.

4. **Invoicing:** Apex shall present invoices for its fees and expenses on a monthly basis, except as provided in Section 3. The Client agrees to pay each invoice within 30 days of receipt. In the event of non-payment within 90 days of the billing date, an additional service charge of 1.5% per month may apply. Apex reserves the right to increase its prices, charges, and rates annually, subject to reasonable adjustments. If any price increases exceed 10%, Apex shall give thirty (30) days' notice to the Client. In the event of any unpaid invoices beyond 120 days of the due date, Apex reserves the right to withhold services and reports until payment is received, subject to notice to the Client. It is important to note that Apex's failure to provide services and reports in such instances shall not constitute a default under this agreement.

5. **Case Duration:** The duration of these Terms and Conditions, except for the data storage obligations stated in Section 13, shall be in effect until 30 days following the completion of the Services as described in the Proposal. The parties may extend these Terms and Conditions in writing for a mutually agreed-upon period beyond this initial 30-day period.

6. **Termination of Services:** Either party may terminate the Services by providing thirty (30) days written notice to the other party. Alternatively, termination may occur immediately upon written notice for Cause, as defined below. Cause means (i) Apex's gross negligence or willful misconduct that causes serious and material harm to the Client; (ii) the Client's failure to pay Apex invoices for more than one hundred twenty (120) days from the date of the invoice; or (iii) the accrual of invoices or unpaid services where Apex reasonably believes it will not be paid. Termination of the Services shall not relieve the Client of its obligation to pay Apex for services rendered prior to the termination.

7. **Independent Contractor:** As an independent contractor, Apex will provide services under the terms of this agreement. It is agreed that neither Apex nor any of its employees will be considered an employee of the Client. Consequently, Apex and its employees will not be eligible for any benefits provided by the Client to its employees. The Client will not make any tax deductions from the payments due to Apex for state or federal tax purposes. Apex will be solely responsible for paying all taxes and other payments due on payments received from the Client under this agreement.

8. **Apex warrants that the Services outlined in the Proposal will be performed in accordance with the standards generally adhered to by professionals providing similar services. It is acknowledged that the Services may entail the likelihood of some human and machine errors, omissions, delays, and losses that may result in damage. However, Apex shall not be held liable for such errors, omissions, delays, or losses unless they are caused by its gross negligence or willful misconduct. In the event of any breach of this warranty by Apex, the Client's sole remedy will be limited to Apex's rerunning, at its expense, any inaccurate output provided that such inaccuracies occurred solely as a result of Apex's gross negligence or willful misconduct under this agreement.**

9. **Limitation of Liability:** The Client acknowledges that Apex shall not be held liable for any consequential, special, or incidental damages incurred by the Client in relation to the performance of Services, whether the claim is based on breach of warranty, contract, tort (including negligence), strict liability, or any other grounds. Under no circumstances shall Apex's liability to the Client, for any Losses (including court costs and reasonable attorney's fees), arising out of or in connection with these Terms and Conditions, exceed the total amount charged or chargeable to the Client for the specific service(s) that caused the Losses.

10. **Indemnification:** The Client agrees to indemnify and hold harmless Apex from any losses, suits, actions, judgments, fines, costs, liabilities, or claims arising from any action or proceeding relating to the Services provided by Apex, regardless of whether or not it results in liability (collectively referred to as "Indemnified Claims"). However, this indemnification provision shall not apply to the extent that such Indemnified Claims are caused by Apex's willful misconduct, gross negligence, or breach of these Terms and Conditions. This provision shall survive termination of the Services.

11. **Confidentiality:** Apex will uphold strict confidentiality between Apex and the Client and applies to all non-public records, documents, systems, procedures, processes, software, and other information received by either party in connection with the performance of services under these terms. Both Apex and the Client agree to keep confidential all such non-public information, including any material marked or identified as confidential or proprietary. Any such confidential information shall not be disclosed, provided, disseminated, or otherwise made available to any third party, except as required to fulfill the parties' obligations under these terms. The parties acknowledge that in the event of any request to disclose any confidential information in connection with a legal or administrative proceeding, or otherwise to comply with a legal requirement, prompt notice of such request must be given to the other party to enable that party to seek an appropriate protective order or other remedy or to waive compliance with the relevant provisions of these terms. If the Client seeks a protective order or another remedy, Apex, at the Client's expense, will cooperate with and assist the Client in such efforts. If the Client fails to obtain a protective order or waives compliance with the relevant provisions of these terms, Apex will disclose only that portion of the confidential information that it determines it is required to disclose. This confidentiality provision shall survive termination of the services provided. Both parties acknowledge and agree that any breach of these terms may cause irreparable harm to the non-breaching party and that injunctive relief may be necessary to prevent any actual or threatened breach. The terms set forth between the parties supersede all prior negotiations, understandings, and agreements between the party's concerning confidentiality. These terms may only be amended in writing and signed by both parties.

12. **Ownership of the programs, system data, and materials provided by Apex to the Client during the course of providing services herein shall solely belong to Apex. It is acknowledged that fees and expenses paid by the Client do not confer any rights in such property. It is also understood that the said property is made available to the Client solely for the purpose of using it during and in connection with the services provided by Apex.**

13. **Upon the completion of the administration and unless retention instructions are ordered by the court, Apex will notify the client that it will destroy and/or return all confidential information and property within 90 days upon the client's written request. Alternatively, the material may be stored for one year at a monthly fee of \$1.50 per storage box for paper documents and \$0.01 per image for electronic copies over a period of three years, which compensates Apex for its electronic and hard-copy storage costs. Apex will not be liable for any damages, liability, or expenses incurred in connection with any delay in delivery of, or damage to disks, magnetic tapes, or any input data provided by the client or its representatives unless Apex has agreed in writing to assume such responsibility.**

14. **COMPLETE AGREEMENT.** These Terms and Conditions, along with the attached Proposal, represent the complete agreement and understanding between the parties and override any prior agreements (whether written or oral) between Apex and the Client regarding the subject matter. Any modification to these Terms and Conditions may only be made in writing and must be signed by both Apex and the Client. The headings in this document are included for convenience only and do not alter or restrict any provisions in these Terms and Conditions. They may not be used in the interpretation of these Terms and Conditions.

15. **This provision outlines the requirements for providing notice or other communication under this agreement. All such communications must be in writing and can be delivered either by personal delivery or through U.S. Mail with prepaid postage or overnight courier. Once delivered personally or sent through the mail, the notice will be considered given after five (5) days from the deposit date in the U.S. Mail. Alternatively, if sent through an overnight courier, the notice will be considered given one business day after delivery to the such courier. It's important to note that the notice must be provided to a responsible officer or principal of the Client or Apex, depending on the case.**

16. **Force Majeure:** In the event of any failure or delay in performance due to circumstances beyond Apex's control, including but not limited to strikes, lockouts, fires, floods, acts of God or public enemy, riots, civil disorders, insurrections, war or war conditions, or interference by civil or military authorities, Apex shall not be held liable for any resulting loss or damage. The time for performance under this agreement shall be extended for a period equal to the duration of the disabling cause and a reasonable time thereafter. This provision shall constitute a force majeure clause and shall be construed accordingly.

17. **The applicable state and federal laws shall govern the interpretation and enforcement of these Terms and Conditions. No choice of law or conflict of laws provisions shall affect this governing law provision.**

18. **Severability:** This applies to all clauses and covenants contained within these Terms and Conditions. In the event that any clause or covenant is deemed invalid, illegal, or unenforceable, the remaining provisions shall remain valid and enforceable to the fullest extent permissible by law. The validity, legality, and enforceability of the remaining provisions shall in no way be affected or impaired by the invalidity, illegality, or unenforceability of any provision deemed so.

19. **Nonwaiver:** This applies to these Terms and Conditions. This means that any failure by one party to enforce a provision of these terms on one or more occasions shall not be construed as a waiver of that provision. In other words, any failure to enforce a provision does not give up the right to enforce it in the future. All provisions of these Terms and Conditions remain in full force and effect, regardless of any prior failure to enforce them.



**(Proof of Submission to Labor and  
Workforce Development Agency)**

**EXHIBIT "7"**

(PROOF OF SERVICE)  
[CCP 1013(a)(3)]

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On December 14, 2023, I served all interested parties in this action the following documents described as: **DECLARATION OF LIANE KATZENSTEIN LY IN SUPPORT OF MOTION FOR APPROVAL OF REPRESENTATIVE ACTION SETTLEMENT** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

DILLINGHAM & MURPHY, LLP  
William F. Murphy  
wfm@dillinghammurphy.com  
Jenny J. Liao  
jjl@dillinghammurphy.com  
155 Sansome Street, Suite 700  
San Francisco, CA 94104

**[XX] BY ELECTRONIC SERVICE:** I caused a true and correct copy thereof to be electronically filed using the Labor and Workforce Development Agency Electronic Filing (“EF”) System (<https://dir.tfaforms.net/315>) and service was completed by electronic means by transmittal of the documents referenced herein on the EF System.

**[XX] (BY ELECTRONIC MAIL TRANSMISSION):** I caused the document to be send to the persons at the e-mail address(es) listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A pdf copy of which was sent via email to the above email address(es).

**[XX] (STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on December 14, 2023, at Los Angeles, California.

  
\_\_\_\_\_  
Taylor Gregg