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11 Attorneys for Plaintiff IGNAIN PEREZ, on behalf of himself and all others similarly situated
12

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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **COUNTY OF LOS ANGELES**

16
17 JOSE GONZALEZ, an individual; IGNAIN
PEREZ, an individual; ANTONIO
18 SERRANO, an individual; on behalf of
themselves and all other similarly situated,

19
20 Plaintiffs,

21 vs.

22
23 ROTO-ROOTER SERVICES COMPANY, an
Iowa corporation; and DOES 1 through 100,
24 inclusive,

25 Defendants.
26
27
28

CASE NO.: 22STCV34334

*Assigned for all purposes to Hon. Stephanie M.
Bowick, Dept. 19*

CLASS ACTION

**DECLARATION OF JOHN F. LITWIN IN
SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA
SETTLEMENT**

Date: September 12, 2023

Time: 8:30 a.m.

Location: Dept. 19

Reservation ID: 898032856207

Action Filed: October 25, 2022

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1 present action to include Plaintiff Perez by filing the operative First Amended Complaint on May
2 17, 2023.

3 6. The Parties agreed to private mediation utilizing the services of Michael D. Young,
4 Esq., a respected mediator with extensive experience and knowledge in the area of wage and hour
5 class action mediation. The full-day mediation was conducted on April 3, 2023. With the assistance
6 of Mr. Young, the Parties were able to reach agreement on a proposed settlement, and executed a
7 Memorandum of Understanding. Subsequently, the Parties drafted and agreed to the terms of
8 settlement set forth in the Joint Stipulation of Settlement, (**attached hereto as Exhibit 1**). The
9 Parties also agreed to the form of Class Notice (attached to **Exhibit 1**). For the Court's convenience,
10 the parties used the form Model Agreement provided by the Los Angeles Superior Court, and made
11 changes as necessary.

12 7. In advance of mediation, the parties engaged in substantial informal discovery. Class
13 Counsel engaged in multiple detailed meetings with Plaintiffs, including Defendant producing to
14 Class Counsel over 1,000 pages of documents pertaining to Defendant's wage and hour policies.
15 Defendant also informally provided Class Member statistics, which provided : (1) the total number
16 of individuals who had worked as service technicians during the Class Period (907 total employees);
17 (2) the number of Class Members who separated employment during the three year statute of
18 limitations period relevant to Plaintiffs' waiting time penalties claim (559 total employees); (3) the
19 total number of workweeks worked by all class members (57,154); (4) The total number of Class
20 Members in the one year PAGA and wage statement penalties statutory period (655); (5) the number
21 of pay periods in the PAGA penalties period (16,266) and (6) Class Members' average rate of pay
22 (\$62.10 per hour); In aggregate, this data provided all information necessary to evaluate the core
23 wage claims alleged in this action.

24 8. Additionally, Defendant produced several spreadsheets (consisting of over 130,000
25 data points) providing a representative sample of Defendant's timekeeping and payroll records.

26 9. Using the base statistics set forth above, Class Counsel worked together and jointly
27 developed a damages model for purposes of mediation that evaluated the maximum potential
28 recovery for all claims alleged in the Action. In order to ensure that the matter was properly

1 evaluated, Class Counsel also retained the assistance of an expert, whose analysis generally
2 confirmed Class Counsel's estimates.

3 10. Given the lack of a monetary penalty for violations of California Labor Code §§
4 432.5 and 2571 and Business and Professions Code § 16600, and the fact that the violation of
5 California Business & Professions Code § 17200 was entirely derivative of the below Causes of
6 Action, Class Counsel did not separately evaluate the First, Second, and Ninth Causes of Action.

7 11. In evaluating the Third Cause of Action, Failure to Authorize Rest Periods, Class
8 Counsel calculated a potential maximum recovery of \$17,746,317.00. Plaintiffs' calculation is
9 based on its analysis that Class members were occasionally unable to take rest periods due to the
10 press of business and Defendant's policies, but were not provided with a rest period premium. As
11 such, Plaintiffs believe that the rest periods are calculated as follows: 57,154 (number of
12 workweeks) x 5 (total potential rest period premiums per workweek) x 62.10 (average rate of pay
13 per class member) = \$17,746,317.00.

14 12. In evaluating the Fourth Cause of Action, Unpaid Wages, Class Counsel calculated
15 a potential maximum recovery of \$8,600,533.92. Plaintiffs' calculation is based on its analysis that
16 Class members were paid on a commissions-only basis, but were not separately compensated for
17 non-productive rest periods, and so were not paid regular or minimum wages for these hours. s
18 such, Plaintiffs believe that the unpaid regular are calculated as follows: 57,154 (number of
19 workweeks) x 2 (hours per week uncompensated) x 62.10 (average rate of pay per class member) =
20 \$7,098,526.80. Because these wages were entirely unpaid, Plaintiffs also calculated minimum wage
21 liquidated damages as 57,154 (number of workweeks) x 2 (hours per week uncompensated) x 13.14
22 (average minimum wage in effect during the Class Period) = \$1,502,007.12, which added to the
23 unpaid wages totals \$8,600,533.92.

24 13. In evaluating the Fifth Cause of Action, Failure to Provide Accurate Wage
25 Statements, Class Counsel calculated a potential maximum recovery of \$2,620,000.00 based on the
26 pay periods worked by the class members. The calculation is based on the number of class members
27 within the wage statement penalties one year statutory period (655), multiplied by a maximum
28

1 statutory penalty of \$4,000 per class member. Thus, the calculation is as follows: $655 \times \$4000 =$
2 $\$2,620,000.00$.

3 14. In evaluating the Sixth Cause of Action, Failure to Provide Meal Periods, Class
4 Counsel calculated a potential maximum recovery of \$17,746,317.00. Plaintiffs' calculation is
5 based on its analysis that Class members were occasionally unable to take meal periods due to the
6 press of business and Defendant's policies but were not provided with a meal period premium. As
7 such, Plaintiffs believe that the rest periods are calculated as follows: 57,154 (number of
8 workweeks) $\times$ 5 (total potential meal period premiums per workweek) $\times$ 62.10 (average rate of pay
9 per class member) = \$17,746,317.00.

10 15. In evaluating the Seventh Cause of Action, Waiting Time Penalties, Class Counsel
11 calculated a potential maximum recovery of \$5,554,224.00. Plaintiffs believe the waiting time
12 penalties are calculated as follows: 559 (the number of Class Members terminated during the waiting
13 time penalties statutory period) $\times$ 62.10 (average rate of pay per class member) $\times$ 40 (a full time
14 schedule) $\times$ 4 (approximate workweeks in a 30-day period) = \$5,554,224.00.

15 16. In evaluating the Eighth Cause of Action, Failure to Reimburse Business Expenses,
16 claim, Class Counsel calculated a potential maximum recovery of \$1,814,000.00. Based on Class
17 Counsel's investigation, class members had to purchase expensive tools to perform their jobs for
18 Defendant, without reimbursement. Class Counsel determined that each class member had
19 approximately \$2,000 in unreimbursed expenses. Thus, the maximum exposure for the
20 reimbursement claim is 907 (number of class members) $\times$ \$2,000 = \$1,814,000.00.

21 17. In evaluating the Tenth Cause of Action, PAGA Penalties, Class Counsel calculated
22 a potential maximum recovery of \$3,187,700.00. The PAGA penalties were calculated by
23 multiplying the total number of PAGA aggrieved employees (655) by \$100 (first pay period
24 penalty), i.e. \$65,500. The subsequent penalties were calculated by multiplying the total number of
25 remaining PAGA pay periods of 15,611 ($16,266 - 655$) by \$200 per pay period, i.e. \$3,122,200.
26 Thus, the total PAGA penalties are \$3,187,700 ($\$65,500 + \$3,122,200$).

27 18. The results of Class Counsel's analysis of the claims in this action are summarized
28 below:

Claim	Maximum Potential Recovery
Failure to Provide Rest Periods	\$17,746,317.00
Failure to Pay Wages	\$8,600,533.92
Wage Statement Penalties	\$2,620,000.00
Meal Periods	\$17,746,317.00
Waiting Time Penalties	\$5,554,224.00
Failure to Reimburse Business Expenses	\$1,814,000.00
PAGA	\$3,122,200.00
Total	\$57,203,591.92

19. In order to evaluate the range of potential outcomes and the fairness of a proposed settlement, Class Counsel also evaluated the “risk-adjusted” potential class recovery factoring in Defendant’s potential defenses.

20. In order to calculate the “risk-adjusted” value of the failure to authorize rest periods claim, Class Counsel evaluated Plaintiffs’ odds of prevailing on class certification with respect to this cause of action at approximately 33.33% to 50%. Given that Plaintiffs were unsupervised employees working out in the field, and the principle outlined in *Brinker Restaurant Corporation v. Superior Court*, (2008) 53 Cal.4th 1004, Class Counsel also accounted for an approximately 50% to 75% chance of Defendant successfully raising a merits-based defense such as one of the affirmative defenses alleged by Defendant in its answer to the original Complaint, such as claiming that Class Members were permitted to take rest periods, even if they chose not to. Further, Class Counsel’s best estimate based on their investigation was that Class Members were only prevented from taking a rest period approximately 25% to 50% of the time. Class Counsel were also mindful that as the unpaid wages claim was primarily based on Defendants failure to separately compensate rest periods, and so the value of the two claims were directly opposed to one another. Based on these calculations, the “risk-adjusted” value of the rest period claim was **\$369,714.98-\$2,218,289.63**.

1 21. In order to calculate the “risk-adjusted” value of the failure to pay all wages claim,
2 Class Counsel evaluated Plaintiff’s odds of prevailing on class certification with respect to this cause
3 of action at 33.33% to 50%, such as the risk that only a portion of the Class was actually taking their
4 rest periods or had meaningful other non-productive time, or were not making wages in excess of
5 minimum wage. Given the unresolved nature of the conflict between *Vaquero v. Stoneledge*
6 *Furniture LLC*, (2017) 9 Cal. App. 5th 98, and *Oman v. Delta Airlines, Inc.*, (2020) 466 P. 3d 325,
7 Class Counsel also accounted for a 33% to 66% chance of Defendant successfully claiming that
8 their wage and hour policies were in compliance with current California law. Class Counsel also
9 accounted for a 30% to 40% chance of Defendant successfully raising another merits-based defense
10 such as one of the affirmative defenses alleged by Defendant in its answer to the Complaint. Finally,
11 Class Counsel accounted for the possibility that Class Members were only taking 33.33% to 66.66%
12 of the rest periods thus decreasing their amount of non-productive time. Based on these calculations,
13 the “risk-adjusted” value of the unpaid wages claim was **\$189,192-\$1,324,349.78**.

14 22. The waiting time penalties claims is a derivative claim of the unpaid wages claim,
15 and thus Class Counsel evaluated the similar risk factors. Class Counsel evaluated Plaintiffs’ odds
16 of prevailing on class certification with respect to this cause of action at 33.33% to 50%, such as the
17 risk that only a portion of the Class was actually taking their rest periods or had meaningful other
18 non-productive time, or were not making wages in excess of minimum wage. Given the unresolved
19 nature of the conflict between *Vaquero* and *Oman*, Class Counsel also accounted for a 33% to 66%
20 chance of Defendant successfully claiming that their wage and hour policies were in compliance
21 with current California law. Class Counsel also accounted for a 30% to 40% chance of Defendant
22 successfully raising another merits-based defense such as one of the affirmative defenses alleged by
23 Defendant in its answer to the Complaint. Given the conflicting authority regarding the *Vaquero*
24 and *Oman* issues above, Class Counsel also accounted for a 50% to 66.66% chance of Defendant
25 successfully claiming that it believed itself to be in compliance with the law and thus there was no
26 willful conduct. Based on these calculations, the “risk-adjusted” value of the waiting time penalties
27 claim was **\$73,315.76-\$641,512.87**.

1 23. The inaccurate wage statement claim is similarly derivative of the unpaid wages
2 claim, and so Class Counsel likewise evaluated similar risk factors as that claim. Class Counsel
3 evaluated Plaintiffs' odds of prevailing on class certification with respect to this cause of action at
4 33.33% to 50%, such as the risk that only a portion of the Class was actually taking their rest periods
5 or had meaningful other non-productive time, or were not making wages in excess of minimum
6 wage. Given the unresolved nature of the conflict between *Vaquero* and *Oman*, Class Counsel also
7 accounted for a 33% to 66% chance of Defendant successfully claiming that their wage and hour
8 policies were in compliance with current California law. Class Counsel also accounted for a 30%
9 to 40% chance of Defendant successfully raising another merits-based defense such as one of the
10 affirmative defenses alleged by Defendant in its answer to the Complaint. Class Counsel also
11 accounted for a 50% to 80% chance of Defendant successfully raising the defense that the wage
12 statements were in fact accurate in that they reflected the actual wages paid to Class Members or
13 other lack of willful conduct. Based on these calculations, the "risk-adjusted" value of the wage
14 statement claim was **\$57,634.24-\$302,610.00**.

15 24. In order to calculate the "risk-adjusted" value of the unpaid meal period claim, Class
16 Counsel evaluated Plaintiffs' odds of prevailing on class certification with respect to this cause of
17 action at approximately 60% to 70%. Given that Plaintiffs were unsupervised employees working
18 out in the field, and the principle outlined in *Brinker Restaurant Corporation v. Superior Court*,
19 (2008) 53 Cal.4th 1004, Class Counsel also accounted for an approximately 75% chance of
20 Defendant successfully raising a merits-based defense such as claiming that Class Members were
21 permitted to take meal periods, even if they chose not to, or one of the affirmative defenses raised
22 in its Answer. Further, based on the data provided by Defendant, the expert retained by Class
23 Counsel calculated an approximate net violation rate of 24.3%. Class Counsel also evaluated the
24 risk that anywhere from 25%-75% of the missed meal periods were voluntarily waived. Based on
25 these calculations, the "risk-adjusted" value of the wage statement claim was **\$134,761.09-**
26 **\$485,139.94**.

27 25. In order to calculate the "risk-adjusted" reimbursement claim, Class Counsel
28 evaluated Plaintiffs' odds of prevailing on class certification with respect to this cause of action at

33.33% to 50%. Class Counsel also accounted for a 33% to 66% risk that Plaintiffs would not be able to establish damages across the Class in the amounts sustained by Plaintiffs. Class Counsel also accounted for a 40% to 60% risk that Defendant would establish merits-based defenses, in particular that Defendant had all tools necessary for Class Members available for use, and thus any purchase of tools was unreasonable and Defendant had no reason to suspect the purchases were occurring. Based on these calculations, the “risk-adjusted” value of the reimbursement claim was **\$79,816.00 - \$359,172.00**.

26. Because the PAGA penalties claim was primarily derivative of the unpaid wages claim, in order to calculate the “risk-adjusted” value, Class Counsel calculated similar risk factors. Class Counsel evaluated Plaintiffs’ odds of prevailing on class certification with respect to this cause of action at 33.33% to 50%, such as the risk that only a portion of the Class was actually taking their rest periods or had meaningful other non-productive time, or were not making wages in excess of minimum wage. Given the unresolved nature of the conflict between *Vaquero* and *Oman*, Class Counsel also accounted for a 33% to 66% chance of Defendant successfully claiming that their wage and hour policies were in compliance with current California law. Class counsel also accounted for a 30% to 40% chance of Defendant successfully raising another merits-based defense such as one of the affirmative defenses alleged by Defendant in its answer to the Complaint. However, given that the PAGA claims are wholly derivative of other claims and largely revolved around an unsettled legal issue, Class Counsel also considered the possibility that the Court would use its discretion to reduce the penalties in this claim by 25% to 80%. Based on these calculations, the “risk-adjusted” value of the PAGA Penalties claim was **\$13,009.17-\$292,706.25**.

27. The overall results of Class Counsel’s exposure and risk analysis for this matter are summarized in the following table:

Claim	Max Potential Recovery	“Risk Adjusted Upper Range of Recovery	“Risk Adjusted” Lower Range of Recovery
Failure to Provide Rest Periods	\$17,746,317.00	\$2,218,289.63	\$369,714.94

Failure to Pay Wages	\$8,600,533.92	\$1,324,349.78	\$189,192.83
Wage Statement	\$2,620,000.00	\$302,610.00	\$57,634.24
Meal Periods	\$17,746,317.00	\$485,139.94	\$134,761.09
Waiting Time Penalties	\$5,554,224.00	\$641,512.87	\$73,315.76
Failure to Reimburse Business Expenses	\$1,814,000.00	\$359,172.00	\$79,816.00
PAGA	\$3,122,200.00	\$292,706.25	\$13,009.17
Total	\$57,203,591.92	\$5,623,780.46	\$917,444.02

28. I originally provided notice to Defendant and the LWDA of Plaintiff Perez' intent to file a PAGA action on May 12, 2023. A true and correct copy of the PAGA Notice and confirmation of filing are attached hereto as **Exhibit 2**. On June 26, 2023., I amended this notice to reflect the additional Plaintiffs, Jose Gonzalez and Antonio Serrano, and the additional claims raised in the first amended complaint. The amended notice and the confirmation of filing are attached hereto as **Exhibit 3**. On the same date I also provided the LWDA with notice of the proposed settlement, the confirmation of which is attached hereto as **Exhibit 4**.

29. I received my law degree from the UCLA School of Law and was admitted to the California bar in 2014. I have practiced labor and employment law exclusively throughout my career. Between 2015 and 2019 I was an associate attorney with the boutique Plaintiff's employment law firm, the Law Offices of Carlin & Buchsbaum, LLP. In my role there I gained substantial experience prosecuting individual, class, and representative wage and hour matters. In 2019 I joined Barkhordarian Law Firm, where I am a Senior Associate Attorney. I estimate that over the course of my career I have served as lead counsel or assisted on over 100 matters with claims substantially similar or identical to the present action. Since joining Barkhordarian Law Firm, I have served as lead counsel on the Class and/or PAGA matters including but not limited to the following:

- a. *Nelson Hernandez v. LEVB, Inc., et al.*, Case No.: 19STCV37975, Los Angeles County Superior Court (Class Action and PAGA matter; Final Approval granted September 14, 2021);

- 1 b. *Delicia Miller v. PAG Consulting, LLC, et al.*, Case No.: CIVDS2010908, San
2 Bernardino Superior Court (Class Action; Final Approval granted October 22,
3 2021);
- 4 c. *Juan Carlos Rios v. Classic Distributing & Beverage Group, Inc.*,
5 20PSCV00012, Los Angeles County Superior Court (Class Action and PAGA
6 matter; Final Approval granted on December 15, 2021);
- 7 d. *Manuel Medellin v. Belden, Inc.*, Case No. 19STCV44174, Los Angeles County
8 Superior Court (Class and PAGA Matter, final Approval Granted January 25,
9 2022);
- 10 e. *Estuardo Mayorga v. Professional Aviation Services, Inc.*, Case No.
11 21STCV04211, Los Angeles County Superior Court (PAGA Matter, Approval
12 granted May 5, 2022);
- 13 f. *Maria Guevara Sandoval v. Budget Janitorial*, Case No. 30-2021-01211083-CU-
14 WT-CJC, Orange County Superior Court (PAGA Matter, Approval Granted
15 October 18, 2022);
- 16 g. *Sergio Bernal, et al. v. Serco, Inc.*, Case No. 30-2020-01150203-CU-OE-CXC,
17 Orange County Superior Court (Final Approval Granted January 13, 2023); and
- 18 h. *Keaton McGuire v. GRID Alternatives.*, LASC Case No.19STCV28671, Los
19 Angeles Superior Court (preliminary approval granted May 8, 2023).

20 30. In this matter I worked closely with, and was advised and closely supervised by, my
21 direct supervisor, Greg Wong, Managing Attorney of Barkhodarian Law Firm, PLC. I am informed
22 and believe that Mr. Wong received his law degree from The University of California – Berkeley
23 Law (Boalt Hall) and was admitted to the California bar in 1999. He has practiced labor and
24 employment law exclusively throughout his career. Between 1999 and 2004 he was an associate
25 with the international labor and employment law specialty firm Littler Mendelson, PC. In 2004 he
26 joined the labor and employment group of Greenberg Traurig, LLP, where he was elevated to
27 shareholder in 2009. He rejoined Littler Mendelson in 2010 as a shareholder and worked there until
28 founding Adept Employment Law, APC in June of 2014.

1 31. I am informed and believe that Mr. Wong's professional accolades include being
2 named a Super Lawyers Magazine Rising Star in 2008 and 2009 and being one of only 29 labor and
3 employment attorneys in the industry named as a BTI Client Service All-Stars for 2015 based on
4 BTI Consulting Group's annual survey of General Counsel and Legal Decision Makers at large and
5 Fortune 1000 companies.

6 32. I am informed and believe that as a management-side attorney with Littler
7 Mendelson and Greenberg Traurig, Mr. Wong gained substantial experience in all phases of
8 litigating wage and hour class action matters. This includes developing case strategy, participating
9 in and overseeing discovery, drafting and arguing motions for class certification, and participating
10 in class action trial teams. Between 2010 and 2014, his litigation practice consisted almost entirely
11 of class action litigation. Specifically, he specialized in class action exposure evaluation and data-
12 related case strategy.

13 33. I am informed and believe that Mr. Wong founded Adept Employment Law, APC in
14 2014 to expand his practice to include advocacy for workers' rights on an individual and class or
15 representative basis. Through Adept Employment Law, APC, he served as lead counsel or co-lead
16 counsel on twenty-three (23) class and/or representative actions in both state and federal court

17 34. I am informed and believe that Mr. Wong joined the Barkhordarian Law Firm in
18 January of 2019. His practice has continued to focus on the representation of workers in
19 employment law matters. Since joining the Barkhordarian Law Firm, He has filed more than seventy
20 (70) class and/or representative actions in both state and federal court, including but not limited to
21 the following:

- 22 a. *Guerra, et al. v. Graphic Packaging International*, Sacramento Superior Court
23 Case Number 2016-00203789 (Final Approval granted on May 23, 2018, by Hon.
24 David De Alba);
- 25 b. *Rodriguez v. National Rail Transportation*, Los Angeles Superior Court Case
26 Number BC594139 (Final Approval granted on June 13, 2019, by Hon. William
27 F. Highberger);

- 1 c. *Hatfield v. Iiota Productions*, Los Angeles Superior Court Case Number
2 19STCV30328 (Final Approval granted on February 11, 2021, by Hon. William
3 F. Highberger);
- 4 d. *Casillas v. A-L Financial, Corp.*, Orange County Superior Court Case Number
5 30-2019-01070837-CU-OE-CXC (Final Approval granted on March 9, 2021, by
6 Hon. Kirk H. Nakamura);
- 7 e. *Pagh v. Wyndham Vacation Ownership, Inc.*, Federal Centra District of
8 California Case Number 8:19-cv-00812-JVS-ADS (Final Approval granted on
9 March 23, 2021, by Hon. John W. Holcomb);
- 10 f. *Weller v. Christian Dior*, Case No.: 30-2018-01012565, Orange County Superior
11 Court;
- 12 g. *O’Braza v. Dignity Health* Case No.: 34-2018-00240446, Sacramento County
13 Superior Court (filed September 10, 2018, class certification granted on June 21,
14 2022);
- 15 h. *Rodriguez v. Golden Leaf* , Case No. 20STCV05547, Los Angeles County
16 Superior Court (Final approval granted December 6, 2021);
- 17 i. *Valle v. Earthbar, LLC* Case No. BC575277, Los Angeles Superior Court (Final
18 Approval granted on July 1, 2015);
- 19 j. *Colvin v. Graphics Packaging International, Inc.*, Case No. 2015-00781730-CU-
20 OE-CXC, Orange County Superior Court (Final approval granted June 5, 2018);
21 and
- 22 k. *Williams v. Western Express*, Case No. 5:15-CV-00402-JBG-SPx, United States
23 Federal District Court for the Central District of California (Final approval
24 granted February 17, 2017).

25
26 I declare under penalty of perjury under the laws of the State of California that all the
27 foregoing is true and correct.

28 Executed on July 11, 2023 in Pleasant Hill, California.

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By: /s/John F. Litwin, Esq
John F. Litwin

EXHIBIT 1

GONZALEZ, et al. v. ROTO-ROOTER CO. NO. 22STCV34334
CLASS AND PAGA SETTLEMENT AGREEMENT AND NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiffs Jose Gonzalez, Ignain Perez, and Antonio Serrano (“Plaintiffs”) and Defendant Roto-Rooter Services Company (“Defendant”). The Agreement refers to Plaintiffs and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS

1.1. “Action” means the Plaintiffs’ lawsuit alleging wage and hour violations against Defendant captioned Jose Gonzalez et al. v. Roto-Rooter Services Company initiated on October 25, 2022, Case No. 22STCV34334 and pending in Superior Court of the State of California, County of Los Angeles.

1.2. “Administrator” means CPT Group, Inc., 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 Preliminary Approval of the Settlement.

1.4. “Aggrieved Employee” means all current or former non-exempt persons employed by Defendant in California during the PAGA Period. The PAGA Group expressly includes anyone paid on an alleged commission or piece-rate compensation system.

1.5. “Class” means all current or former non-exempt persons employed by Defendant in California who do not opt out of the Settlement. The class expressly includes any non-exempt employee paid on an alleged commission or piece- rate compensation system. However, the class shall exclude all persons who were part of the *Lax v. Roto- Rooter Services Co.*, (“*Lax*”) No. 18CV338652, through the end of the class period in the *Lax* case.

1.6. “Class Counsel” means Bartz Law Group, APC and Barkhordarian Law Firm, PC.

1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.

1.8. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.

1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member 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 Class Members.

1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.12. “Class Period” means the period from May 10, 2018, to (a) the date the Court grants preliminary approval, or (b) a date prior of Defendant’s choosing as set forth in Paragraph 8 below.

1.13. “Class Representatives” means the named Plaintiffs in the operative complaint in the Action seeking Court approval to serve as a Class Representative, including Jose Gonzalez, Ignain Perez, and Antonio Serrano.

1.14. “Class Representative Service Payments” means the payments to the Class Representatives for initiating the Action and providing services in support of the Action.

1.15. “Court” means the Superior Court of California, County of Los Angeles.

1.16. “Defendant” means named Defendant Roto-Rooter Services Company.

1.17. “Defense Counsel” means Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

1.18. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.

1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

1.21. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.

1.22. “Gross Settlement Amount” means \$1,500,000.00 which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator’s Expenses.

1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.

1.25. “Judgment” means the judgment entered by the Court based upon the Final Approval.

1.26. “LWDA” “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.28. “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, Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.29. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

1.31. “PAGA Period” means the period from May 10, 2021, to (a) the date the Court grants preliminary approval, or (b) a date prior of Defendant’s choosing as set forth in Paragraph 8 below.

1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

1.33. “PAGA Notices” means Plaintiff Gonzalez’s August 17, 2022 letter to Defendant and the LWDA and Plaintiff Perez’s May 10, 2022 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

1.34. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, which is \$50,000.00 allocated 25% to the Aggrieved Employees (\$12,500.00) and the 75% to LWDA (\$37,500.00) in settlement of PAGA claims.

1.35. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.36. "Plaintiffs" means Jose Gonzalez, Ignain Perez, and Antonio Serrano, the named plaintiffs in the Action.

1.37. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.

1.38. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.

1.39. "Released Class Claims" means the claims being released as described in Paragraph 5.2 below.

1.40. "Released PAGA Claims" means the claims being released as described in Paragraph 5.3 below.

1.41. "Released Parties" means: Defendant Roto-Rooter Services Company and each of Defendant and each of their insurers, brands, concepts, affiliates, subsidiaries, parent companies, predecessors, successors, assigns, employees, officers, directors, agents, attorneys, administrators, representatives, heirs, estates, powers-of-attorney, and any individual or entity that could be jointly liable with Defendant.

1.42. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.43. "Response Deadline" means 60 days after the Administrator mails Notice to Class Members and Aggrieved Employees, (plus an additional 14 days for Class Members whose Class Notice is re-mailed pursuant to paragraph 7.4.3 below), and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

1.44. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

1.45. "Workweek" means any week during which a Class Member worked for Defendant for at least one day, during the Class Period.

2. RECITALS

2.1. On October 25, 2022, Plaintiff Jose Gonzalez commenced this Action by filing a Complaint alleging causes of action against Defendant for Civil Penalties Under the Private Attorneys' General Act ("PAGA"), California Labor Code §§ 2698, et seq. On May 17, 2023, Plaintiffs Gonzalez, Perez and Serrano filed a First Amended Complaint, alleging additional representative causes of action against Defendant for Violation of California Labor Code § 2751; Violation of California Business and Professions Code § 17200; Failure to Provide Rest Periods; Failure to Provide Meal Periods; Failure to Pay All Wages (Including Minimum and Overtime); Failure to Provide Accurate Wage Statements; Failure to Reimburse Business Expenses; Unlawful Solicit and Non-Compete Agreements; and Failure to Pay All Wages. The First Amended Complaint is the operative complaint in the Action (the "Operative Complaint"). Plaintiffs also agree to file an amended PAGA notice to the LWDA to conform with the allegations in 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), Plaintiffs gave timely written notice to Defendant and the LWDA by sending the PAGA Notices.

2.3. On April 3, 2023, the Parties participated in an all-day mediation presided over by Michael D. Young, Esq. which led to this Agreement to settle the Action.

2.4. Prior to mediation, Plaintiff obtained, through informal discovery, Plaintiffs' personnel and payroll files; Defendant's current and former policies and procedures; a representative sample of the Class' wages and hours worked; class statistics including workweeks, PAGA pay periods, the number of terminated class members, the number of total class members. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

2.5. The Court has not granted class certification.

2.6. The Parties, Class 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 8 below, Defendant agrees to pay \$1,500,000.00 and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portion of the Net Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or

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 Plaintiffs: Class Representative Service Payments to the Class Representatives of not more than \$15,000.00 per Class Representative (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendant will not oppose each Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than one-third of the Gross Settlement Amount, which is currently estimated to be \$500,000.00 and a Class Counsel Litigation Expenses Payment of not more than \$25,000.00. Defendant will not oppose requests for these payments provided that do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class 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 Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and hold Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$25,000.00 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 \$25,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1. Tax Allocation of Individual Class Payments: 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). PAGA Penalties will be allocated 100% to penalties. The Non-Wage Portions and PAGA Penalties are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments: Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis. However, any aggrieved employee who opts out of the Class will nevertheless receive their portion of the PAGA Penalties, and be bound by the release of their PAGA Claims. There shall be no right to opt out of participation in the PAGA settlement.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$50,000.00 to be paid from the Gross Settlement Amount, with 75% (\$37,500.00) allocated to the LWDA PAGA Payment and 25% (\$12,500.00) 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 (\$12,500.00) 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.

3.2.5.2. If the Court approves PAGA penalties of an amount different 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. Class Workweeks and Aggrieved Employees Pay Period: Based on a review of its records through the date of mediation, Defendant estimates as of March 31, 2023, there were 907 Class Members who collectively worked a total of 57,154 Workweeks, and 655 Aggrieved Employees who worked a total of 16,266 PAGA Pay Periods.

4.2. Class Data: Not later than 21 days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. The Class Data shall not be shared with either Plaintiffs or Class Counsel unless expressly approved by Defendant and Defense Counsel, or if a Class Member requests that their personal data be shared with Class Counsel. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class 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 Class Data.

4.3. Funding of Gross Settlement Amount: Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 14 days after the Effective Date.

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 Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class United States Postal Service ("USPS") 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 ("Void Date"). The Administrator will cancel all checks not cashed by the Void Date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was

returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. 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 a Class Member Address Search for all other Class Members 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 Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 4.4.3. For any Class Member whose Individual Class Payment check or 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 Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).
- 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASE OF CLAIMS.

Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, Aggrieved Employees, the LWDA and State of California, and Class Counsel will release claims against all Released Parties as follows:

5.1. Plaintiffs' General Release of All Known and Unknown Claims: In addition to the claims released under Sections 5.2 and 5.3 below, Plaintiffs and Plaintiffs' former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns, agree to a general release of any and all claims, transactions, or occurrences against Released Parties—which will include without limitation any and all claims which in any way relate to Plaintiffs' employment with Defendant, under State or Federal law, in tort, common law, statute, contract, or equity, whether pled in the Complaint or not, including but not limited to any claims under the Fair Labor Standards Act ("FLSA"), Title VII, Americans with Disabilities Act ("ADA"), Fair Employment and Housing Act ("FEHA"), Age Discrimination in Employment Act ("ADEA"), Private Attorneys General Act ("PAGA"), California Labor Code, or any Industrial Welfare Commission Wage Order—now existing or arising in the future, based on any act, omission, event,

occurrence, or nonoccurrence from the beginning of time to the date of execution hereof ("Plaintiffs' Release"). Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, and workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agrees, nonetheless, that Plaintiffs' Release will be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them.

- 5.1.1. Plaintiffs' Waivers of Rights Under California Civil Code Section 1542. For purposes of Plaintiffs' Releases, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

5.2. Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the factual allegations and primary rights stated in the Operative Complaint and any amendments thereto, including all claims for: 1) failure to pay all minimum wages; 2) failure to pay all overtime wages (including failure to pay at the regular rate of pay); 3) meal period violations; 4) rest period violations; 5) wage statement violations (including Lab. Code § 226(a)(1)-(9)) and failure to keep required records (Lab. Code § 1174); 6) failure to timely pay wages during employment and upon separation of employment; 7) failure to provide written commission agreements; 8) illegal non-compete / non-solicit agreements; 9) failure to reimburse expenses, and 10) Unfair Competition Law violations. Except as set forth in Paragraph 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.3. Release by Aggrieved Employees: All Aggrieved Employees, the State of California, and the LWDA 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 factual allegations and primary rights stated in the Operative Complaint and the PAGA Notices and any amendments thereto, including all claims for: 1) failure to pay all minimum wages; 2) failure to pay all overtime wages (including failure to pay at the regular rate of pay); 3) meal period violations; 4) rest period violations; 5) wage statement violations (including Lab. Code § 226(a)(1)-(9)) and failure to keep required records (Lab. Code § 1174); 6) failure to timely pay wages during employment and upon separation of employment;

7) failure to provide written commission agreements; 8) illegal non-compete / non-solicit agreements; and 9) failure to reimburse expenses.

6. MOTION FOR PRELIMINARY APPROVAL.

Class Counsel will prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s current checklist for Preliminary Approvals.

6.1. Class Counsel’s Responsibilities. Class Counsel will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a “not to exceed” bid from the Settlement Administrator for administering the Settlement; (v) a signed declaration from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; 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)); (vi) a redlined version of the parties’ Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members or the Administrator. In their Declarations, Plaintiffs and Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class 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 Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class 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 Administrator to serve as the administrator and verified that, as a condition of appointment, Administrator 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 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. Notice to Class Members

7.4.1. No later than seven (7) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, Aggrieved Employees, Class Workweeks, and Pay Periods in the PAGA Period.

7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class USPS mail, the Class Notice substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Class Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

7.4.3. Not later than 7 business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search and/or "skip trace," and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

7.4.5. If the Administrator, Defendant or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith. In an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to

the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

7.5. Requests for Exclusion (Opt-Outs).

7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

7.5.3. Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay

Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel (with identifying information other than names redacted) and the Administrator's determination of the challenges.

7.7. Objections to Settlement

- 7.7.1. Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.
- 7.7.2. Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 60 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).
- 7.7.3. Non-Participating Class Members have no right to object to any of the class action components of the Settlement.
- 7.8. 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.
- 7.8.1. Website, Email, Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payments, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

- 7.8.2. Requests for Exclusions (Opt-Outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid), with personal identifying information other than names redacted.
- 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- 7.8.4. Workweek and/or pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 7.8.5. Administrator’s Declarations. Not later than 14 days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- 7.8.6. Final Report Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing

in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE.

Based on its records, Defendant estimates that, as of March 30, 2023, (1) there are 907 Class Members and 57,154 Total Workweeks during the Class period. If the size of the workweeks during the Class Period exceeds 57,154 by more than 10%, the Gross Settlement Amount will increase by a proportionate percentage (i.e., if the workweeks increased by 12%, the Gross Settlement Amount would increase by 2%). In the alternative, Defendant may elect to shorten the Class Period in order to stay within the 10% cushion.

9. DEFENDANT'S RIGHT TO WITHDRAW.

If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5% of the total of all Class Members, Defendant may, but is not obligated to, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than ten (10) days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

10. MOTION FOR FINAL APPROVAL.

Not later than 16 court days before the calendared Final Approval Hearing, Plaintiffs will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Class Counsel shall provide drafts of these documents to Defense Counsel not later than five days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

10.1. Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

10.2. Duty to Cooperate: If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or

Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

10.3. 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.

10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, 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 an objector 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.

10.5. Appellate Court to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

11. AMENDED JUDGMENT

If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

12. ADDITIONAL PROVISIONS

12.1. No Admission of Liability, Class Certification 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 Plaintiffs that Defendant's defenses in the Action have merit. The Parties agree that class

certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action (including the requirement to arbitrate claims), and Plaintiffs reserve the right to move for class certification on any grounds available and 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).

12.2. Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

12.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

12.4. No Publicity. Plaintiffs and Plaintiffs' Counsel will not contact the media about the settlement or respond to any inquiries by the media regarding the Settlement, other than to state that the matter was amicably settled, and the Court did not find Defendant liable. Plaintiffs and their respective counsel also will not post any information about the settlement on social media or their firms' websites.

12.5. 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.

12.6. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs 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.

12.7. 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.

12.8. 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.

12.9. No Tax Advice. Neither Plaintiffs, Class 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.

12.10. 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.

12.11. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

12.12. 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.

12.13. 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.

12.14. 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.

12.15. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel

by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs shall destroy, all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

12.16. 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.

12.17. 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.

12.18. 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 Plaintiffs:

Aaron A. Bartz
BARTZ LAW GROUP, APC
5151 California Ave., Suite 100
Irvine, California 92617

And

John F. Litwin, Esq.
Barkhordarian Law Firm, PLC
6047 Bristol Parkway, Second Floor
Culver City, CA 90230

To Defendant:

Spencer C. Skeen
Jesse C. Ferrantella
Cameron O. Flynn
Ogletree Deakins, PC
4660 La Jolla Village Drive, Suite 900
San Diego, CA 92122

12.19. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (e.g. 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.

12.20. 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: June __, 2023
6/7/2023

DocuSigned by:
Jose Gonzalez
8CD94CB82CB74FC...

Plaintiff Jose Gonzalez

DATED: June __, 2023

Plaintiff Ignain Perez

DATED: June __, 2023

DocuSigned by:
Antonio Serrano
2467F578B9044A8...

Plaintiff Antonio Serrano

DATED: June __, 2023
6/7/2023

Counsel for Plaintiffs Jose Gonzalez, Ignain Perez,
and Antonio Serrano

DATED: June 9, 2023

BCOL
Defendant Roto-Rooter Services Company

By: Secretary & General Counsel

DATED: June 12, 23

Am Ar
Counsel for Defendant Roto-Rooter Services
Company

themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

12.20. 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: June __, 2023

Plaintiff Jose Gonzalez

DATED: June 6, 2023


Ignain perez (Jun 6, 2023 15:10 PDT)

Plaintiff Ignain Perez

DATED: June __, 2023

Plaintiff Antonio Serrano

DATED: June __, 2023



Counsel for Plaintiffs Jose Gonzalez, Ignain Perez,
and Antonio Serrano

DATED: June __, 2023

Defendant Roto-Rooter Services Company

By: _____

DATED: June __, 23

Counsel for Defendant Roto-Rooter Services
Company

COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING
DATE FOR FINAL COURT APPROVAL

(Jose Gonzalez, et al. v. Roto-Rooter Services Co., Case No. 22STCV34334)

The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Roto-Rooter Services Company (“Roto-Rooter”) for alleged wage and hour violations. The Action was filed by current and former Roto-Rooter employees Jose Gonzalez, Ignain Perez, and Antonio Serrano (“Plaintiffs”) and seeks payment of (1) back wages and related penalties for a class of current and former non-exempt employees who worked for Roto-Rooter in California during the Class Period (May 10, 2018 to [ADD]) (“Class Members”); and (2) penalties under the California Private Attorneys General Act (“PAGA”) for all current and former non-exempt employees who worked for Roto-Rooter in California during the PAGA Period (May 10, 2021 to [ADD]) (“Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Roto-Rooter to fund Individual Class Payments, and (2) a PAGA Settlement requiring Roto-Rooter to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Roto-Rooter’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$ [ADD] (less withholding) and your Individual PAGA Payment is estimated to be \$ [ADD]**. The actual amount you may receive likely will be different and will depend on a number of factors. The settlement amounts were adjusted for all persons who were part of the previously settled case, titled *Lax v. Roto-Rooter Services Co.*, Case No. 18CV338652. (If no amount is stated for your Individual PAGA Payment, then according to Roto-Rooter’s records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on Roto-Rooter’s records showing that **you worked [ADD] workweeks** during the Class Period and **you worked [ADD] pay periods** during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiffs and Plaintiffs’ attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Roto-Rooter to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Roto-Rooter.

If you worked for Roto-Rooter during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Roto-Rooter.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Roto-Rooter, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

Roto-Rooter will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Roto-Rooter that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is: [DATE]	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Roto-Rooter must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by: [DATE]	All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiffs reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiffs if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the [DATE] Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on [DATE]. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by: [DATE]	The amount of your Individual Class Payment and PAGA Payment (if any) depends on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Roto-Rooter’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [DATE]. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiffs are current and former Roto-Rooter employees who worked in California. The Action accuses Roto-Rooter of violating California labor laws by failing to: pay minimum and overtime wages, including to commissioned employees; timely pay wages during employment and upon termination of employment; provide meal periods and rest breaks; provide written commission agreements; provide accurate itemized wage statements and maintain required records; adequately reimburse employee expenses; and seeks related penalties. The lawsuit also alleges Roto-Rooter used unlawful non-compete or non-solicit agreements. Based on the same claims, Plaintiffs have also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”). Plaintiffs are represented by attorneys in the Action: Bartz Law Group, APC and Barkhordarian Law Firm, PC (“Class Counsel”).

Roto-Rooter strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Roto-Rooter or Plaintiffs are correct on the merits. In the meantime, Plaintiffs and Roto-Rooter hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs and Roto-Rooter have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Roto-Rooter does not admit any violations or concede the merit of any claims.

Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Roto-Rooter has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate; authorized this Notice; and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Roto-Rooter Will Pay \$1,500,000.00 as the Gross Settlement Amount (Gross Settlement). Roto-Rooter has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Roto-Rooter will fund the Gross Settlement not more than 14 days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$ 500,000.00 (33.33% of the Gross Settlement] to Class Counsel for attorneys’ fees and up to \$25,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$15,000.00 per Plaintiff for Ignain Perez, Jose Gonzalez, and Antonio Serrano as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiffs will receive other than each Plaintiff’s Individual Class Payment and any Individual PAGA Payment.
 - C. Up to \$25,000.00 to the Administrator for services administering the Settlement.

- D. Up to \$50,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiffs and Defendant are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages ("Wage Portion") and 80% to penalties and interest ("Non-Wage Portion."). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Roto-Rooter will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiffs and Roto-Rooter have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name. If the monies represented by your check is sent to the Controller's Unclaimed Property, you should consult the rules of the Unclaimed Property Fund for instructions on how to retrieve your money.
6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [DATE], that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the [DATE] Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Roto-Rooter. You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-

Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Roto-Rooter based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and Roto-Rooter have agreed that, in either case, the Settlement will be void: Roto-Rooter will not pay any money and Class Members will not release any claims against Roto-Rooter.
8. Administrator. The Court has appointed a neutral company, CPT Group, Inc. (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.
9. Participating Class Members' Release. After the Judgment is final and Roto-Rooter has fully funded the Gross Settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Roto-Rooter or related entities for wages based on the claims resolved by this Settlement.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the factual allegations and primary rights stated in the Operative Complaint, and any amendments thereto, including all claims for: 1) failure to pay all minimum wages; 2) failure to pay all overtime wages (including failure to pay at the regular rate of pay); 3) meal period violations; 4) rest period violations; 5) wage statement violations (including Lab. Code § 226(a)(1)-(9)) and failure to keep required records (Lab. Code § 1174); 6) failure to timely pay wages during employment and upon separation of employment; 7) failure to provide written commission agreements; 8) illegal non-compete / non-solicit agreements; 9) failure to reimburse expenses, and 10) Unfair Competition Law violations. Except as set forth in the Aggrieved Employee's PAGA Release, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

10. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and Roto-Rooter has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Roto-Rooter, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Roto-Rooter or its related entities based on the PAGA claims resolved by this Settlement.

The Aggrieved Employees' Releases are as follows:

All Aggrieved Employees, the State of California, and the LWDA 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 factual allegations and primary rights stated in the Operative Complaint and the PAGA Notices and any amendments thereto, including all claims for: 1) failure to pay all minimum wages; 2) failure to pay all overtime wages (including failure to pay at the regular rate of pay); 3) meal period violations; 4) rest period violations; 5) wage statement violations (including Lab. Code § 226(a)(1)-(9)) and failure to keep required records (Lab. Code § 1174); 6) failure to timely pay wages during employment and upon separation of employment; 7) failure to provide written commission agreements; 8) illegal non-compete / non-solicit agreements; and 9) failure to reimburse expenses.

4. **HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?**

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member. The Workweeks counts will be adjusted for all persons who were part of the previously settled case, titled *Lax v. Roto- Rooter Services Co.*, Case No. 18CV338652.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$12,500.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Roto-Rooter's records, are stated in the first page of this Notice. You have until [DATE] to challenge the number of Class Workweeks and/or PAGA Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Roto-Rooter's calculation of Class Workweeks and PAGA Pay Periods based on Roto-Rooter's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Roto-Rooter's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Gonzalez v. Roto-Rooter*, No. 22STCV34334 (LA Sup. Ct.), and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by [DATE], or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Roto-Rooter are asking the Court to approve. At least 16 days before the Final Approval Hearing, Class Counsel will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Payments stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiffs are requesting as Class Representative Service Payments. You can also view

copies of these documents on the Administrator's Website [ADD URL] or the Court's website [ADD URL]

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Payments may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiffs are too high or too low. **The deadline for sending written objections to the Administrator is [DATE].** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action (*Gonzalez v. Roto-Rooter*) and include your name, current address, telephone number, and approximate dates of employment for Roto-Rooter and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [LOCATION] at [TIME] in Department [DEPT] of the Los Angeles Superior Court, located at [ADDRESS], Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiffs, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website [ADD URL] beforehand to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Roto-Rooter and Plaintiffs have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to CPT Group's website at [ADD URL]. You can also telephone or send an email to the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Action, Case No. 22STCV64664. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

Class Counsels:

Aaron A. Bartz
BARTZ LAW GROUP, APC
5151 California Ave., Suite 100
Irvine, California 92617
(949) 504-4413

And

John F. Litwin, Esq.
Barkhordarian Law Firm, PLC
6047 Bristol Parkway, Second Floor
Culver City, CA 90230
(323) 450-2777

Settlement Administrator
CPT Group, Inc.
Email Address:
Mailing Address:
Telephone:
Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

EXHIBIT 2

BARKHORDARIAN
— L A W F I R M —
A P R O F E S S I O N A L C O R P O R A T I O N

WRITER'S DIRECT DETAILS

JOHN F. LITWIN, ESQ.
JOHN@BARKLAWFIRM.COM
323-900-0589

E M P L O Y M E N T L A W D E P A R T M E N T

6047 BRISTOL PARKWAY, SECOND FLOOR
CULVER CITY, CALIFORNIA 90230
WWW.BARKLAWFIRM.COM

TELEPHONE: 323-450-2777

FACSIMILE: 310-215-3416

May 10, 2022

VIA CERTIFIED MAIL

California Labor and Workforce Development Agency
Attn: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Re: **Ignain Perez v Roto-Rooter Services, Co.**

PAGA Notice Pursuant to California Labor Code section 2699.3, et seq.

Dear Sir/Madam:

Please note that this firm represents Ignain Perez (hereinafter "Complainant") and all other aggrieved employees, who intends to file a lawsuit against Roto-Rooter Services, Co. (hereinafter "Respondent") with regard to violations of the California Labor Code committed by Respondent. This letter shall serve as notice, and a request, pursuant to California Labor Code section 2699.3, *et seq.* (Private Attorneys General Act of 2004 (hereinafter "PAGA")), that your agency investigate the alleged violations by Respondent described herein against Complainant and other current and/or former employees. If the agency does not intend to investigate the alleged violations described herein, we respectfully request that the agency specifically notify our office of the same at your earliest possible opportunity so that we may proceed with our civil action with regard to the PAGA claims against Respondents.

**STATEMENT OF SPECIFIC PROVISIONS OF THE LABOR CODE ALLEGED TO
HAVE BEEN VIOLATED**

The above-mentioned civil action will be brought by Plaintiffs against Defendant for violations of California Labor Code sections 201- 204, 226(a), 226.7, 510, 1194, 1197, and 2751.

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FACTS AND THEORIES IN SUPPORT OF ALLEGED VIOLATIONS

Complainant alleges that Defendant's uniform and consistent policies and practices have resulted in the systematic violation of the labor code sections alleged as follows:

Illegal Unpaid Wages and Failure to Provide a Written Commission Agreement

Respondent operates a large plumbing services company. Respondent employs hundreds of commissioned plumbers and salespersons, who are responsible for driving to various worksites to sell and perform plumbing services.

Claimant alleges that Respondent compensated Claimant and other aggrieved employees on a commissions-only basis. However, Claimant and other aggrieved employees were not provided with a signed, written commission agreement setting out the terms by which the commission would be calculated, in violation of California Labor Code §2751.

Furthermore, Claimant and aggrieved employees were not permitted to take fully off-duty rest periods of no less than ten minutes in length. When Claimant and aggrieved employees were able to take a rest period, it was not separately compensated. Claimant and aggrieved employees' other non-productive time was also not separately compensated, and as such was entirely unpaid. These unpaid minimum wages remain outstanding, including for those aggrieved employees whose employment has been terminated. Violations of these statutes occurred both at the time the wages in question were earned and payable, and at the termination of employment. Respondents have also failed to pay all accrued nondiscretionary bonuses at the time of termination.

Failure to Provide Accurate Wage Statements

Labor Code section 226(a): Claimant alleges that, to the detriment and injury of its employees, Respondents knowingly and intentionally failed to provide employees with an accurate itemized wage statement in accordance with California law that depicted, among other things, Claimant and aggrieved employees non-productive hours and rates of pay.

As a result of all the above, Respondent are liable to Claimant and other current and/or former employees for their full, unpaid balance of their wages, waiting time and other penalties, plus interest thereon, attorneys' fees, and costs. Furthermore, Respondents are liable for civil penalties pursuant to California Labor Code sections 558 and/or 2699(f).

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CONCLUSION

We provide notice pursuant to California Labor Code section 2699.3 of the Private Attorneys General Act of 2004, and specifically ask that your agency conduct an investigation as to the alleged violations described herein; or, in the alternative, if the agency does not intend to investigate the alleged violations, we ask that you issue an immediate notification letter to our office confirming the same so that we may proceed with our civil action with regard to the PAGA claims against Respondent.

If you require anything further and/or have any questions, please do not hesitate to contact me. Nothing in this letter is intended to be, nor should be construed as, an admission against the interests of Juan Carlos Rios, and/or other current and/or former employees, and shall not be construed as a waiver of their rights, remedies, claims, or defenses, all of which are expressly reserved.

Very Truly Yours,

BARKHORDARIAN LAW FIRM
EMPLOYMENT LAW DEPARTMENT
/s/ John F. Litwin

John F. Litwin, Esq.

CC:
Roto-Rooter Services Co.
255 East 5th Street
Suite 2500
Cincinnati, OH 45202

From: noreply@salesforce.com on behalf of [LWDA DO NOT REPLY](#)
To: [John Litwin, Esq.](#)
Subject: Thank you for submission of your PAGA Case.
Date: Thursday, May 12, 2022 1:16:34 PM

5/12/2022

LWDA Case No. LWDA-CM-883492-22
Law Firm : Barkhordarian Law Firm, PC
Plaintiff Name : ignain Perez
Employer: Roto-Rooter Services Co.
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT 3

BARKHORDARIAN
— L A W F I R M —
A P R O F E S S I O N A L C O R P O R A T I O N

WRITER'S DIRECT DETAILS

JOHN F. LITWIN, ESQ.
JOHN@BARKLAWFIRM.COM
323-900-0589

E M P L O Y M E N T L A W D E P A R T M E N T

6047 BRISTOL PARKWAY, SECOND FLOOR
CULVER CITY, CALIFORNIA 90230
WWW.BARKLAWFIRM.COM

TELEPHONE: 323-450-2777

FACSIMILE: 310-215-3416

June 26, 2023

VIA CERTIFIED MAIL

California Labor and Workforce Development Agency

Attn: PAGA Administrator

455 Golden Gate Avenue, 9th Floor

San Francisco, CA 94102

Re: **IJose Gonzales, Ignain Perez, and Antonio Serrano v. Roto-Rooter Services Company, PAGA No.: LWDA-CM-883492-22**

Amended PAGA Notice Pursuant to California Labor Code section 2699.3, et seq.

Dear Sir/Madam:

Please note that Jose Gonzalez, Ignain Perez, and Antonio Serrano (hereinafter "Complainants") hereby amend the previously-filed PAGA Notice, Matter No. LWDA-CM-883492-22. Complainants have filed a lawsuit against Roto-Rooter Services Company (hereinafter "Respondent") on behalf of themselves and all other aggrieved employees with regard to violations of the California Labor Code committed by Respondent. This letter shall serve as an amended notice pursuant to California Labor Code section 2699.3, *et seq.* (Private Attorneys General Act of 2004 (hereinafter "PAGA")).

STATEMENT OF SPECIFIC PROVISIONS OF THE LABOR CODE ALLEGED TO HAVE BEEN VIOLATED

The above civil action has been brought by Complaints against Respondents for violations of California Labor Code sections 200- 204, 210, 226, 226.7, 432.5, 510, 512, 1174, 1194, 1197, 2802, and 2751. The factual and legal allegations underlying the violations are fully set forth in the operative First Amended Complaint, Los Angeles Superior Court Case No. 22STCV34334, attached hereto as **Exhibit A**.

CONCLUSION

We provide notice pursuant to California Labor Code section 2699.3 of the Private Attorneys General Act of 2004. If you require anything further and/or have any questions, please

do not hesitate to contact me. Nothing in this letter is intended to be, nor should be construed as, an admission against the interests of Complainants and/or other current and/or former employees, and shall not be construed as a waiver of their rights, remedies, claims, or defenses, all of which are expressly reserved.

Very Truly Yours,

BARKHORDARIAN LAW FIRM
E M P L O Y M E N T L A W D E P A R T M E N T

/s/ John F. Litwin

John F. Litwin, Esq., Counsel for Complainant
Ignain Perez

BARTZ LAW GROUP, APC

/s/ Aaron Bartz

Aaron Bartz, Esq., Counsel for Complainants
Jose Gonzalez and Antonio Serrano

CC:
Roto-Rooter Services Company
By and through its Counsel of Record: Jesse Ferrantella
Ogletree Deakins
4660 La Jolla Village Drive, Suite 900
San Diego, CA 92122

From: [DIR PAGA Unit](#)
To: [John Litwin, Esq.](#)
Subject: Thank you for your Amended PAGA Claim Notice Submission.
Date: Monday, June 26, 2023 8:05:09 PM

06/26/2023 08:04:47 PM

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

Item submitted: Amended PAGA Claim Notice

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT 4

From: [DIR PAGA Unit](#)
To: [John Litwin, Esq.](#)
Subject: Thank you for your Proposed Settlement Submission
Date: Monday, June 26, 2023 8:12:28 PM

06/26/2023 08:12:14 PM

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

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm