

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement” or “Stipulation”) is made by and between Plaintiff TREVOR JOHNSON (“Plaintiff”), as an individual and as a representative of the proposed Class described herein and as a representative of the State of California and putative aggrieved employees, and Defendant AIR PRODUCTS AND CHEMICALS, INC. (“APCI” or “Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Actions” means the actions, captioned *Trevor Johnson v. Air Products and Chemicals, Inc. et al*, Central District of California Case No. 2:22-cv-07327-JLS-PD (the “Class Action”) and *Trevor Johnson vs. Air Products and Chemicals, Inc.*, Los Angeles Superior Court Case No. 22STCV37775 (the “PAGA Action”).
- 1.2. “Administrator” means ILYM 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. “Class” means all current and former hourly, non-exempt truck drivers who were employed by Defendant in the state of California during the Class Period.
- 1.5. “Class Counsel” means Lavi & Ebrahimian, LLP, including Joseph Lavi, Vincent Granberry, William Tran, Eve Howe, Eric Naessig, and all lawyers affiliated with this firm.
- 1.6. “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.
- 1.7. “Class Data” means a confidential spreadsheet that includes for each 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.
- 1.8. “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 a PAGA Member.

- 1.9. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using reasonably available sources, methods and means including the National Change of Address database, skip traces, and if needed direct contact by the Administrator with Class Members.
- 1.10. “Class Notice” means the COURT APPROVED NOTICE OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT, to be mailed to Class Members in English in the form, without material variation unless ordered by the Court, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.11. “Class Period” means the period from February 14, 2019, through the date of Preliminary Approval of Class Action Settlement.
- 1.12. “Class Representative” means Plaintiff Trevor Johnson.
- 1.13. “Class Representative Service Payment” means the payment to the Class Representative for initiating and prosecuting the Action and providing services in support of the Action.
- 1.14. “Court” means the Superior Court of California, County of Los Angeles.
- 1.15. “Defendant” means named Defendant Air Products and Chemicals, Inc.
- 1.16. “Defense Counsel” means John Battenfeld and Sarah Zenewicz of Morgan, Lewis & Bockius, LLP.
- 1.17. “Effective Date” means the date on which the Judgment becomes a Final Judgment. For purposes of this Settlement Agreement, the Final Judgment “becomes final” only after the Court grants the motion for final approval of the settlement and upon the later of (i) the deadline for filing any appeal, writ, or other appellate proceeding challenging or opposing the Settlement has elapsed without any appeal, writ, or other appellate proceeding having been filed (i.e., sixty days after service of the judgment); (ii) the date any appeal, writ or other appellate proceeding challenging or opposing the Settlement has been dismissed finally and conclusively with no right to pursue further remedies or relief; or (iii) the date any appeal, writ or other appellate proceeding has upheld the Court’s final order with no right to pursue further remedies or relief. In this regard, it is the intention of the Parties that the Settlement shall not become effective, and Defendant will not be obligated to fund this Settlement, until the Court’s order approving the Settlement is completely final, and there is no further recourse by an appellant, objector, or intervenor who seeks to contest the Settlement.
- 1.18. “Final Approval” means the Court’s order granting final approval of the Settlement.

- 1.19. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.20. “Gross Settlement Amount” means \$370,000.00, which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 3.2 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 Litigation Expenses, Class Representative Service Payment and the Administrator’s Expenses.
- 1.21. “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.
- 1.22. “Individual PAGA Payment” means the PAGA Member’s pro rata share of 25% of the PAGA Payment calculated according to the number of PAGA Pay Periods worked during the PAGA Period.
- 1.23. “Judgment” means the judgment entered by the Court based upon granting the Final Approval of the Settlement.
- 1.24. “LWDA” means the California Labor and Workforce Development Agency.
- 1.25. “LWDA PAGA Payment” means the 75% of the PAGA Payment paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.26. “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 Payment, 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.
- 1.27. “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.
- 1.28. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.29. “PAGA Group” and “PAGA Group Members” means all persons currently or formerly employed by Defendant as hourly, non-exempt employees employed as truck drivers in the State of California at any time during the PAGA Period.
- 1.30. “PAGA Pay Period” means any Pay Period during which a PAGA Group Member

was employed in California and worked for Defendant for at least one day during the PAGA Period.

- 1.31. “PAGA Period” means the period from August 11, 2021, through the date of Preliminary Approval of Class Action Settlement.
- 1.32. “PAGA Notice” means Plaintiff’s August 11, 2022 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd. (a).
- 1.33. “PAGA Payment” means the \$20,000 amount or other amount ordered by the Court to be paid in settlement of the claim for PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the PAGA Group Members and 75% to the LWDA.
- 1.34. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.35. “Plaintiff” means Trevor Johnson, the named Plaintiff in the Actions.
- 1.36. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.37. “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval of the Settlement.
- 1.38. “Released Class Claims” means any and all claims based on or arising out of the same factual predicates in any of the complaints filed in the Actions, including the forthcoming Consolidated Complaint, as well as any of the PAGA letters submitted by Plaintiff to the LWDA in connection with the Actions, and including all claims that were pled or could have been pled based on the factual allegations in the Actions. This includes but is not limited to claims for: (1) failure to pay wages for all hours worked at minimum wage in violation of Labor Code sections 1194 and 1197; (2) failure to provide complete and accurate wage statements in violation of Labor Code section 226; (3) failure to timely pay all earned wages during employment and final paychecks due at time of separation of employment in violation of Labor Code sections 201, 202, 203 and 204; (4) failure to pay sick leave at the correct rate; (5) all claims for interest, penalties, attorneys’ fees, costs and any other monetary relief based upon the claims described above and including, but not limited to, pursuant to Labor Code §§ 210, 218.5, 218.6, Code of Civil Procedure §1021.5, and/or Civil Code §§ 3287(b) and 3289, and related claims that could have been asserted under the Fair Labor Standards Act, costs, attorneys' fees, injunctive relief, declaratory relief, or accounting that accrue

during the Class Period.

- 1.39. “Released PAGA Claims” means all claims for civil penalties under PAGA asserted in any of the complaints filed in the Actions, including the forthcoming Consolidated Complaint, as well as any of the PAGA letters sent by Plaintiff to the LWDA in connection with the Actions, and all claims that could have been asserted in the Actions based on the same alleged facts and theories, including claims for penalties based on violations of the California Labor Code and IWC Wage Orders for: (1) failure to pay wages for all hours worked at the legal minimum wage; (2) failure to pay wages for overtime hours worked at the overtime rate of pay; (3) failure to pay wages for workdays that Defendant failed to provide legally required and compliant meal periods; (4) failure to pay wages to hourly non-exempt employees for workdays that Defendants failed to provide legally required and compliant rest periods; (5) failure to timely pay earned wages during employment; (6) failure to pay employees all wages due at termination/resignation; (7) violations of Labor Code sections 201, 202, 203, 204, 226, 226.7, 233, 246, 510, 512, 558, 1194, 1197, 1197.1, and 1198.
- 1.40. “Released Parties” means Defendant and its present and former parent companies, subsidiaries, related or affiliated companies (including any companies, corporations, partnerships, alter egos, joint venturers, and actual or alleged joint employers), and each of their respective past, present and future shareholders, officers, directors, employees, agents, attorneys, insurers, partners, members, successors and assigns, and any individual or entity that could be liable for any of the Released Claims, and Defendant’s Counsel.
- 1.41. “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.
- 1.42. “Response Deadline” means 45 calendar days after the Administrator mails Notice to Class Members, and shall be the last date on which Class Members may: (a) mail Requests for Exclusion from the Settlement, (b) mail his or her written Objection to the Settlement, (c) submit Challenges to Workweeks and/or PAGA Pay Periods. Class Members to whom Class Notice is resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.43. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.44. “Workweek” means any week during which a Class Member was employed by Defendant as a truck driver in California and worked for at least one day during the

Class Period.

2. RECITALS.

- 2.1. On August 11, 2022, Plaintiff commenced the Class Action by filing a Complaint alleging causes of action against Defendant for (1) failure to pay wages for all hours worked at minimum wage in violation of Labor Code sections 1194 and 1197; (2) failure to pay overtime wages for daily overtime worked and failure to include all remuneration in calculating the regular rate of pay for purposes of paying overtime in violation of Labor Code sections 510 and 1194; (3) failure to authorize or permit meal periods and/or failure to pay meal period premium wages in violation of Labor Code sections 512 and 226.7; (4) failure to timely pay earned wages during employment in violation of Labor Code section 204; (5) failure to authorize or permit rest periods and/or failure to pay rest period premium wages in violation of Labor Code section 226.7; (6) failure to provide complete and accurate wage statements in violation of Labor Code section 226; (7) failure to timely pay all earned wages and final paychecks due at time of separation of employment in violation of Labor Code sections 201, 202, and 203; and (8) unfair business practices, in violation of business and professions code sections 17200 *et. Seq.*
- 2.2. On February 16, 2023, Plaintiff filed a First Amended Complaint in the Class Action, amending his first, second, and fifth causes of action, and dismissing his eighth cause of action for unfair business practices in violation of Business and Professions Code sections 17200 *et. seq.*
- 2.3. On September 18, 2023, Plaintiff filed a Second Amended Complaint in the Class Action, dismissing Plaintiff's second, third, fourth, and fifth causes of action against Defendant.
- 2.4. On December 2, 2022, Plaintiff filed the PAGA Action (Case No. 22STCV37775) against Defendant for civil penalties pursuant to the Private Attorneys General Act of 2004 ("PAGA"), Labor Code Sections 2698, *et seq.*
- 2.5. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice on August 11, 2022.
- 2.6. Prior to mediation, Plaintiff obtained, through informal discovery, time records, pay records, and information relating to the size and scope of the Class, as well as data permitting Plaintiff to fully understand the nature and scope of the allegations in the Complaint, including approximately 98.2% of time and wage records which were analyzed by Plaintiff's counsel. 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*”).

- 2.7. On February 21, 2024, Plaintiff and Defendant participated in an all-day mediation presided over by Hunter R. Hughes, III, Esq., which led to this Agreement to settle the Action via a mediator’s proposal.
- 2.8. “Consolidated Complaint” means Plaintiff’s First Amended Complaint filed in the PAGA Action bringing in the claims from the federal Class Action.
- 2.9. Based on their own independent investigations and evaluations, Class Counsel is of the opinion that the Settlement with Defendant for the consideration and terms set forth herein, considering the representative and class claims, and the risk of loss, is fair, reasonable, and adequate in light of all known facts and circumstances, and is in the best interests of the Class. Class Counsel is also of the opinion that the total consideration and payment set forth in this Stipulation of Settlement is fair, reasonable, and adequate in light of the uncertainties surrounding the risk of further litigation, the possibility of losing class certification, and the defenses that Defendant has asserted and/or could assert as to the substantive merit of the claims.
- 2.10. Class Counsel has weighed the monetary benefit under the Settlement to the Settlement Class against the expenses and length of continued proceedings that would be necessary to prosecute the Actions against Defendant through class certification, through pre-trial motions, summary judgment, trial and possible appeals. Class Counsel has also taken into account the uncertain outcome and risk of any litigation, especially in complex actions such as class and representative actions, as well as the difficulties and delay inherent in such litigation. As a result, Class Counsel has determined that the settlement set forth in this Stipulation of Settlement is in the best interests of the Class.
- 2.11. Defendant specifically and generally denies any and all liability or wrongdoing of any sort with regard to the claims alleged in the Actions and makes no concessions or admissions of liability of any sort, and contends that for any purpose other than Settlement, the Actions are not appropriate for class or representative action treatment. Nonetheless, Defendant has concluded that further conduct of the Actions would be protracted, distracting, and expensive, and that it is desirable that the Actions be fully and finally settled in the manner and upon the terms and conditions set forth in this Stipulation. Defendant has also taken into account the uncertainty and risks inherent in any litigation. Defendant has therefore determined that it is desirable and beneficial to it to settle the Actions in the manner and upon

the terms and conditions set forth in this Stipulation.

- 2.12. Neither this Stipulation, nor any document referred to in it, nor any actions taken pursuant to this Stipulation, is or should be construed as an admission by Defendant of any fault, wrongdoing, or liability whatsoever. Nor should the Stipulation be construed as an admission that Plaintiff could meet any of the class action requirements or that any PAGA claims would be manageable for trial. Defendant specifically disclaims and denies any such liability or wrongdoing alleged in the Actions. Defendant maintains that the Released Class and PAGA claims, and all other allegations are without merit. The Parties have entered into this Agreement to avoid further disputes and litigation with the attendant inconvenience, nuisance, expenses, and risks. This Agreement and any related court documents are not and may not be cited or admitted as evidence of liability or wrongdoing by Defendant. Notwithstanding the foregoing, nothing in this Agreement shall limit Defendant's use of the Approval Order or Judgment to establish res judicata and/or collateral estoppel in any other action.

3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 3.2 below, Defendant promises to pay \$370,000.00 and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 8.1 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or PAGA Group Members to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 3.2. Escalator of Gross Settlement Amount or Truncation of Class Period. This settlement is based on Plaintiff's understanding (based on information supplied by Defendant) that Class Members worked approximately 21,894 Workweeks between the start of the Class Period and February 21, 2024 (the date of mediation), and that the number of Workweeks most likely will increase between the date of the mediation and the close of the Class Period. If it is determined that the number of workweeks during the Class Period exceeds 24,083 (21,894, plus 10% of 21,894), then, at Defendant's option, either (a) the Gross Settlement Amount will increase in proportion to the increased percentage over 10% - for example, if such increase in workweeks is 24,521, which is 12% over 21,894 workweeks, the Gross Settlement Amount will increase by 2%, or (b) the final day of the Class Period shall be set on the day before the number of the Workweeks reaches 24,083.

- 3.3. 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:

3.3.1 To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$10,000 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member and PAGA Group Member). Defendant will not oppose 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, Plaintiff will seek Court approval for any Class Representative Service Payments in accordance with the timing required under Code of Civil Procedure section 1005. 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. Plaintiff assumes full responsibility and liability for taxes owed on the Class Representative Service Payment.

3.3.2 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 \$123,333.33, and a Class Counsel Litigation Expenses Payment of not more than \$22,000.00. Defendant will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment in accordance with the timing required under Code of Civil Procedure section 1005. 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. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. Neither Class Counsel nor any other attorneys acting for, or purporting to act for, the Class, Class Members, or Plaintiff, may recover or seek to recover any amounts for fees, costs, or disbursements from the Defendant or the Released Parties except as expressly provided herein.

3.3.3 To the Administrator: An Administrator Expenses Payment not to

exceed \$6,500.00 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 \$6,500.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.3.4 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. The Parties recognize that the Individual Class Payments to be paid to Participating Class Members reflect settlement of a dispute over claimed wages, interest, expenses penalties, and other alleged damages.

3.3.4.1. Tax Allocation of Individual Class Payments. 25% 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. The other 75% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest, expenses and penalties (the "Non-Wage Portion"). The Non-Wage Portions 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. Other than as set forth above, the Administrator will not make any deductions, withholdings, or additional payments, including without limitation, medical or other insurance payments or premiums, employee 401(k) contributions or matching employer contributions, wage garnishments to the extent permitted by law, or charity withholdings, from or with respect to the Individual Class Payments, and entry of the Order of Final Approval by the Court shall be deemed authority not to make any such deductions, withholdings, or additional payments.

3.3.4.2. 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.

3.3.5 To the LWDA and PAGA Group: PAGA Payment in the amount of \$20,000.00 or other amount ordered by the Court to be paid from the Gross Settlement Amount, with 75% allocated to the LWDA PAGA Payment and 25% allocated to the Individual PAGA Payments.

3.3.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the PAGA Group's 25% share of PAGA Payment (\$5,000) by the total number of PAGA Period Pay Periods worked by all PAGA Group Members during the PAGA Period and (b) multiplying the result by each PAGA Group Member's PAGA Period Pay Periods. PAGA Group Members assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms if required by applicable tax law.

3.3.5.2. If the Court approves PAGA Payment of more than the amount requested, the Administrator will readjust the Net Settlement Amount accordingly. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. RELEASES OF CLAIMS.

4.1 Plaintiff's Release. Upon Defendant fully funding the Gross Settlement Amount and separately paying all employer payroll taxes, the Class Representative shall each be deemed to have fully, finally, and forever released the Released Parties from all Class Representative's Released Claims during the Class Period. The Class Representative may hereafter discover claims or facts in addition to, or different from, those which they now know or believe to exist, but Class Representative expressly agrees to fully, finally and forever settle and release any and all claims against the Released Parties, known or unknown, suspected or unsuspected, which exist or may exist on behalf of or against the other at the time of execution of this Agreement. The Class Representative shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits they may otherwise have had relating to the Class Representative's Released Claims pursuant to Section 1542 of the California Civil

Code, which provides as follows:

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.

Notwithstanding the foregoing, Class Representative does not waive or release any claim which cannot be waived or released by court-approved agreement or applicable law, including worker's compensation claims. Further, nothing in this Agreement shall prevent Class Representative from filing a charge or complaint with, or from participating in, an investigation or proceeding conducted by the SEC, OSHA, EEOC, DFEH, NLRB or any other federal, state or local agency charged with the enforcement of any employment or other applicable laws. Class Representative, however, understands that by signing this Agreement, she waives the right to recover any damages or to receive other relief in any claim or suit brought by or through the EEOC, the DFEH or any other state or local deferral agency on her behalf to the fullest extent permitted by law, but expressly excluding any monetary award or other relief available from the SEC/OSHA, including an SEC/OSHA whistleblower award, or other awards or relief that may not lawfully be waived.

- 4.2. Release by Participating Class Members. Upon Defendant fully funding the Gross Settlement Amount and separately paying all employer payroll taxes, all Participating Class Members fully and finally release the Released Parties from the Released Claims that arose during the Class Period.
- 4.3. Release by PAGA Group. Upon Defendant fully funding the Gross Settlement Amount and separately paying all employer payroll taxes, Plaintiff as a representative of the State of California and on behalf of the LWDA and as representative of the PAGA Group, fully and finally releases the Released Parties from the PAGA Released Claims for the PAGA Period.
- 4.4. No Effect on Employee Benefits. Neither the Settlement nor any amounts paid under the Settlement will modify any previously credited hours or service under any employee benefit plan, policy, or bonus program sponsored by the Released Parties. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under the Released Parties' sponsored benefit plans, policies, or bonus programs. The payments made under the terms of this Stipulation shall not be applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other form of compensation

for the purposes of the Released Parties' benefit plans, policies, or bonus programs. The Released Parties retain the right to modify the language of their benefit plans, policies and bonus programs to effectuate this intent, and to make clear that any amounts paid pursuant to this Settlement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purposes of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Stipulation of Settlement.

5. MOTION FOR PRELIMINARY APPROVAL.

- 5.1. Consolidated Complaint and Stay of Federal Action. Prior to Plaintiff filing a Motion for Preliminary Approval, the Parties stipulate and agree that for settlement purposes only, Defendant consents to the filing of an amended PAGA letter to add claims for sick leave violations and pre and post inspection off-the-clock work, and the filing of a Consolidated Complaint that consolidates the claims, legal allegations, and factual allegations pled in the Actions, as well as the sick pay claims and pre and post inspection off the clock claims as raised by Plaintiff at mediation, and as otherwise necessary to effectuate the Release in this Settlement Agreement, and to personal and subject matter jurisdiction in the Court. The Parties stipulate and agree for settlement purposes only, to the filing of a Consolidated Complaint, attached hereto as **Exhibit B**, in the Los Angeles Superior Court, promptly after execution of this Settlement Agreement. Upon filing the Consolidated Complaint, the Parties will request a stay of the federal Class Action. Plaintiff shall file the Consolidated Complaint before the filing of his Motion for Preliminary Approval of Settlement. If, for any reason, the Court does not grant preliminary or final approval of the settlement, or the Effective Date of the Agreement is not triggered, the Consolidated Complaint shall be stricken, the prior PAGA complaint on file in the PAGA Action prior to the date of this Agreement shall be the operative PAGA complaint, the stay will be lifted in the federal Class Action, and the Parties will return to the status quo in each court prior to the execution of this Agreement. Within five (5) calendar days of the Effective Date, Plaintiff shall dismiss the Class Action pending in federal court.
- 5.2. Responsibilities of Plaintiff: Plaintiff shall submit to the Court this Stipulation and exhibits thereto for preliminary approval by the Court. Plaintiff will prepare and file the motion for preliminary approval and supporting papers, subject to Defendant's prior review and approval. Plaintiff will provide the motion for preliminary approval to Defendant for its review and approval at least seven days before filing. The Parties will jointly prepare the proposed Preliminary Approval Order.

- 5.3. Submission to LWDA: Pursuant to California Labor Code § 2699(l), concurrently with the filing of the motion for Preliminary Approval, Class Representative will provide notice of the proposed Settlement to the LWDA.
- 5.4. Duty to Cooperate: If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, the Parties will expeditiously work together 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, the Parties will expeditiously work together on behalf of the Parties and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.
- 5.5. Preliminary Approval Order: The Court's preliminary approval of this Settlement shall be embodied in an order certifying the Class for settlement purposes only, preliminarily approving the Settlement and providing for Class Notice to be mailed to the Class in materially the same format attached hereto as **Exhibit A**, and which will also set the date for the Final Approval Hearing.

6. SETTLEMENT ADMINISTRATION AND CERTIFICATION.

- 6.1. Class Data. Not later than 30 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. 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 notify the Administrator if it discovers that the Class Data omitted material class member identifying information known to Defendant 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 use best efforts, in good faith, to resolve any issues related to material missing or omitted Class Data.
- 6.2. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc. 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.

- 6.3. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for the purposes of calculating payroll tax withholdings and providing reports to state and federal tax authorities.
- 6.4. 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.
- 6.5. Class Notice to Class Members.
- 6.5.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify the Parties that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
 - 6.5.2 Using reasonable efforts to perform as soon as possible, and in no event later than 21 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice substantially in the form attached to this Agreement as Exhibit A. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
 - 6.5.3 Not later than 3 business days after the Administrator’s receipt of any Class Notice returned by the USPS as undeliverable, 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 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.
 - 6.5.4 If the Administrator, Defense Counsel 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, 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 Response Deadline, whichever is later.

6.6. Requests for Exclusion (Opt-Outs).

- 6.6.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by mail, a signed written Request for Exclusion not later than the Response Deadline. A Request for Exclusion is a signed letter from a Class Member 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 postmarked by the Response Deadline.
- 6.6.2 The Class Representative, by signing this Stipulation, is bound by the terms herein and further agrees not to request to be excluded from the Settlement and not to object to any terms of this Stipulation. Any such request for exclusion or objection shall therefore be void and of no force or effect.
- 6.6.3 The Administrator may not reject a signed Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any signed 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. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may request additional proof of the Class Member's identity. The Administrator's determination of whether to accept or reject a Request for Exclusion shall be final.
- 6.6.4 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' Release of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- 6.6.5 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. Non-Participating Class

Members who are PAGA Group Members are deemed to release the claims identified in Release by PAGA Group and are eligible for an Individual PAGA Payment.

- 6.7. Conflicting Exclusions and Objections. A Class Member cannot submit both a Request for Exclusion and an objection. If a Class Member submits both a valid and timely objection and Request for Exclusion, the objection will control and the Request for Exclusion will be invalid.
- 6.8. Challenges to Calculation of Workweeks and Pay Periods. Each Class Member shall have until the Response Deadline to challenge the number of 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 email or mail. The Administrator will ask the challenging Class Member to submit supporting documentation. For these challenges, Defendant's records will be presumed accurate. If a Class Member disputes Defendant's records, he or she will have the burden of proof to establish otherwise with documentary evidence. 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 and the Administrator's determination of the challenges.
- 6.9. Objections to Settlement.
- 6.9.1 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.
- 6.9.2 Participating Class Members may send written objections to the Administrator, by mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present 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 the Response Deadline. The written objection should state the Participating Class Member's name and address and describe the reason(s) why the Participating Class Member objects to the Settlement and include or attach any documents upon which the objection is based.

- 6.9.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.
- 6.10. No Solicitation. The Parties and their counsel agree that they will not solicit, encourage, counsel or advise any individual to opt out of or object to the Settlement.
- 6.11. 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.
- 6.11.1 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 Order, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval Order and the Judgment. The settlement website will have the URL www.TrevorJohnsonClassActionSettlement.com, or a substantially similar URL subject to the Parties' approval, and the website will only remain available until 30 days after the Effective Date at which time it will be taken down by the Administrator. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls and emails.
- 6.11.2 Weekly Reports. The Administrator will, 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, written objections received, and challenges to Workweeks and/or Pay Periods received and/or resolved ("Weekly Report"). The Weekly Reports must include the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and written objections received.
- 6.11.3 Administrator's Declaration. Not later than 14 days before the date by which Plaintiff is 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 the

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), and the number of written objections. 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.

- 6.11.4 Final Report by 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. Plaintiff is responsible for filing the Administrator's declaration in Court.
- 6.11.5 Nullification of Settlement. Defendant shall have the sole right to void and withdraw from this Settlement if: (a) within fourteen (14) calendar days after expiration of the Response Deadline Defendant exercises its option because five percent (5%) or more of the Class Requests Exclusion from this Settlement; (b) the Court does not certify the Class, or does not issue an order releasing all of the Released Class Claims defined in this Stipulation, or does not approve the PAGA settlement including the release all of the Released PAGA Claims, or otherwise makes an order inconsistent with the Settlement's material terms concerning the releases or consideration; or (c) Plaintiff or Class Counsel materially breach the Settlement of this Agreement. If Defendant nullifies the settlement under (a), it will pay administration costs to date; otherwise, the Parties will split the costs.
- 6.11.6 Interim Stay of Proceedings. The Parties agree to hold in abeyance all proceedings in the Actions, except such proceedings necessary to implement and complete the Settlement. Further, without further order of the Court, the Parties hereto may agree in writing to reasonable extensions of time to carry out any of the provisions of the Settlement.

7. MOTION FOR FINAL APPROVAL.

- 7.1. Motion for Final Approval. Class Counsel will be responsible for drafting the

Motion for Final Approval that includes a request for approval of the PAGA settlement under Labor Code section 2699, and approval of the requested Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Administrator Expenses Payment to be heard at the Final Approval Hearing. Plaintiff will provide the draft Motion for Final Approval and supporting papers to Defendant for its review and comment at least seven days before filing. The Parties will jointly prepare any proposed order granting final approval. Plaintiff shall request that the Court schedule the Final Approval Hearing no earlier than thirty (30) days after the expiration of the Response Deadline. Class Counsel will file the Motion before the calendared Final Approval Hearing in accordance with the timing required by Code of Civil Procedure section 1005.

- 7.2. Response to Objections. Each Party retains the right to respond to any objection raised to the Settlement, including the right to file responsive documents in Court no later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 7.3. 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 Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment or to order a different amount for the PAGA Payment shall not constitute a material modification to the Agreement.
- 7.4. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Actions, and the Settlement pursuant to Code of Civil Procedure section 664.6 and California Rules of Court, Rule 3.769 solely for purposes of: (a) enforcing this Agreement and/or Judgment; (b) addressing settlement administration matters; and (c) addressing such post-Judgment matters as are permitted by law.
- 7.5. 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 a Class Member 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.

7.6. Appellate Court Orders 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. 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.

7.7. 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.

8. SETTLEMENT FUNDING AND PAYMENTS.

8.1. Funding of Gross Settlement Amount. Defendant will pay the Gross Settlement Amount by the later of 15 calendar days after the Administrator provides all information necessary for Defendant to transfer funds to a QSF, or 15 calendar days after the Effective Date.

8.2. 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 Administration Expenses 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.

8.3. Payments to the Participating Class Members and PAGA Group.

8.3.1 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 U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Class 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 PAGA Group Members including Non-Participating Class Members who qualify as PAGA Group Members (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.

8.3.2 The Administrator must conduct a Class Member Address Search for all 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.

8.3.3 Forty-five days before the check cashing deadline, the Administrator will send a reminder postcard to anyone who has not yet cashed an Individual Class Payment or Individual PAGA Payment check.

8.4. Uncashed Checks. 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 or PAGA Group Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

9. ADDITIONAL PROVISIONS.

9.1. 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 Actions have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Actions 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 Actions, and Plaintiff reserves 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 Actions 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).

9.2. No Press. The Parties agree that they and their counsel will not issue a press release or otherwise issue any advertising related to this Settlement, or hold any press conferences or initiate contact with a member of the press, including on social media or any website, about this case and/or the fact, amount or terms of the Settlement. If the Parties are contacted by the press about the Settlement, they will respond only that "the matter was resolved," or words to that effect. Nothing in this paragraph shall prevent Class Counsel from communicating with the Class Members, the LWDA, or the court in which the Action is pending, as may be required to carry out the terms of this Settlement and/or fulfill their ethical responsibilities under the Settlement and to their respective clients, except that Class Counsel may put publicly available information about the settlement in any description of their experience or the like in order to describe their experience to a court.

9.3. Confidentiality Prior to Preliminary Approval. The Parties 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 if there is such a matter; (3) 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. The Parties 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.

- 9.4. 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.
- 9.5. Attorney Authorization. The Parties separately warrant and represent that they have authorized their respective Counsel to take all appropriate action required or permitted to be taken 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.
- 9.6. 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.
- 9.7. Privacy of Documents and Information. The Parties agree that none of the documents and information provided to Plaintiff and Class Counsel by Defendant in connection with the Action and this Settlement shall be used for any purpose (including in any other litigation) other than this Settlement of the Action, and that any materials obtained for purposes or mediation shall be subject to all applicable privileges and restrictions.
- 9.8. 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. Class Counsel further represents and warrants that Class Counsel does not currently represent any other current or former employee of Defendant in connection with any dispute or potential dispute with Defendant.

- 9.9. No Tax Advice. Each Party to this Stipulation (for purposes of this section, the “acknowledging party” and each Party to this Stipulation other than the acknowledging party, an “other party”) acknowledges and agrees that (1) no provision of this Stipulation, and no written communication or disclosure between or among the Parties or their attorneys and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his, her, or its own, independent legal and tax counsel for advice (including tax advice) in connection with this Stipulation, (b) has not entered into this Stipulation based upon the recommendation of any other party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or advisor to any other party to avoid any tax penalty that may be imposed on the acknowledging party; and (3) no attorney or advisor to any other party has imposed any limitation that protects the confidentiality of any such attorney’s or adviser’s tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Stipulation.
- 9.10. 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 counsel, and approved by the Court.
- 9.11. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 9.12. 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.
- 9.13. 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.
- 9.14. Severability. Before declaring any provision of this Stipulation invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Stipulation valid and enforceable. Should the Court deem any clause or provision of this Stipulation be invalid, illegal, or unenforceable, it shall first attempt to modify or reform it as minimally necessary to be valid, lawful, and enforceable.

- 9.15. 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.
- 9.16. 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, Plaintiff 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.
- 9.17. 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.
- 9.18. 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.
- 9.19. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Joseph Lavi, Esq. (SBN 209776)
Vincent C. Granberry, Esq. (SBN 276483)
Eve Howe, Esq. (SBN 350007)
Eric J. Naessig, Esq. (SBN 343081)
LAVI & EBRAHIMIAN, LLP
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Telephone: (310) 432-0000
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vgranberry@lelawfirm.com
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enaessig@lelawfirm.com

To Defendant:
MORGAN, LEWIS & BOCKIUS LLP
John S. Battenfeld
Sarah Zenewicz
300 South Grand Avenue
Twenty-Second Floor
Los Angeles, CA 90071-3132
Tel: +1.213.612.2500
john.battenfeld@morganlewis.com
sarah.zenewicz@morganlewis.com

- 9.20. Execution in Counterparts. This Agreement may be executed in one or more counterparts including execution electronically, (i.e. DocuSign) 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 counterparts will be admissible in evidence to prove the existence and contents of this Agreement.
- 9.21. 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: 04/10/2025

TREVOR JOHNSON
TREVOR JOHNSON

Dated: April 1, 2025

AIR PRODUCT & CHEMICALS, INC.

Kevin A. Ormerod

Name: Kevin A. Ormerod

Title: Asst General Counsel , Employment
and Commercial

APPROVED AS TO FORM ONLY:

Dated: 04/10/2025

LAVI & EBRAHIMIAN, LLP

JOSEPH LAVI

Joseph Lavi, Esq.

Vincent Granberry, Esq.

William Tran, Esq.

Eve Howe, Esq.

Eric J. Naessig, Esq.

Attorneys for TREVOR JOHNSON on
behalf of himself and all others similarly
situated

Dated: 4/07/2025

MORGAN, LEWIS & BROCKIUS, LLP

John S. Battenfeld

John S. Battenfeld, Esq.

Sarah Zenewicz, Esq.

Attorneys for Defendant AIR PRODUCTS
CHEMICALS, INC.

EXHIBIT A

**COURT APPROVED NOTICE OF CLASS AND REPRESENTATIVE ACTION
SETTLEMENT**

Johnson v. Air Products and Chemicals, Inc., Los Angeles County Superior Court Case No.22STCV37775
Johnson v. Air Products and Chemicals, Inc., Central District of California Case No. 2:22-cv-07327-WLH-PD

***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 a settlement payment from two employee class and representative action lawsuits (the “Actions”), both entitled *Johnson v. Air Products and Chemicals, Inc.*, for alleged wage and hour violations. The Actions were filed by a former employee (“Plaintiff”) and seek payment of (1) back wages and other relief for a class of hourly, non-exempt employees employed as truck drivers (“Class Members”) who worked for Defendant Air Products and Chemicals, Inc. during the Class Period from August 11, 2018 to [end date]; and (2) penalties under the California Private Attorneys General Act (“PAGA”) for all hourly non-exempt truck drivers in California during the PAGA Period from August 11, 2021 to [end date] (“PAGA Group Members”). For the purposes of this Notice, Air Products and Chemicals, Inc. shall be referred to here as the “Company.” The Court has not made any decision on the merits and the Company denies all allegations in the Actions.

Based on the Company’s records, and the Parties’ current assumptions, your **Individual Class Payment is estimated to be \$** [redacted] (less withholding) and your **Individual PAGA Payment is estimated to be \$** [redacted]. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to the Company’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 the Company’s records showing that **you worked** [redacted] **workweeks** during the Class Period and you **worked** [redacted] **pay periods** during the PAGA Period. If you believe that you worked more workweeks or pay periods during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

Read this Notice carefully. You will be deemed to have carefully read and understood it. Your legal rights are affected whether you act or not.

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 if you are also a PAGA Group Member, you will be eligible for an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the claims against the Company that are covered by this Settlement (Released Class Claims and Released PAGA Claims).
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You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is [45 calendar days after notice is mailed]	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 not be bound by the class portion of the Settlement and you will not be eligible for an Individual Class Payment. If you opt out of the Class Settlement, you 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. The Company must pay Individual PAGA Payments to all PAGA Group members and the PAGA Group Members can no longer pursue Released PAGA Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by [45 calendar days after notice is mailed]	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 Plaintiff who pursued the Actions on behalf of the Class and the PAGA Group Members. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the [redacted] Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on [redacted]. 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 orally 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 [redacted]	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. This means workweeks or Pay Periods during which you were on a continuous leave of absence and did not work at least one day during that workweek or Pay Period will not be counted. The number of Class Period Workweeks and number of PAGA Period Pay Periods you worked according to the Company's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [redacted]. See Section 4 of this Notice.

1. WHAT ARE THE ACTIONS ABOUT?

Plaintiff is a former Company employee. The Actions claim the Company as to its truck drivers violated California labor laws by failing to pay minimum wages, failing to pay overtime wages, failing to provide meal and rest periods, failing to timely pay wages, failing to pay sick leave, failing to provide complete and accurate wage statements, failing to pay wages due upon termination, and unfair business practices. Based on the same alleged violations, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”).

The Company denies all allegations in the Actions and contends that it has fully complied with federal, state, and local wage and hour laws. The Company also contends that its truck drivers are not covered by California overtime, meal period and rest period rules. The settlement is not an admission of any wrongdoing by the Company or an indication that any law was violated or that the Actions were suitable for class or representative treatment.

2. WHAT DOES IT MEAN THAT THE ACTIONS HAVE SETTLED?

So far, the Court has made no determination whether the Company or Plaintiff is correct on the merits. In the meantime, Plaintiff and the Company hired an experienced, neutral mediator in an effort to resolve the Actions by negotiating an to end 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 lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Actions and enforcing the Agreement, Plaintiff and the Company 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, the Company does not admit any violations or concede the merit of any claims.

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?

- a. The Company Will Pay \$370,000.00 as the Gross Settlement Amount (Gross Settlement). If the Court finally approves the settlement, the Company 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, the Company will fund the Gross Settlement no more than 15 days after the Judgment entered by the Court becomes final.

- b. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff 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:
- i. Up to \$123,333.33 (one-third of the Gross Settlement Amount) to Class Counsel for attorneys' fees and up to \$22,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Actions without payment.
 - ii. Up to \$10,000.00 as a Class Representative Award for filing the Actions, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
 - iii. Up to \$6,500.00 to the Administrator for services administering the Settlement.
 - iv. Up to \$20,000.00 for PAGA Payment for settlement for claims for civil penalties, allocated 75% to the LWDA and 25% to be distributed as Individual PAGA Payments to the PAGA Group Members based on their PAGA Period Pay Periods per the applicable version of PAGA.

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

- c. Net Settlement Distributed to Participating Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the remainder of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
- d. Taxes Owed on Payments to Class Members and the PAGA Group. The Settlement shall be broken down as follows: 25% ("Wage Portion") of each Individual Class Payment to the settlement of claims for unpaid wages and 75% ("Non-Wage Portion") to settlement of interest, penalties, and expenses. The Wage Portion is subject to withholding and will be reported on IRS W-2 Forms. The Company will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are allocated entirely as penalties 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 as required by law.

Although Plaintiff and the Company 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 this Settlement. You should consult a tax advisor if you have any questions about the tax consequences of this Settlement.

- e. 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 are sent to the Controller's Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.
- f. 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 **[Response Deadline]**, that you wish to opt-out. The Request for Exclusion should be a signed letter from a Class Member setting forth the Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members will not receive Individual Class Payments but will preserve their rights to personally pursue wage and hour claims against the Company.
- g. You Cannot Opt-Out of the PAGA Portion of the Settlement. Class Members who exclude themselves from the Class Settlement remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against the Company based on the same facts alleged in the Actions and which accrued during the PAGA Period.
- h. 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 to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and the Company have agreed that, in either case, the Settlement will be void: the Company will not pay any money and Class Members will not release any claims against the Company.
- i. Administrator. The Court has appointed a neutral company, ILYM 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 and Pay Periods, 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.

- j. Participating Class Members' Release. After the Judgment is final and the Company 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 the Company concerning the legal claims being resolved in this Settlement or claims that could have been brought in the Actions based on the same facts alleged in the Actions. Specifically, you will be giving up or "releasing" the claims described below.

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 Air Products & Services, Inc., Defendant, and its present and former parent companies, subsidiaries, related or affiliated companies (including any companies, corporations, partnerships, alter egos, joint venturers, and actual or alleged joint employers), and each of their respective past, present and future shareholders, officers, directors, employees, agents, attorneys, insurers, partners, members, successors and assigns, and any individual or entity that could be liable for any of the Released Claims, and Defendant's Counsel ("Released Parties") from any and all claims based on or arising out of the same factual predicates in the operative Complaint filed in the Actions, as well as the PAGA letter submitted by Plaintiff to the LWDA in connection with the Actions, and including all claims that were pled or could have been pled based on the factual allegations in the Actions. This includes but is not limited to claims for: (1) failure to pay wages for all hours worked at minimum wage in violation of Labor Code sections 1194 and 1197; (2) failure to provide complete and accurate wage statements in violation of Labor Code section 226; (3) failure to timely pay all earned wages during employment and final paychecks due at time of separation of employment in violation of Labor Code sections 201, 202, 203 and 204; (4) failure to pay sick leave at the correct rate; (5) all claims for interest, penalties, attorneys' fees, costs and any other monetary relief based upon the claims described above and including, but not limited to, pursuant to Labor Code §§ 210, 218.5, 218.6, Code of Civil Procedure § 1021.5, and/or Civil Code §§ 3287(b) and 3289, and related claims that could have been asserted under the Fair Labor Standards Act, costs, attorneys' fees, injunctive relief, declaratory relief, or accounting that accrue during the Class Period.

- k. Released PAGA Claims. After the Court's judgment is final, and the Company has fully funded the Gross Settlement and separately paid all employer payroll taxes, Plaintiff as a representative of the State of California and on behalf of the LWDA and as representative of the PAGA Group, and all PAGA Group Members even if they opt out of the Class Settlement, fully and finally release the Released Parties from all claims for civil penalties under PAGA asserted in any of the complaints filed in the Actions, as well as any of the PAGA letters sent by Plaintiff to the LWDA in connection with the Actions, and all claims that could have been asserted in the Action based on the same alleged facts and theories, including claims for penalties based on violations of the California Labor Code and IWC Wage Orders for: (1) failure to pay wages for all hours worked at the legal minimum wage; (2) failure to pay wages for overtime hours worked at the overtime rate of pay; (3) failure to pay wages for workdays that Defendant failed to provide legally required and compliant meal periods; (4) failure to pay wages to hourly non-exempt employees for workdays that Defendants failed to provide legally required and compliant rest periods; (5) failure to timely pay earned wages during employment; (6) failure to pay employees all wages due at termination/resignation; (7) violations of Labor Code sections 201, 202, 203, 204, 226, 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1, and 1198 during the PAGA period.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

- a. 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.
- b. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$5,000.00 by the total number of PAGA Pay Periods worked by all PAGA Group Members and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each PAGA Group Member.
- c. 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 the Company's records, are stated on the first page of this Notice. You have until [REDACTED] to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail or email. 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 the Company's calculation of Workweeks and/or Pay Periods based on the Company'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/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and the Company's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

- a. 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 are also in the PAGA Group. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
- b. Non-Participating Class Members who are PAGA Group Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to the PAGA Group members who opt out of the Class Settlement.

Your check will be sent to the same address as in this Notice unless you update your address with the Administrator. 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 Actions as *Johnson v. Air Products and Chemicals, Inc.*, 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 [REDACTED], 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 Class Settlement. A Participating

Class Member who disagrees with any aspect of the Settlement, including the proposed payments to Class Counsel for Fees and Litigation Expenses and a Service Payment to Plaintiff, may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is [REDACTED].**

If you want to object to the Settlement in writing, you can mail a written objection to the Administrator. Be sure to explain what you object to, why you object, and any facts that support your objection. Your written objection must identify the Actions, *Johnson v. Air Products and Chemicals, Inc.*, and include your name, and current address. Section 9 of this Notice has the Administrator's address.

Before deciding whether to object, you may wish to see what Plaintiff and the Company are asking the Court to approve. At least 16 court days before the [REDACTED] Final Approval Hearing, Class Counsel and/or Plaintiff 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 Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website [REDACTED] or the Court's website [REDACTED].

Alternatively, you 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 [REDACTED] at [REDACTED] in Department 39 of the Los Angeles Superior Court – Stanley Mosk Courthouse, located at 111 North Hill Street, 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, Plaintiff, and the Administrator. The Court will invite comments 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 Check the Court's website <https://www.lacourt.org/casesummary/ui/> and entering the Case Number, 2STCV37775 for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website ([REDACTED]) or the Court's website <https://www.lacourt.org/casesummary/ui/> beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything the Company and Plaintiff 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 the Administrator's website at [REDACTED]. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below or consult the Superior Court website by going to <https://www.lacourt.org/casesummary/ui/> and entering Case Number 22STCV37775. You can also make an appointment to personally review court documents in the Clerk's Office by calling (213) 830-0800.. [REDACTED].

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

The Contact information for the Settlement Administrator is as follows:

Email Address:

Mailing

Address:

Telephone:

The addresses for the Parties' counsel are as follows:

Class Counsel	Counsel for Defendant
Joseph Lavi Vincent Granberry Lavi & Ebrahimian, LLP 8889 W. Olympic Blvd., Suite 200 Beverly Hills, CA 90211 Tel.: (310) 432-0000 E-Mail: jlavi@lelawfirm.com vgranberry@lelawfirm.com	Morgan, Lewis & Bockius LLP John S. Battenfeld 300 S. Grand Avenue Twenty-Second Floor Los Angeles, CA 90071-3132 Tel: (213) 612-2500 john.battenfeld@morganlewis.com Sarah Zenewicz One Market, Spear Street Tower San Francisco, California 94105-1596 Tel:(415) 442-1000 sarah.zenewicz@morganlewis.com

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 B

1 Joseph Lavi, Esq. (SBN 209776)
2 Vincent C. Granberry, Esq. (SBN 276483)
3 William Tran, Esq. (SBN 335908)
4 Eric J. Naessig, Esq. (SBN 343081)
5 **LAVI & EBRAHIMIAN, LLP**
6 8889 W. Olympic Boulevard, Suite 200
7 Beverly Hills, California 90211
8 Telephone: (310) 432-0000
9 Facsimile: (310) 432-0001
10 Emails: jlavi@lelawfirm.com
11 vgranberry@lelawfirm.com
12 wtran@lelawfirm.com
13 enaessig@lelawfirm.com

14 Attorneys for Plaintiff TREVOR JOHNSON,
15 on behalf of himself and others similarly situated

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **FOR THE COUNTY OF LOS ANGELES-CENTRAL DISTRICT**

18 TREVOR JOHNSON, on behalf of himself and
19 other aggrieved employees,

20 Plaintiff,

21 vs.

22 AIR PRODUCTS AND CHEMICALS, INC.;;
23 and DOES 1 to 100, inclusive,

24 Defendants.

Case No.: 22STCV37775

CLASS AND PAGA ACTION

**PLAINTIFF TREVOR JOHNSON'S
FIRST AMENDED COMPLAINT
FOR:**

1. **FAILURE TO PAY WAGES FOR ALL HOURS WORKED AT MINIMUM WAGE IN VIOLATION OF LABOR CODE SECTIONS 1194 AND 1197**
2. **FAILURE TO PAY OVERTIME WAGES FOR DAILY OVERTIME WORKED AND FAILURE TO INCLUDE ALL REMUNERATION IN CALCULATING THE REGULAR RATE OF PAY FOR PURPOSES OF PAYING OVERTIME IN VIOLATION OF LABOR CODE SECTIONS 510 AND 1194**
3. **FAILURE TO AUTHORIZE OR PERMIT MEAL PERIODS AND/OR FAILURE TO PAY MEAL PERIOD PREMIUM WAGES IN VIOLATION OF LABOR CODE SECTIONS 512 AND 226.7**
4. **FAILURE TO AUTHORIZE OR PERMIT REST PERIODS**

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**AND/OR FAILURE TO PAY
REST PERIOD PREMIUM
WAGES IN VIOLATION OF
LABOR CODE SECTION 226.7**

5. **FAILURE TO PAY SICK
WAGES IN VIOLATION OF
LABOR CODE 203, 233, 246**
6. **FAILURE TO PROVIDE
COMPLETE AND ACCURATE
WAGE STATEMENTS IN
VIOLATION OF LABOR CODE
SECTION 226**
7. **FAILURE TO TIMELY PAY
EARNED WAGES DURING
EMPLOYMENT IN VIOLATION
OF LABOR CODE SECTION 204**
8. **FAILURE TO TIMELY PAY ALL
EARNED WAGES AND FINAL
PAYCHECKS DUE AT TIME OF
SEPARATION OF
EMPLOYMENT IN VIOLATION
OF LABOR CODE SECTIONS
201, 202, AND 203**
9. **UNFAIR BUSINESS
PRACTICES, IN VIOLATION OF
BUSINESS AND PROFESSIONS
CODE SECTIONS 17200, ET SEQ**
10. **CIVIL PENALTIES PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004
("PAGA"), LABOR CODE
SECTIONS 2698, ET SEQ.**

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COMES NOW Plaintiff TREVOR JOHNSON ("Plaintiff"), who alleges and complains
against Defendants AIR PRODUCTS AND CHEMICALS, INC; and DOES 1 to 100, inclusive
(collectively "Defendants") as follows:

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I. INTRODUCTION

1. This is a class action lawsuit and Private Attorneys' General Act of 2004, Lab. Code
§§ 2698, *et seq.* ("PAGA") representative action associated with Defendant's violation of the Labor
Code based on Defendants' failure to pay wages for all hours worked at minimum wage; failure to
pay for all overtime hours worked at the overtime rate of pay; failure to include all remuneration in

1 calculating the regular rate of pay for purposes of paying overtime, premium wages and sick pay;
2 failure to authorize or permit all legally required and compliant meal periods or pay meal period
3 premium wages; failure to authorize or permit all legally required and compliant rest periods or pay
4 rest period premium wages; failure to provide accurate wage statements; failure to timely pay earned
5 wages during employment; and waiting time penalties for failure to timely pay employees all wages
6 due upon separation of employment. Plaintiff brings this action on behalf of the State of California,
7 himself and other current and former putative class members and aggrieved employees of
8 Defendants, who worked as hourly non-exempt employees employed as truck drivers in California
9 during the relevant time period, seeking unpaid wages and interest thereon; statutory penalties for
10 failure to provide accurate wage statements; statutory waiting time penalties for failure to timely
11 pay all wages due upon separation of employment; reasonable attorneys' fees pursuant to Labor
12 Code sections 218.5, 226(e) and 1194; costs; interest brought on behalf of Plaintiff and others
13 similarly situated; and civil penalties associated with Defendants' violations of the Labor Code
14 based on the claims set forth above. Plaintiff seeks on a representative basis, following notice to the
15 Labor and Workforce Development Agency, civil penalties, reasonable attorneys' fees pursuant to
16 Labor Code section 2699(g)(1) and costs brought on behalf of Plaintiff, the State of California, and
17 others aggrieved.

18 **II. JURISDICTION AND VENUE**

19 2. This Court has jurisdiction over Plaintiff's and putative class members' claims for
20 the following reasons: Defendants operate throughout California; Defendants employed Plaintiff
21 and putative class members in locations throughout California, including but not limited to Los
22 Angeles County, at 12965 Sandoval St, Santa Fe Springs, CA 90670; more than two-thirds of
23 putative class members are California citizens; the principal violations of California law occurred
24 in California; no other class actions have been filed against Defendants in the last four (4) years
25 alleging similar wage and hour violations; the conduct of Defendants forms a significant basis for
26 Plaintiff's and putative class members' claims; and Plaintiff and putative class members seek
27 significant relief from Defendants.

28 3. This Court has jurisdiction over the claims of Plaintiff and all other current and

1 former aggrieved California-based hourly non-exempt employees employed as truck drivers
2 because Plaintiff's lawsuit seeks civil penalties on behalf of herself, all other current and former
3 aggrieved California-based hourly, non-exempt employees employed as truck drivers , and the State
4 of California in excess of twenty-five thousand dollars (\$25,000); Defendants employed Plaintiff
5 and all other current and former aggrieved California-based hourly non-exempt employees
6 employed as truck drivers; and the injuries to Plaintiff and all other current and former aggrieved
7 California-based hourly non-exempt employees employed as truck drivers occurred in locations
8 throughout California, including but not limited to Los Angeles County, at 12965 Sandoval St, Santa
9 Fe Springs, CA 90670.

10 4. In response to the COVID-19 pandemic, the Judicial Council of California enacted
11 Emergency Rule 9 to the California Rules of Court, which provided that, notwithstanding any other
12 law, the statutes of limitations and repose for civil causes of action that exceed 180 days are tolled
13 from April 6, 2020, until October 1, 2020.

14 **III. PARTIES**

15 5. Plaintiff brings this action on behalf of himself and as a class representative and . as
16 a representative of the Labor and Workforce Development Agency on behalf of himself and other
17 current and former employees subject to violations of the Labor Code. The named Plaintiff and the
18 persons on whose behalf this action is filed include non-exempt employees of Defendants who work,
19 worked, or will work for Defendants as hourly non-exempt employees employed as truck drivers
20 in California. At all times mentioned herein, the currently named Plaintiff is and was domiciled and
21 a resident and citizen of California and was employed by Defendants as an hourly' non-exempt truck
22 driver from in or around May 2016, until on or about March 10, 2022.

23 6. Plaintiff is informed and believes and thereon alleges that Defendant employed him
24 and other hourly non-exempt employees employed as truck drivers throughout the State of
25 California and therefore their conduct forms a significant basis of the claims asserted in this matter.

26 7. Plaintiff is informed and believes and thereon alleges that Defendant AIR
27 PRODUCTS AND CHEMICALS, INC. is authorized to do business within the State of California
28 and is doing business in the State of California and/or that Defendants DOES 1-50 are, and at all

1 times relevant hereto were persons acting on behalf of Defendant AIR PRODUCTS AND
2 CHEMICALS, INC. in the establishment of, or ratification of, the aforementioned illegal wage and
3 hour practices or policies. Defendant AIR PRODUCTS AND CHEMICALS, INC. operates in Los
4 Angeles County and employed Plaintiff and putative class members in Los Angeles County,
5 including but not limited to, at 12965 Sandoval St, Santa Fe Springs, CA 90670.

6 8. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
7 through 50 are corporations, or are other business entities or organizations of a nature unknown to
8 Plaintiff that employed Plaintiff and aggrieved California non-exempt employees employed as truck
9 drivers, permitted Plaintiff, aggrieved employees, and putative class members to work, and
10 exercised control over the wages, hours and working conditions of employment of Plaintiff,
11 aggrieved employees, and class members.

12 9. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51
13 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued
14 individually and in his or her capacity as an agent, shareholder, owner, representative, manager,
15 supervisor, independent contractor and/or employee of each defendant who violated or caused to be
16 violated the minimum wage and overtime provisions of the Labor Code and/or any provision of the
17 Industrial Welfare Commission's wage orders regulating hours and days of work.

18 10. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff
19 sues said defendants by said fictitious names, and will amend this complaint when the true names
20 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as
21 permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously
22 named defendants is in some manner responsible for the events and allegations set forth in this
23 complaint.

24 11. Plaintiff makes the allegations in this complaint without any admission that, as to
25 any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and Plaintiff
26 reserves all of Plaintiff's right to plead in the alternative

27 **IV. DESCRIPTION OF ILLEGAL PAY PRACTICES**

28 12. Pursuant to the applicable Industrial Welfare Commission ("IWC") Wage Order

1 (“Wage Order”), codified at California Code of Regulations, title 8, section 11040, Defendants are
2 employers of Plaintiff within the meaning of Wage Order 9 and applicable Labor Code sections.
3 Therefore, each of these Defendants is jointly and severally liable for the wrongs complained of
4 herein in violation of the Wage Order and the Labor Code.

5 13. **Failure to pay wages for all hours worked at the legal minimum wage:**
6 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt truck
7 drivers. In California, an employer is required to pay hourly employees for all “hours worked,”
8 which includes all time that an employee is under the control of the employer and all time the
9 employee is suffered and permitted to work. This includes the time an employee spends, either
10 directly or indirectly, performing services which inure to the benefit of the employer.

11 14. Labor Code sections 1194 and 1197 require an employer to compensate employees
12 for all “hours worked” at least at the minimum wage rate of pay as established by the IWC and the
13 Wage Orders.

14 15. Plaintiff and similarly situated hourly non-exempt truck drivers worked more
15 minutes per shift than Defendants credited them with having worked. Defendants failed to pay
16 Plaintiff and similarly situated hourly non-exempt truck drivers all wages at the applicable minimum
17 wage for all hours worked due to Defendants’ policies, practices, and/or procedures, such as
18 “rounding” down or “shaving” Plaintiff’s and similarly situated hourly non-exempt truck drivers’
19 total daily hours at the time of their clock-in and clock-out to the nearest half an hour, to the benefit
20 of Defendants. For example but not limited to this example: During the pay period from February
21 14, 2022 to February 20, 2022, Plaintiff’s wage statement shows that Plaintiff’s time for his total
22 “Normal Working Hours” was rounded or shaved to the nearest hour; and

23 (a) Again, during the pay period from February 21, 2022 to February 27, 2022,
24 Plaintiff’s wage statement shows that Plaintiff’s time for his total “Normal Working Hours” was
25 rounded or shaved to the nearest half-hour.

26 16. Moreover, Defendants employed policies, practices, and/or procedures that required
27 Plaintiff and similarly situated hourly non-exempt truck drivers to attend to their trucks at all times
28 during their unpaid meal periods. For example, but not limited to these examples:

1 (a) On or about February 8, 2022, Plaintiff worked on average twelve (12) hour
2 per shift, entitling him to two meal periods per shift, but Plaintiff was required to attend to his truck
3 at all times during each meal period; and

4 (b) Again, on or about March 7, 2022, Plaintiff worked on average twelve (12)
5 hours per shift, entitling him to two meal periods per shift, but Plaintiff was required to attend to his
6 truck at all times during each meal period.

7 17. Defendants suffered, permitted, and required their hourly non-exempt truck drivers
8 to be subject to Defendants' control without paying wages for that time by requiring Plaintiff and
9 its other hourly non-exempt truck drivers to make pre and post-trip inspections of their trucks and
10 requiring them to stay on duty during their meal periods. This resulted in Plaintiff and similarly
11 situated hourly non-exempt truck drivers working time for which they were not compensated any
12 wages, in violation of Labor Code sections 1194, 1197, and Wage Order 9. **Failure to pay wages**
13 **for overtime hours worked at the overtime rate of pay and failure to include all remuneration**
14 **in calculating the regular rate of pay for purposes of paying overtime:** Defendants employed
15 many of their employees, including Plaintiff, as hourly non-exempt truck drivers. In California, an
16 employer is required to pay hourly employees for all "hours worked," which includes all time that
17 an employee is under the control of the employer and all time the employee is suffered or permitted
18 to work. This includes the time an employee spends, either directly or indirectly, performing services
19 which inure to the benefit of the employer.

20 18. Labor Code sections 510 and 1194 and Wage Order 4 require an employer to
21 compensate employees at a higher rate of pay for hours worked in excess of eight (8) hours in a
22 workday, more than forty (40) hours in a workweek, and on any seventh consecutive day of work
23 in a workweek: Any work in excess of eight hours in one workday and any work in excess of 40
24 hours in any one workweek and the first eight hours worked on the seventh day of work in any one
25 workweek shall be compensated at the rate of no less than one and one-half times the regular rate
26 of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate
27 of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight
28 hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the

1 regular rate of pay of an employee. Labor Code section 510; Wage Order 4, §3.

2 19. Defendants failed to pay Plaintiff and similarly situated non-exempt truck drivers all
3 wages at the applicable minimum wage for all hours worked due to Defendants' policies, practices,
4 and/or procedures including, but not limited to, "rounding" down or "shaving" Plaintiff's and
5 similarly situated non-exempt truck drivers' total daily hours at the time of their clock-in and clock-
6 out to the nearest half an hour, to the benefit of Defendants and by requiring Plaintiff and other
7 hourly non-exempt truck drivers to make pre and post-trip inspections of their trucks and requiring
8 them to stay on duty during their meal periods. Plaintiff and similarly situated non-exempt truck
9 drivers were not paid for this time.

10 20. To the extent the employees had already worked 8 hours in the day and on
11 workweeks they had already worked 40 hours in a workweek, the employees should have been paid
12 overtime for this unpaid time. This resulted in hourly non-exempt employees employed as truck
13 drivers working time which should have been paid at the legal overtime rate but was not paid any
14 wages in violation of Labor Code sections 510, 1194, and Wage Order 4.

15 21. Overtime is based upon an employee's regular rate of pay. "The regular rate at which
16 an employee is employed shall be deemed to include all remuneration for employment paid to, or
17 on behalf, of the employee." See Division of Labor Standards Enforcement – Enforcement Policies
18 and Interpretations Manual, Section 49.1.2.

19 22. In this case, Plaintiff alleges that when he and similarly situated non-exempt truck
20 drivers earned overtime wages, Defendants failed to pay them overtime wages at the proper
21 overtime rate of pay due to Defendants' failure to include all remuneration when calculating the
22 overtime rate of pay. Specifically, Defendants maintained a policy, practice, and/or procedure of
23 failing to include all remuneration such as "Retention Award(s)" and "NA Driver Incentive(s)," for
24 example, when calculating Plaintiff's and similarly situated non-exempt truck drivers' regular rate
25 of pay for the purpose of paying overtime.

26 23. Defendants' foregoing policy, practice, and/or procedure resulted in Defendants
27 failing to pay Plaintiff and similarly situated non-exempt truck drivers at their overtime rate of pay
28 for all overtime hours worked, in violation of Labor Code sections 510, 1194, 1198, and the Wage

1 Order.

2 24. **Failure to authorize or permit all legally required and compliant meal periods**
3 **and/or failure to pay meal period premium wages:** Defendants often employed hourly non
4 exempt truck drivers, including the named Plaintiff and similarly situated employees, for shifts
5 longer than five (5) hours in length and shifts longer than ten (10) hours in length.

6 25. California law requires an employer to authorize or permit an uninterrupted meal
7 period of no less than thirty (30) minutes no later than the end of the employee's fifth hour of work
8 and a second meal period no later than the employee's tenth hour of work. Labor Code §512; Wage
9 Order 4, §11. If the employee is not relieved of all duties during a meal period, the meal period shall
10 be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal period
11 is only permitted when (1) the nature of the work prevents an employee from being relieved of all
12 duty and (2) the parties have a written agreement agreeing to on-duty meal periods. If the employee
13 is not free to leave the work premises or worksite during the meal period, even if the employee is
14 relieved of all other duty during the meal period, the employee is subject to the employer's control
15 and the meal period is counted as time worked. If an employer fails to provide an employee a meal
16 period in accordance with the law, the employer must pay the employee one (1) hour of pay at the
17 employee's regular rate of pay for each workday that a legally required and compliant meal period
18 was not provided. Labor Code §226.7; Wage Order 4, §11.

19 26. Here, Plaintiff and similarly situated non-exempt truck drivers worked shifts long
20 enough to entitle them to meal periods under California law. Nevertheless, Defendants employed
21 policies, practices, and/or procedures that resulted in their failure to authorize or permit meal periods
22 to Plaintiff and similarly situated non-exempt truck drivers of no less than thirty (30) minutes for
23 each five-hour period of work as required by law. Such policies, practices, and/or procedures
24 included, but were not limited to, the following: (a) Requiring Plaintiff and similarly situated non-
25 exempt truck drivers to always remain with their trucks during their meal periods; and (b) Failing
26 to authorize or permit Plaintiff and similarly situated non-exempt truck drivers a second
27 uninterrupted duty-free meal period of no less than thirty (30) minutes for each five-hour period of
28 work as required by law.

1 27. Additionally, Defendants failed to pay Plaintiff and similarly situated non-exempt
2 truck-drivers a meal period premium wage of one (1) additional hour of pay at their regular rate of
3 compensation for each workday the employees did not receive all legally required and compliant
4 meal periods. Defendants employed policies and procedures which ensured that employees did not
5 receive any meal period premium wages to compensate them for workdays in which they did not
6 receive all legally required and compliant meal periods.

7 28. Finally, on occasions when Defendants paid Plaintiff and similarly situated non-
8 exempt truck drivers a “premium” wage for late, missed, short, on-premises, on-duty, and/or
9 interrupted meal periods, Defendants failed to pay the one (1) additional hour of pay at Plaintiff’s
10 and similarly situated non-exempt truck drivers’ regular rate of compensation. Specifically,
11 Defendants maintained a policy, practice, and/or procedure of failing to include all remuneration
12 such as “Retention Award(s)” and “NA Driver Incentive(s),” for example, when calculating
13 Plaintiff’s and similarly situated non-exempt truck drivers’ regular rate of pay for the purpose of
14 paying meal period premium wages.

15 29. The aforementioned policies, practices, and/or procedures of Defendants resulted in
16 Plaintiff and similarly situated non-exempt truck drivers not being provided with all legally required
17 and compliant meal periods and/or not receiving premium wages to compensate them for such
18 instances, all in violation of California law.

19 30. **Failure to authorize and permit all legally required and compliant rest periods**
20 **and/or failure to pay rest period premiums:** Defendants often employed non-exempt truck drivers
21 , including the named Plaintiff and similarly situated employees, for shifts of least three-and-a-half
22 (3.5) hours.

23 31. California law requires every employer to authorize and permit an employee a rest
24 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor Code
25 §226.7; Wage Order 4, §12. If the employer fails to authorize or permit a required rest period, the
26 employer must pay the employee one (1) hour of pay at the employee’s regular rate of compensation
27 for each workday the employer did not authorize or permit a legally required rest period. *Id.* Under
28 California law, “[e]mployees are entitled to 10 minutes’ rest for shifts from three and one-half to six

1 hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of
2 more than 10 hours up to 14 hours, and so on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)*
3 (2012) 53 Cal.4th 1004, 1029; Labor Code §226.7; Wage Order 4, §12. Rest periods, insofar as
4 practicable, shall be in the middle of each work period. Wage Order 4, §12. Additionally, the rest
5 period requirement “obligates employers to permit – and authorizes employees to take – off-duty
6 rest periods.” *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during
7 rest periods employers must relieve employees of all duties and relinquish control over how
8 employees spend their time. Id.

9 32. In this case, Plaintiff and similarly situated non-exempt truck drivers regularly
10 worked shifts of more than three-and-a-half (3.5) hours. Nevertheless, Defendants employed
11 policies, practices, and/or procedures that resulted in their failure to authorize or permit all legally
12 required and compliant rest periods to Plaintiff and similarly situated non-exempt truck drivers.
13 Such policies, practices, and/or procedures included, but were not limited to, (a) Requiring Plaintiff
14 and similarly situated non-exempt truck drivers to always remain with their trucks during their rest
15 periods; and (b) Failing to authorize or permit Plaintiff and similarly situated non-exempt truck
16 drivers a third uninterrupted duty-free rest period of no less than thirty (30) minutes for each five-
17 hour period of work as required by law. 34. Additionally, Defendants failed to pay Plaintiff and
18 similarly situated non-exempt truck drivers a rest period premium wage of one (1) additional hour
19 of pay at their regular rate of compensation for each workday the employees did not receive all
20 legally required and compliant rest periods Defendants employed policies and procedures which
21 ensured that employees did not receive any rest period premium wages to compensate them for
22 workdays in which they did not receive all legally required and compliant rest periods.

23 33. Finally, on occasions when Defendants did pay Plaintiff and similarly situated non-
24 exempt truck drivers a “premium” wage for late, missed, short, on-premise, on-duty, and/or
25 interrupted rest periods, Defendants failed to pay the one (1) additional hour of pay at Plaintiff’s and
26 similarly situated non-exempt truck drivers’ regular rate of compensation. Specifically, Defendants
27 maintained a policy, practice, and/or procedure of failing to include all remuneration such as
28 “Retention Award(s)” and “NA Driver Incentive(s),” for example, when calculating Plaintiff’s and

1 similarly situated non-exempt truck drivers' regular rate of pay for the purpose of paying rest period
2 premiums.

3 34. The aforementioned policies, practices, and/or procedures of Defendants resulted in
4 Plaintiff and similarly situated non-exempt truck drivers not being provided with all legally required
5 and compliant rest periods and/or not receiving premium wages to compensate them for such
6 instances, all in violation of California law.

7 35. **Failure to pay sick pay wages:** Cal Lab. Code § 233 provides that an employer must
8 permit an employee to use accrued sick leave in accordance with Cal Lab. Code § 246.5 at the
9 employee's then current rate of entitlement. Cal Lab. Code § 246 provides that an employee is
10 entitled to sick pay wages for use of accrued sick leave pursuant to Cal Lab. Code § 246.5..

11 36. As a matter of policy and practice, Defendants paid sick pay wages to Plaintiff and
12 similarly situated non-exempt truck drivers at the incorrect rate of pay.. As a matter of policy and
13 practice, Defendants paid sick pay wages to Plaintiff and other similarly situated non-exempt truck
14 drivers at the base hourly pay, as opposed to the regular rate of pay. As a result, Defendants
15 underpaid sick pay wages to Plaintiff and other similarly situated non-exempt truck drivers .

16 37. As alleged herein and as a matter of policy and practice, Defendants routinely
17 underpaid sick pay wages and thus did not timely pay Plaintiff and the other similarly situated non-
18 exempt truck drivers owing and underpaid sick pay wages. As a result, Defendants violated Cal.
19 Lab. Code §§ 201-203, 233, and 246, among other Labor Code provisions.

20 38. Such a pattern, practice, and uniform administration of corporate policy is unlawful
21 and entitles Plaintiff and other similarly situated non-exempt truck drivers to underpaid sick pay
22 wages, including interest thereon, applicable penalties, attorney's fees, and costs of suit.

23 39. **Failure to timely pay earned wages during employment:** In California, wages
24 must be paid at least twice during each calendar month on days designated in advance by the
25 employer as regular paydays, subject to some exceptions. Labor Code §204(a). Wages earned
26 between the 1st and 15th days, inclusive, of any calendar month must be paid between the 16th and
27 the 26th day of that month and wages earned between the 16th and the last day, inclusive, of any
28 calendar month must be paid between the 1st and 10th day of the following month. Id. Other payroll

1 periods such as those that are weekly, biweekly, or semimonthly, must be paid within seven (7)
2 calendar days following the close of the payroll period in which wages were earned. Labor Code
3 §204(d).

4 40. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed to
5 timely pay Plaintiff's and similarly situated non-exempt truck drivers' earned wages (including
6 minimum wages, overtime wages, meal periods premium wages, and rest period premium wages),
7 in violation of Labor Code section 204.

8 41. Defendants' aforementioned policies, practices, and/or procedures resulted in their
9 failure to pay Plaintiff and similarly situated non-exempt truck drivers their earned wages within
10 the applicable time frames outlined in Labor Code section 204.

11 42. **Failure to provide accurate wage statements:** Labor Code section 226(a) provides,
12 *inter alia*, that, upon paying an employee his or her wages, the employer must "furnish each of his
13 or her employees ... an itemized statement in writing showing (1) gross wages earned, (2) total hours
14 worked by the employee, except for any employee whose compensation is solely based on a salary
15 and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable
16 order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any
17 applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that
18 all deductions made on written orders of the employee may be aggregated and shown as one item,
19 (5) net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7)
20 the name of the employee and his or her social security number, (8) the name and address of the
21 legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period
22 and the corresponding number of hours worked at each hourly rate by the employee."

23 43. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed to
24 provide accurate wage and hour statements to him and other similarly situated hourly non-exempt
25 truck drivers who were subject to Defendants' control for uncompensated time and who did not
26 receive all their earned wages (including minimum wages) in violation of Labor Code section 226.

27 44. **Failure to timely pay final wages:** An employer is required to pay all unpaid wages
28 timely after an employee's employment ends. The wages are due immediately upon termination or

1 within seventy-two (72) hours of resignation. Labor Code §§201, 202.

2 45. As a result of the aforementioned violations of the Labor Code, Plaintiff alleges that
3 he, and on information and belief, other similarly situated hourly non-exempt truck drivers, were
4 not paid their final wages in a timely manner as required by Labor Code section 203. Minimum
5 wages for all hours worked and overtime wages for overtime hours worked (all described above),
6 were not paid at the time of Plaintiff's and other similarly situated hourly non-exempt truck drivers'
7 separation of employment, whether voluntarily or involuntarily, as required by Labor Code sections
8 201, 202, and 203.

9 **V. CLASS DEFINITIONS AND CLASS ALLEGATIONS**

10 46. Plaintiff brings this action on behalf of himself, on behalf of other similarly situated
11 hourly non-exempt truck drivers, and on behalf of the general public, and as members of a Class
12 defined as follows:

13 A. **Minimum Wage Class:** All current and former hourly non-exempt truck
14 drivers employed by Defendants in California at any time from four (4) years prior to the filing of
15 the initial Complaint in this matter through the date notice is mailed to a certified class who were
16 not paid at least minimum wage for all time they were subject to Defendants' control.

17 B. **Overtime Class:** All current and former hourly non-exempt truck drivers
18 employed by Defendants in California at any time from four (4) years prior to the filing of the initial
19 Complaint in this matter through the date notice is mailed to a certified class who worked more than
20 eight (8) hours in a workday, forty (40) hours in a workweek, and/or seven (7) days in a workweek,
21 to whom Defendants did not pay overtime wages.

22 C. **Regular Rate Class:** All current and former hourly non-exempt truck drivers
23 employed by Defendants in California at any time from four (4) years prior to the filing of the initial
24 Complaint in this matter through the date notice is mailed to a certified class who worked more than
25 eight (8) hours in a workday, more than forty (40) hours in a workweek, and/or seven (7) days in a
26 workweek, who received additional remuneration during pay periods in which they were paid
27 overtime wages, and whose compensation did not include such additional remuneration when
28 Defendants calculated those employees' overtimes wages.

1 D. **Meal Period Class:** All current and former hourly non-exempt truck drivers
2 employed by Defendants in California at any time from four (4) years prior to the filing of the initial
3 Complaint in this matter through the date notice is mailed to a certified class who worked shifts
4 more than five (5) hours yet Defendants failed to authorize or permit all required duty-free meal
5 periods of not less than thirty (30) minutes.

6 E. **Meal Period Premium Wages Class:** All current and former hourly non-
7 exempt truck drivers employed by Defendants in California at any time from four (4) years prior to
8 the filing of the initial Complaint in this matter through the date notice is mailed to a certified class
9 who received additional remuneration during pay periods in which they were paid meal period
10 premium wages and whose regular rate of pay did not include such additional remuneration when
11 Defendants calculated those employees' meal period premium wages.

12 F. **Rest Period Class:** All current and former hourly non-exempt truck drivers
13 employed by Defendants in California at any time from four (4) years prior to the filing of the initial
14 Complaint in this matter through the date notice is mailed to a certified class who worked shifts of
15 at least three-and-a-half (3.5) hours who did not receive all required duty-free rest periods of a net
16 ten (10) minutes for every four (4) hours worked or major fraction thereof.

17 G. **Rest Period Premium Wages Class:** All current and former hourly non-
18 exempt truck drivers employed by Defendants in California at any time from four (4) years prior to
19 the filing of the initial Complaint in this matter through the date notice is mailed to a certified class
20 who received additional remuneration during pay periods in which they were paid rest period
21 premium wages and whose regular rate of pay did not include such additional remuneration when
22 Defendants calculated those employees' rest period premium wages.

23 H. **Sick Pay Class:** All current and former hourly non-exempt truck drivers
24 employed by Defendants in California at any time from four (4) years prior to the filing of the initial
25 Complaint in this action through the date notice is mailed to a certified class who Defendants failed
26 to timely pay and account for all sick pay wages during the relevant time.

27 I. **Pay Day Class:** All current and former hourly non-exempt truck drivers
28 employed by Defendants in California at any time from four (4) years prior to the filing of the initial

1 Complaint in this action through the date notice is mailed to a certified class who were not timely
2 paid earned wages during their employment.

3 J. **Wage Statement Class:** All current and former hourly non-exempt truck
4 drivers employed by Defendants in California at any time from one (1) year prior to the filing of the
5 initial Complaint in this action through the date notice is mailed to a certified class who received
6 inaccurate or incomplete wage and hour statements.

7 K. **Waiting Time Class:** All former hourly non-exempt truck drivers employed
8 by Defendants in California at any time from three (3) years prior to the filing of the initial
9 Complaint in this action through the date notice is mailed to a certified class who did not receive
10 payment of all unpaid wages upon separation of employment within the statutory time period.

11 L. **California Class:** All aforementioned classes are herein collectively referred
12 to as the “California Class.”

13 47. There is a well-defined community of interest in the litigation and the classes are
14 ascertainable:

15 A. **Numerosity:** While the exact number of class members in each class is
16 unknown to Plaintiff at this time, the Plaintiff classes are so numerous that the individual joinder of
17 all members is impractical under the circumstances of this case.

18 B. **Common Questions Predominate:** Common questions of law and fact exist
19 as to all members of the Plaintiff classes and predominate over any questions that affect only
20 individual members of each class. The common questions of law and fact include, but are not limited
21 to:

22 i. Whether Defendants violated Labor Code sections 1194 and 1197 by
23 not paying wages at the minimum wage rate for all time that the Minimum Wage Class Members
24 were subject to Defendants’ control;

25 ii. Whether Defendants violated Labor Code sections 510 and 1194 by
26 not paying the Overtime Class Members at the applicable overtime rate for working in excess of
27 eight (8) hours in a workday, in excess of forty (40) hours in a workweek, and/or seven (7) days in
28 a workweek;

1 iii. Whether Defendants violated Labor Code sections 510 and 1194 by
2 not paying the Regular Rate Class Members at the applicable overtime rate for working in excess
3 of eight (8) hours in a workday, in excess of forty (40) hours in a workweek, and/or seven (7) days
4 in a workweek;

5 iv. Whether Defendants violated Labor Code sections 512 and 226.7, as
6 well as the applicable Wage Order, by employing the Meal Period Class Members without providing
7 all compliant and/or required meal periods and/or paying meal period premium wages;

8 v. Whether Defendants violated Labor Code sections 512 and 226.7, as
9 well as the applicable Wage Order, by employing the Meal Period Premium Wages Class Members
10 without paying meal period premium wages at the proper rate;

11 vi. Whether Defendants violated Labor Code section 226.7 by employing
12 the Rest Period Class Members without providing all compliant and/or required rest periods and/or
13 paying rest period premium wages;

14 vii. Whether Defendants violated Labor Code section 226.7, as well as
15 the applicable Wage Order, by employing the Rest Period Premium Wages Class Members without
16 paying rest period premium wages at the proper rate;

17 viii. Whether Defendants violated Labor Code sections 201-203, 233, 246
18 by failing to timely pay and account for all sick pay wages to the Sick Pay Class;

19 ix. Whether Defendants violated Labor Code section 204 by employing
20 Pay Day Class Members without timely paying them all earned wages during their employment;

21 x. Whether Defendants failed to provide the Wage Statement Class
22 Members with accurate itemized statements at the time they received their itemized statements;

23 xi. Whether Defendants willfully failed to provide the Waiting Time
24 Class Members with all of their earned wages upon separation of employment within the statutory
25 time period;

26 xii. Whether Defendants committed unlawful business acts or practice
27 within the meaning of Business and Professions Code sections 17200, *et seq.*;

28 xiii. Whether Class Members are entitled to unpaid wages, penalties, and

1 other relief pursuant to their claims;

2 xiv. Whether, as a consequence of Defendants' unlawful conduct, the
3 Class Members are entitled to restitution, and/or equitable relief; and

4 xv. Whether Defendants' affirmative defenses, if any, raise any common
5 issues of law or fact as to Plaintiff and as to Class Members as a whole.

6 C. **Typicality:** Plaintiff's claims are typical of the claims of the class members
7 in each of the classes. Plaintiff is qualified to, and will, fairly and adequately protect the interests of
8 each Class Member with whom there is a shared, well defined community of interest, and Plaintiff's
9 claims (or defenses, if any) are typical of all Class Members' claims as demonstrated herein.

10 D. **Adequacy of Representation:** Plaintiff will fairly and adequately protect the
11 interests of the members of each class. Plaintiff has no interest that is adverse to the interests of the
12 other class members.

13 E. **Superiority:** A class action is superior to other available means for the fair
14 and efficient adjudication of this controversy. Because individual joinder of all members of each
15 class is impractical, class action treatment will permit a large number of similarly situated persons
16 to prosecute their common claims in a single forum simultaneously, efficiently, and without the
17 unnecessary duplication of effort and expense that numerous individual actions would engender.
18 The expenses and burdens of individual litigation would make it difficult or impossible for
19 individual members of each class to redress the wrongs done to them, while important public
20 interests will be served by addressing the matter as a class action. The cost to and burden on the
21 court system of adjudication of individualized litigation would be substantial, and substantially more
22 than the costs and burdens of a class action. Individualized litigation would also present the potential
23 for inconsistent or contradictory judgments.

24 48. **Public Policy Consideration:** Employers throughout the state violate wage and hour
25 laws. Current employees often are afraid to assert their rights out of fear of direct or indirect
26 retaliation. Former employees fear bringing actions because they perceive their former employers
27 can blacklist them in their future endeavors with negative references or by other means. Class
28 actions provide the class members who are not named in the Complaint with a type of anonymity

1 that allows for vindication of their rights.

2 **FIRST CAUSE OF ACTION**

3 **FAILURE TO PAY WAGES FOR ALL HOURS OF WORK AT THE LEGAL MINIMUM**

4 **WAGE RATE IN VIOLATION OF LABOR CODE SECTIONS 1194 AND 1197**

5 **(Against All Defendants by Plaintiff and the Minimum Wage Class)**

6 49. Plaintiff incorporates all paragraphs above as though fully set forth herein.

7 50. At all times relevant to this Complaint, Plaintiff and the Minimum Wage Class were
8 hourly non-exempt truck drivers of Defendants.

9 51. Pursuant to Labor Code sections 1194, 1197, and the Wage Order, Plaintiff and the
10 Minimum Wage Class are entitled to receive wages for all hours worked, i.e., all time they were
11 subject to Defendants' control, and those wages must be paid at least at the minimum wage rate in
12 effect during the time the employees earned the wages.

13 52. Defendants' policies, practices, and/or procedures required Plaintiff and the
14 Minimum Wage Class to be engaged, suffered, or permitted to work without being paid wages for
15 all of the time in which they were subject to Defendants' control.

16 53. Defendants employed policies, practices, and/or procedures including, but not
17 limited to, "rounding" down or "shaving" Plaintiff's and the Minimum Wage Class's total daily
18 hours at the time of their clock-in and clock-out to the nearest half an hour, to the benefit of
19 Defendants.

20 54. Defendants further employed policies, practices, and/or procedures that required
21 Plaintiff and Minimum Wage Class to attend to their trucks at all times during their unpaid meal
22 periods and to perform pre and post-shift inspections of their trucks while off-the-clock.

23 55. Plaintiff and the Minimum Wage Class were not paid for this time resulting in
24 Defendants' failure to pay minimum wage for all the hours Plaintiff and the Minimum Wage Class
25 worked.

26 56. As a result of Defendants' unlawful conduct, Plaintiff and the Minimum Wage Class
27 have suffered damages in an amount subject to proof, to the extent that they were not paid wages at
28 a minimum wage rate for all hours worked.

1 57. Pursuant to Labor Code sections 1194 and 1194.2, Plaintiff and the Minimum Wage
2 Class are entitled to recover unpaid minimum wage, interest thereon, liquidated damages in the
3 amount of their unpaid minimum wage, and attorneys' fees and costs.

4 **SECOND CAUSE OF ACTION**

5 **FAILURE TO PAY OVERTIME WAGES FOR DAILY OVERTIME WORKED AND**
6 **FAILURE TO INCLUDE ALL REMUNERATION IN CALCULATING THE REGULAR**
7 **RATE OF PAY FOR PURPOSES OF PAYING OVERTIME IN VIOLATION OF LABOR**

8 **CODE SECTIONS 510 AND 119**

9 **(Against All Defendants by Plaintiff, the Overtime Class, and the Regular Rate Class)**

10 58. Plaintiff incorporates all paragraphs above as though fully set forth herein.

11 59. At times relevant to this Complaint, Plaintiff, the Overtime Class, and the Regular
12 Rate Class were hourly non-exempt employees employed as truck drivers of Defendants, covered
13 by Labor Code sections 510 and 1194 and the Wage Order 4.

14 60. Pursuant to Labor Code sections 510 and 1194 and the Wage Order 4, hourly non-
15 exempt employees are entitled to receive a higher rate of pay for all hours worked in excess of eight
16 (8) hours in a workday, forty (40) hours in a workweek, and on the seventh day of work in a
17 workweek.

18 61. Despite California law requiring employers to pay employees a higher rate of pay for
19 all hours worked more than eight (8) hours in a workday, more than forty (40) hours in a workweek
20 and on the seventh day of work in a workweek, Defendants failed to pay all overtime wages to
21 Plaintiff and the Overtime Class for their daily overtime hours worked.

22 62. Specifically, Defendants' employed policies, practices, and/or procedures including,
23 but not limited to, "rounding" down or "shaving" Plaintiff's and the Overtime Class's total daily
24 hours at the time of their clock-in and clock-out to the nearest half an hour, to the benefit of
25 Defendants and by requiring Plaintiff and its other hourly non-exempt truck drivers to make pre and
26 post-trip inspections of their trucks and requiring them to stay on duty during their meal periods..
27 Plaintiff and the Overtime Class were not paid for this time.

28 63. To the extent that the foregoing unpaid time resulted from Plaintiff and the Overtime

1 Class being subject to the control of Defendants when they worked more than eight (8) hours in a
2 workday, more than forty (40) hours in a workweek, and/or seven days in a workweek, Defendants
3 failed to pay them at their overtime rate of pay for all the overtime hours they worked.

4 64. Overtime is based upon an employee's regular rate of pay. "The regular rate at which
5 an employee is employed shall be deemed to include all remuneration for employment paid to, or
6 on behalf, of the employee." See Division of Labor Standards Enforcement — Enforcement Policies
7 and Interpretations Manual, Section 49.1.2.

8 65. In this case, Plaintiff alleges that when he and Regular Rate Class Members earned
9 overtime wages, Defendants failed to pay them overtime wages at the proper overtime rate of pay
10 due to Defendants' failure to include all remuneration when calculating the overtime rate of pay.

11 66. As a result of Defendants' unlawful conduct, Plaintiff, the Overtime Class, and the
12 Regular Rate Class have suffered damages in an amount subject to proof, to the extent that they
13 were not paid at their overtime rate of pay for all hours worked which constitute overtime.
14 Pursuant to Labor Code section 1194, Plaintiff, the Overtime Class, and the Regular Rate Class are
15 entitled to recover the full amount of their unpaid overtime wages, prejudgment interest, and
16 attorneys' fees and costs.

17 **THIRD CAUSE OF ACTION**

18 **FAILURE TO AUTHORIZE OR PERMIT MEAL PERIODS IN VIOLATION OF LABOR**
19 **CODE SECTIONS 512 AND 226.7**

20 **(Against All Defendants by Plaintiff, the Meal Period Class, and the Meal Period Premium**
21 **Wages Class)**

22 67. Plaintiff incorporates all paragraphs above as though fully set forth herein.

23 68. At all times relevant to this Complaint, Plaintiff, the Meal Period Class, and the Meal
24 Period Premium Wages Class were hourly non-exempt employees employed as truck drivers of
25 Defendants, covered by Labor Code sections 512 and 226.7 and the Wage Order.

26 69. California law requires an employer to authorize or permit an employee an
27 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
28 all duties and the employer relinquishes control over the employee's activities no later than the end

1 of the employee's fifth hour of work and a second meal period no later than the employee's tenth
2 hour of work. Labor Code sections 226.7, 512; Wage Order 4, §11; Brinker Rest. Corp. v. Super Ct.
3 (Hohnbaum) (2012) 53 Cal.4th 1004. If the employer requires the employee to remain at the work
4 site or facility during the meal period, the meal period must be paid. Labor Code section 226.7
5 provides that if an employee does not receive a required meal or rest period that "the employer shall
6 pay the employee one additional hour of pay at the employee's regular rate of compensation for
7 each work day that the meal or rest period is not provided."

8 70. In this case, Plaintiff and the Meal Period Class worked shifts long enough to entitle
9 them to meal periods under California law. Nevertheless, Defendants employed policies, practices,
10 and/or procedures that resulted in their failure to authorize or permit meal periods to Plaintiff and
11 the Meal Period Class of no less than thirty (30) minutes for each five-hour period of work as
12 required by law. Such policies, practices, and/or procedures included, but were not limited to, the
13 following:

14 (a) Requiring Plaintiff and the Meal Period Class to remain with their trucks at
15 all times during their meal periods; and

16 (b) Failing to authorize or permit Plaintiff and the Meal Period Class a second
17 uninterrupted duty-free meal period of no less than thirty (30) minutes for each five-hour period of
18 work, as required by law.

19 71. Additionally, Defendants failed to pay Plaintiff and the Meal Period Class one (1)
20 hour of pay at their regular rate of pay for each workday they did not receive all legally required and
21 legally compliant meal periods. Defendants lacked a policy and procedure for compensating
22 Plaintiff and the Meal Period Class with premium wages when they did not receive all legally
23 required and legally compliant meal periods.

24 72. Finally, on occasions when Defendants paid Plaintiff and the Meal Period Premium
25 Wages Class a "premium" wage for late, missed, short, on-premise, on-duty, and/or interrupted
26 meal periods, Defendants failed to pay the one (1) additional hour of pay at Plaintiff's and the Meal
27 Period Premium Wages Class's regular rate of compensation

28 73. Defendants' unlawful conduct alleged herein occurred in the course of employment

1 of Plaintiff, the Meal Period Class, and the Meal Period Premium Wages Class and such conduct
2 has continued through the filing of this Complaint.

3 74. Because Defendants failed to provide employees with meal periods in compliance
4 with the law, Defendants are liable to Plaintiff, the Meal Period Class, and the Meal Period Premium
5 Wages Class for one (1) hour of additional pay at the regular rate of compensation for each workday
6 that Defendants did not provide all legally required and legally compliant meal periods, pursuant to
7 Labor Code section 226.7 and the Wage Order.

8 75. Plaintiff, on behalf of himself, the Meal Period Class, and the Meal Period Premium
9 Wages Class seeks damages and all other relief allowable, including a meal period premium wage
10 for each workday Defendants failed to provide all legally required and legally compliant meal
11 periods, plus pre-judgment interest.

12 **FOURTH CAUSE OF ACTION**

13 **FAILURE TO AUTHORIZE OR PERMIT REQUIRED REST PERIODS IN VIOLATION**
14 **OF LABOR CODE SECTION 226.7**

15 **(Against All Defendants by Plaintiff, the Rest Period Class, and the Rest Period Premium**
16 **Wages Class)**

17 76. Plaintiff incorporates all paragraphs above as though fully set forth herein.

18 77. At all times relevant to this Complaint, Plaintiff, the Rest Period Class, and the Rest
19 Period Premium Wages Class were employees of Defendants, covered by Labor Code section 226.7
20 and Wage Order 4.

21 78. California law requires that “[e]very employer shall authorize and permit all
22 employees to take rest periods, which insofar as practicable shall be in the middle of each work
23 period. The authorized rest period time shall be based on the total hours worked daily at the rate of
24 ten (10) minutes net rest time per four (4) hours or major fraction thereof....” Wage Order 4, §12.
25 Employees are entitled to 10 minutes rest for shifts from three and one-half to six hours in length,
26 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10
27 hours up to 14 hours, and so on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53
28 Ca1.4th 1004, 1029; Labor Code §226.7. Additionally, the rest period requirement “obligates

1 employers to permit — and authorizes employees to take — off-duty rest periods.” *Augustus v. ABM*
2 *Security Services, Inc.*, (2016) 5 Ca1.5th 257, 269. That is, during rest periods employers must
3 relieve employees of all duties and relinquish control over how employees spend their time. *Id.* If
4 an employer fails to provide an employee a rest period in accordance with the applicable provisions
5 of this Order, the employer shall pay the employee one (1) hour of pay at the employee’s regular
6 rate of compensation for each work day that the rest period is not provided.” Wage Order 4, §12;
7 Labor Code §226.7.

8 79. In this case, Plaintiff and the Rest Period Class regularly worked shifts of more than
9 three-and-a-half (3.5) hours. Nevertheless, Defendants employed policies, practices, and/or
10 procedures that resulted in their failure to authorize or permit all legally required and compliant rest
11 periods to Plaintiff and the Rest Period Class. Such policies, practices, and/or procedures included,
12 but were not limited to, the following:

13 (a) Requiring Plaintiff and the Rest Period Class to remain with their trucks at
14 all times during their rest periods; and

15 (b) Failing to authorize or permit Plaintiff and the Rest period Class a third
16 uninterrupted duty-free rest periods of no less than thirty (30) minutes for each five-hour period of
17 work, as required by law.

18 80. Additionally, Defendants failed to pay Plaintiff and the Rest Period Class one (1)
19 hour of pay at their regular rate of pay for each workday they did not receive all legally required and
20 legally compliant rest periods. Defendants lacked a policy and procedure for compensating Plaintiff
21 and the Rest Period Class with premium wages when they did not receive all legally required and
22 legally compliant rest periods.

23 81. Further, on occasions when Defendants did pay Plaintiff and the Rest Period
24 Premium Wages Class a “premium” wage for late, missed, short, on-premise, on-duty, and/or
25 interrupted rest periods, Defendants failed to pay the one (1) additional hour of pay at Plaintiff’s and
26 the Rest Period Premium Wages Class’ regular rate of compensation.

27 82. Defendants’ unlawful conduct alleged herein occurred in the course of employment
28 of Plaintiff, the Rest Period Class, and the Rest Period Premium Wages Class and such conduct has

1 continued through the filing of this Complaint.

2 83. Because Defendants failed to provide non-exempt truck drivers with rest periods in
3 compliance with the law, Defendants are liable to Plaintiff, the Rest Period Class, and the Rest
4 Period Premium Wages Class for one (1) hour of additional pay at the regular rate of compensation
5 for each workday that Defendants did not provide all legally required and legally compliant rest
6 periods, pursuant to Labor Code section 226.7 and the Wage Order.

7 84. Plaintiff, on behalf of himself, the Rest Period Class, and the Rest Period Premium
8 Wages Class seeks damages and all other relief allowable, including a rest period premium wage
9 for each workday Defendants failed to provide all legally required and legally compliant rest
10 periods, plus pre-judgment interest.

11 **FIFTH CAUSE OF ACTION**

12 **FAILURE TO PAY SICK PAY WAGES IN VIOLATION OF LABOR CODE SECTIONS**

13 **201-203, 233, 246**

14 **(Against All Defendants by Plaintiff and the Sick Pay Class)**

15 85. Plaintiff incorporates all paragraphs above as though fully set forth herein.

16 86. At all times relevant to this Complaint, Plaintiff and Sick Pay Class were employees
17 of Defendants, covered by Labor Code sections 201-203, 233, 246 and the wage order.

18 87. As a matter of policy and practice, Defendants paid sick pay wages to Plaintiff and
19 the Sick Pay Class at the incorrect rate of pay. As a matter of policy and practice, Defendants paid
20 sick pay wages to Plaintiff and the Sick Pay Class at the base hourly pay, as opposed to the regular
21 rate of pay.. As a result, Defendants underpaid sick pay wages to Plaintiff and the Sick Pay Class .

22 88. As alleged herein and as a matter of policy and practice, Defendants routinely
23 underpaid sick pay wages and thus did not timely pay Plaintiff and the Sick Pay Class owing and
24 underpaid sick pay wages. As a result, Defendants violated Cal. Lab. Code §§ 201-203, 233, and
25 246, among other Labor Code provisions.

26 89. Such a pattern, practice, and uniform administration of corporate policy is unlawful
27 and entitles Plaintiff and the Sick Pay Class to underpaid sick pay wages, including interest thereon,
28 applicable penalties, attorney's fees, and costs of suit.

SIXTH CAUSE OF ACTION

**FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS IN
VIOLATION OF LABOR CODE SECTION 226**

(Against All Defendants by Plaintiff and the Wage Statement Class)

90. Plaintiff incorporates all paragraphs above as though fully set forth herein.

91. At all times relevant to this Complaint, Plaintiff and the Wage Statement Class were hourly non-exempt truck drivers of Defendants, covered by Labor Code section 226.

92. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and the Wage Statement Class were entitled to receive, semimonthly or at the time of each payment of wages, an itemized wage statement accurately stating the following:

(1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

93. As a derivative of Defendants' claims above, Plaintiff alleges that Defendants failed to provide accurate wage and hour statements to him and the Wage Statement Class who were subject to Defendants' control for uncompensated time and who did not receive all their earned wages (including minimum wages and overtime), in violation of Labor Code section 226.

94. Defendants provided Plaintiff and the Wage Statement Class with itemized statements which stated inaccurate information including, but not limited to, the number of hours worked, the gross wages earned, and the net wages earned.

95. Defendants' failure to provide Plaintiff and the Wage Statement Class with accurate

1 wage statements was knowing and intentional. Defendants had the ability to provide Plaintiff and
2 the Wage Statement Class with accurate wage statements but intentionally provided wage
3 statements they knew were not accurate. Defendants knowingly and intentionally put in place
4 practices which deprived employees of wages and resulted in Defendants knowingly and
5 intentionally providing inaccurate wage statements. These practices included Defendants' failure to
6 include all hours worked and all wages due.

7 96. As a result of Defendants' unlawful conduct, Plaintiff and the Wage Statement Class
8 have suffered injury. The absence of accurate information on their wage statements has prevented
9 earlier challenges to Defendants' unlawful pay practices, will require discovery and mathematical
10 computations to determine the amount of wages owed, and will cause difficulty and expense in
11 attempting to reconstruct time and pay records. Defendants' conduct led to the submission of
12 inaccurate information about wages and amounts deducted from wages to state and federal
13 government agencies. As a result, Plaintiff and the Wage Statement Class are required to participate
14 in this lawsuit and create more difficulty and expense for Plaintiff and the Wage Statement Class
15 from having to reconstruct time and pay records than if Defendants had complied with their legal
16 obligations.

17 97. Pursuant to Labor Code section 226(e), Plaintiff and the Wage Statement Class are
18 entitled to recover fifty (50) dollars per employee for the initial pay period in which a section 226
19 violation occurred and one hundred dollars per employee per violation for each subsequent pay
20 period, not to exceed an aggregate penalty of four thousand (4,000) dollars per employee.

21 98. Pursuant to Labor Code sections 226(e) and 226(h), Plaintiff and the Wage Statement
22 Class are entitled to recover the full amount of penalties due under Section 226(e), reasonable
23 attorneys' fees, and costs of suit.

24 **SEVENTH CAUSE OF ACTION**

25 **FAILURE TO TIMELY PAY EARNED WAGES DURING EMPLOYMENT IN**

26 **VIOLATION OF LABOR CODE SECTION 204**

27 **(Against All Defendants by Plaintiff and the Pay Day Class)**

28 99. Plaintiff. incorporates all paragraphs above as though fully set forth herein.

1 100. Plaintiff and the Pay Day Class have been employed by Defendants in the State of
2 California. In California, wages must be paid at least twice during each calendar month on days
3 designated in advance by the employer as regular paydays, subject to some exceptions. Labor Code
4 §204(a). Wages earned between the 1st and 15th days, inclusive, of any calendar month must be
5 paid between the 16th and the 26th day of that month and wages earned between the 16th and the
6 last day, inclusive, of any calendar month must be paid between the 1st and 10th day of the following
7 month. Id. Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be
8 paid within seven (7) calendar days following the close of the payroll period in which wages were
9 earned. Labor Code §204(d).

10 101. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed to
11 timely pay all of Plaintiff's and the Pay Day Class's earned wages (including minimum wages,
12 overtime wages, meal period premium wages, and/or rest period premium wages), in violation of
13 Labor Code section 204.

14 102. Defendants' aforementioned policies, practices, and/or procedures resulted in their
15 failure to pay Plaintiff and the Pay Day Class all of their earned wages within the applicable time
16 frames outlined in Labor Code section 204.

17 103. As a result of Defendants' unlawful conduct, Plaintiff and the Pay Day Class have
18 suffered damages in an amount subject to proof, to the extent that they were not timely paid their
19 earned wages pursuant to Labor Code section 204.

20 104. Pursuant to Labor Code section 210, Plaintiff and the Pay Day Class are entitled to
21 recover penalties as follows: (1) for any initial violation, one hundred dollars (\$100) for each failure
22 to pay each employee; and (2) for each subsequent violation, or any willful or intentional violation,
23 two hundred dollars (\$200) for each failure to pay each employee, plus twenty-five (25%) percent
24 of the amount unlawfully withheld.

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EIGHTH CAUSE OF ACTION

**FAILURE TO PAY ALL WAGES TIMELY UPON SEPARATION OF EMPLOYMENT
IN VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**

(Against All Defendants by Plaintiff and the Waiting Time Class)

105. Plaintiff incorporates all paragraphs above as though fully set forth herein.

106. At all times relevant to this Complaint, Plaintiff and the Waiting Time Class were hourly non-exempt truck drivers of Defendants, covered by Labor Code sections 201 and 202.

107. An employer is required to pay all unpaid wages timely after an employee's employment ends. The wages are due immediately upon termination or within seventy-two (72) hours of resignation. Labor Code §§201, 202. If an employee gave seventy-two (72) hours previous notice, they were entitled to payment of all wages earned and unpaid at the time of resignation. *Id.*

108. Defendants failed to pay Plaintiff and on information and belief, the Waiting Time Class, with all wages earned and unpaid prior to separation of employment, in accordance with either Labor Code section 201 or 202. Plaintiff is informed and believes and thereon alleges that at all relevant times within the limitations period applicable to this cause of action, Defendants maintained a policy or practice of not paying hourly employees all earned wages timely upon separation of employment.

109. Defendants' failure to pay Plaintiff and the Waiting Time Class with all wages earned prior to separation of employment timely in accordance with Labor Code sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by hourly workers prior to separation of employment in accordance with Labor Code sections 201 and 202, but intentionally adopted policies or practices incompatible with the requirements of Labor Code sections 201 and 202. When Defendants failed to pay Plaintiff and the Waiting Time Class all earned wages timely upon separation of employment, they knew what they were doing and intended to do what they did.

110. Pursuant to either Labor Code section 201 or 202, Plaintiff and the Waiting Time Class are entitled to all wages earned prior to separation of employment that Defendants have yet to pay them.

111. Pursuant to Labor Code section 203, Plaintiff and the Waiting Time Class are entitled

1 to waiting time penalties, from the day their earned and unpaid wages were due until paid, up to a
2 maximum of thirty (30) days.

3 112. Plaintiff and the Waiting Time Class are entitled to recover the full amount of their
4 unpaid wages, waiting time penalties under Labor Code section 203, and interest thereon.

5 **NINTH CAUSE OF ACTION**

6 **UNFAIR BUSINESS PRACTICES, IN VIOLATION OF BUSINESS AND PROFESSIONS**

7 **CODE SECTION 17200, et seq.**

8 **(Against All Defendants by Plaintiff and the California Class)**

9 113. Plaintiff incorporates all paragraphs above as though fully set forth herein.

10 114. The unlawful conduct of Defendants alleged herein constitutes unfair competition
11 within the meaning of Business and Professions Code section 17200. This unfair conduct includes
12 Defendants' use of policies, practices, and/or procedures which resulted in: failure to pay employees
13 at least at the minimum wage rate for all hours which they worked; failure to pay overtime wages
14 for all overtime hours worked; failure to pay meal and rest period premiums; failure to provide
15 accurate wage and hour statements; and failure to timely pay all wages due upon separation of
16 employment.

17 115. As a result of Defendants' unfair competition as alleged herein, Plaintiff and the
18 California Class have suffered injury in fact and lost money or property, as described in more detail
19 above.

20 116. Pursuant to Business and Professions Code section 17203, Plaintiff and the
21 California Class are entitled to restitution of all wages and other monies rightfully belonging to them
22 that Defendants failed to pay and wrongfully retained by means of their unlawful and unfair business
23 practices.

24 **TENTH CAUSE OF ACTION**

25 **CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF**

26 **2004, LABOR CODE SECTIONS 2698, ET SEQ.**

27 **(Against all Defendants by Plaintiff)**

28 117. Plaintiff incorporates all paragraphs above as though fully set forth herein.

118. During the period beginning one (1) year preceding Plaintiff sending the initial PAGA Claim Notice to the LWDA to the present, Defendants violated Labor Code sections 201, 202, 203, 204, 226, 226.7, 246, 246.5, 510, 512, 558, 1194, 1197, 1197.1, 1198 and the applicable IWC Wage Orders.

119. Specifically, Defendants have committed the following violations of California Labor Code:

120. **Failure to pay wages for all hours worked at the legal minimum wage:** Defendants employed many of their employees, including Plaintiff, as hourly non-exempt truck drivers. In California, an employer is required to pay hourly employees for all “hours worked,” which includes all time that an employee is under control of the employer and all time the employee is suffered and permitted to work. This includes the time an employee spends, either directly or indirectly, performing services which inure to the benefit of the employer.

121. Labor Code sections 1194 and 1197 require an employer to compensate employees for all “hours worked” at least at a minimum wage rate of pay as established by the IWC and the Wage Orders.

122. In this case, Plaintiff and other current and former aggrieved California-based hourly non-exempt truck drivers worked more minutes per shift than Defendants credited them with having worked. Specifically, Defendants failed to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt employees employed as truck drivers all wages at the applicable minimum wage for all hours worked due to Defendants’ policies, practices, and/or procedures including, but not limited to:

(a) “rounding” down or “shaving” Plaintiff and other current and former aggrieved California-based hourly non-exempt truck drivers total daily hours at the time of their clock-in and clock-out to the nearest half an hour, to the benefit of Defendants.

(b) requiring Plaintiff and its other current and former aggrieved California-based hourly non-exempt truck drivers to make pre and post-trip inspections of their trucks and requiring them to stay on duty during their meal periods.

123. Plaintiff and other current and former aggrieved California-based hourly non-exempt

employees employed as truck drivers were not paid for this time resulting in Defendants' failure to pay minimum wage for all the hours Plaintiff and other current and former aggrieved California-based hourly non-exempt employees employed as truck drivers worked.

124. Therefore, Defendants suffered, permitted, and required Plaintiff and other current and former aggrieved California-based hourly non-exempt truck drivers to be subject to Defendants' control without paying wages for that time. This resulted in Plaintiff and other current and former aggrieved California-based hourly non-exempt employees employed as truck drivers working time for which they were not compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable Wage Order.

125. **Failure to pay wages for overtime hours worked at the overtime rate of pay:** Defendants employed many of their employees, including Plaintiff, as hourly non-exempt truck drivers. In California, an employer is required to pay hourly employees for all "hours worked," which includes all time that an employee is under control of the employer and all time the employee is suffered and permitted to work. This includes the time an employee spends, either directly or indirectly, performing services that inure to the benefit of the employer.

126. Labor Code sections 510 and 1194 require an employer to compensate employees a higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty (40) hours in a workweek, and on any seventh consecutive day of work in a workweek.

127. In this case, Defendants failed to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt truck drivers overtime wages for all overtime hours worked due to Defendants' policies, practices, and/or procedures including, but not limited to:

(a) "rounding" down or "shaving" Plaintiff and other current and former aggrieved California-based hourly non-exempt employees employed as truck drivers' total daily hours at the time of their clock-in and clock-out to the nearest half an hour, to the benefit of Defendants.

(b) requiring Plaintiff and its other current and former aggrieved California-based hourly non-exempt employees employed as truck drivers to make pre and post-trip inspections of their trucks and requiring them to stay on duty during their meal periods.

1 128. Overtime is based upon an employee's regular rate of pay. "The regular rate at which
2 an employee is employed shall be deemed to include all remuneration for employment paid to, or
3 on behalf, of the employee." See Division of Labor Standards Enforcement – Enforcement Policies
4 and Interpretations Manual, Section 49.1.2.

5 129. In this case, Plaintiff alleges that when he and other current and former aggrieved
6 California-based hourly non-exempt employees employed as truck drivers earned overtime wages,
7 Defendants failed to pay them overtime wages at the proper overtime rate of pay due to Defendants'
8 failure to include all remuneration when calculating the overtime rate of pay. Specifically,
9 Defendants maintained a policy, practice, and/or procedure of failing to include all remuneration
10 such as "Retention Award(s)" and "NA Driver Incentive(s)," for example, when calculating Plaintiff
11 and other current and former aggrieved California-based hourly non-exempt employees employed
12 as truck drivers regular rate of pay for the purpose of paying overtime.

13 130. The foregoing policies, practices, and/or procedures resulted in time during each
14 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
15 truck drivers were under the control of Defendants but were not compensated. To the extent that the
16 foregoing uncompensated time occurred when Plaintiff and other current and former aggrieved
17 California-based hourly non-exempt employees employed as truck drivers worked more than eight
18 (8) hours in a workday, more than forty (40) hours in a workweek, and/or seven (7) days in a
19 workweek, Defendants failed to pay them at their overtime rate of pay for overtime hours worked,
20 in violation of Labor Code sections 510 and 1194 and the applicable Wage Order.

21 131. **Failure to pay wages to hourly non-exempt employees employed as truck**
22 **drivers for workdays that Defendants failed to provide legally required and compliant meal**
23 **periods:** Plaintiff and other current and former aggrieved California-based hourly non-exempt truck
24 drivers regularly worked shifts of more than five (5) hours in length and shifts of more than ten (10)
25 hours in length.

26 132. California law requires an employer to authorize or permit an employee an
27 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
28 all duties and the employer relinquishes control over the employee's activities prior to the

1 employee's sixth hour of work. Labor Code sections 226.7, 512; Wage Order 4 at §11; *Brinker Rest.*
2 *Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an employee
3 for a work period of more than ten (10) hours per day without providing the employee with a second
4 such meal period of not less than thirty (30) minutes prior to the start of the eleventh hour of work.
5 *Id.* If the employee is not relieved of all duty during a meal period, the meal period shall be
6 considered an "on duty" meal period and counted as time worked. A paid "on duty" meal period is
7 only permitted when: (1) the nature of the work prevents an employee from being relieved of all
8 duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

9 133. If an employer fails to provide an employee a meal period in accordance with the
10 law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay
11 for each workday that a legally required and compliant meal period was not provided. Labor Code
12 section 226.7; Wage Order 4 at §11.

13 134. In this case, Defendants failed to authorize or permit legally required and compliant
14 meal periods to Plaintiff and other current and former aggrieved California-based hourly non-
15 exempt employees employed as truck drivers due to Defendants' policies, practices, and/or
16 procedures, including but not limited to:

17 (a) Requiring Plaintiff and other current and former aggrieved California-based
18 hourly non-exempt employees employed as truck drivers to always remain with their trucks during
19 their meal periods; and

20 (b) Failing to authorize or permit Plaintiff and other current and former aggrieved
21 California-based hourly non-exempt employees employed as truck drivers a second uninterrupted
22 duty-free meal period of no less than thirty (30) minutes for each five-hour period of work as
23 required by law.

24 135. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
25 procedure of failing to compensate Plaintiff and other current and former aggrieved California-based
26 hourly non-exempt employees employed as truck drivers one (1) hour of pay at their regular rate of
27 pay for each workday that Plaintiff and other current and former aggrieved California-based hourly
28 non-exempt employees employed as truck drivers did not receive legally required and compliant

1 meal periods, in violation of Labor Code section 226.7.

2 136. Finally, on occasions when Defendants paid Plaintiff and other current and former
3 aggrieved California-based hourly non-exempt employees employed as truck drivers a “premium”
4 wage for late, missed, short, on-premises, on-duty, and/or interrupted meal periods, Defendants
5 failed to pay the one (1) additional hour of pay at Plaintiff and other current and former aggrieved
6 California-based hourly non-exempt employees employed as truck drivers regular rate of
7 compensation. Specifically, Defendants maintained a policy, practice, and/or procedure of failing to
8 include all remuneration such as “Retention Award(s)” and “NA Driver Incentive(s),” for example,
9 when calculating Plaintiff and other current and former aggrieved California-based hourly non-
10 exempt employees employed as truck drivers regular rate of pay for the purpose of paying meal
11 period premium wages.

12 137. Defendants’ foregoing policies, practices, and/or procedures resulted in Plaintiff and
13 other current and former aggrieved California-based hourly non-exempt employees employed as
14 truck drivers not receiving wages to compensate them for workdays during which Defendants did
15 not provide them with meal periods in compliance with California law.

16 138. **Failure to pay wages to hourly non-exempt employees employed as truck**
17 **drivers for workdays that Defendants failed to provide legally required and compliant rest**
18 **periods:** Plaintiff and other current and former aggrieved California-based hourly non-exempt
19 employees employed as truck drivers regularly worked shifts of more than three-and-a-half (3.5)
20 hours.

21 139. California law requires every employer to authorize and permit an employee a rest
22 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor Code
23 section 226.7; Wage Order 4 at §12. Under California law, “[e]mployees are entitled to 10 minutes’
24 rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six
25 hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on.” *Brinker*
26 *Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code section 226.7;
27 Wage Order 4 at §12. Rest periods, insofar as practicable, shall be in the middle of each work period.
28 Wage Order 4 at §12. Additionally, the rest period requirement “obligates employers to permit –

1 and authorizes employees to take – off-duty rest periods.” *Augustus v. ABM Security Services, Inc.*,
2 (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must relieve employees of all
3 duties and relinquish control over how employees spend their time. *Id.*

4 140. If the employer fails to authorize or permit a required rest period, the employer must
5 pay the employee one (1) hour of pay at the employee’s regular rate of pay for each workday the
6 employer did not authorize or permit a legally required rest period. Labor Code section 226.7; Wage
7 Order 4 at § 12.

8 141. In this case, Defendants failed to authorize or permit all legally required and
9 compliant rest periods to Plaintiff and other current and former aggrieved California-based hourly
10 non-exempt employees employed as truck drivers due to Defendants’ policies, practices, and/or
11 procedures including, but not limited to:

12 (a) Requiring Plaintiff and other current and former aggrieved California-based
13 hourly non-exempt employees employed as truck drivers to always remain with their trucks during
14 their rest periods; and

15 (b) Failing to authorize or permit Plaintiff and other current and former aggrieved
16 California-based hourly non-exempt employees employed as truck drivers a third uninterrupted
17 duty-free rest period of no less than thirty (30) minutes for each five-hour period of work as required
18 by law.

19 142. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
20 procedure of failing to compensate Plaintiff and other current and former aggrieved California-based
21 hourly non-exempt employees employed as truck drivers with one (1) hour of pay at their regular
22 rate of pay for each workday they did not receive legally required and compliant rest periods, in
23 violation of Labor Code section 226.7.

24 143. Finally, on occasions when Defendants did pay Plaintiff and other current and former
25 aggrieved California-based hourly non-exempt employees employed as truck drivers a “premium”
26 wage for late, missed, short, on-premise, on-duty, and/or interrupted rest periods, Defendants failed
27 to pay the one (1) additional hour of pay at Plaintiff and other current and former aggrieved
28 California-based hourly non-exempt employees employed as truck drivers regular rate of

1 compensation. Specifically, Defendants maintained a policy, practice, and/or procedure of failing to
2 include all remuneration such as “Retention Award(s)” and “NA Driver Incentive(s),” for example,
3 when calculating Plaintiff and other current and former aggrieved California-based hourly non-
4 exempt employees employed as truck drivers regular rate of pay for the purpose of paying rest period
5 premiums.

6 144. Defendants’ foregoing policies, practices, and/or procedures resulted in Plaintiff and
7 other current and former aggrieved California-based hourly non-exempt employees employed as
8 truck drivers not receiving wages to compensate them for workdays in which Defendants did not
9 provide them with rest periods in compliance with California law.

10 145. **Failure to pay sick pay wages to hourly non-exempt employees employed as**
11 **truck drivers:** Cal Lab. Code § 233 provides that an employer must permit an employee to use
12 accrued sick leave in accordance with Cal Lab. Code § 246.5 at the employee’s then current rate of
13 entitlement. Cal Lab. Code § 246 provides that an employee is entitled to sick pay wages for use of
14 accrued sick leave pursuant to Cal Lab. Code § 246.5.

15 146. As a matter of policy and practice, Defendants paid sick paid wages to Plaintiff and
16 other current and former aggrieved California-based hourly non-exempt employees employed as
17 truck drivers at the incorrect rate of pay. As a matter of policy and practice, Defendants paid sick
18 pay wages to Plaintiff and other current and former aggrieved California-based hourly non-exempt
19 employees employed as truck drivers at their base hourly rate as opposed to the regular rate of pay,
20 which would consider all non-hourly remuneration in addition to base hourly wages, or the rate
21 resulting from dividing the employee’s total wages, not including overtime premium pay, by the
22 employee’s total hours worked in the full pay periods of the prior 90 days of employment. As a
23 result, Defendants underpaid sick pay wages to Plaintiff and other current and former aggrieved
24 California-based hourly non-exempt employees employed as truck drivers.

25 147. Cal. Lab. Code § 246 specifically requires that, upon use of accrued sick leave, vested
26 sick pay wages are due and to be paid no later than the payday for the next regular payroll period
27 after accrued sick leave is used as paid sick time.

28 148. As alleged herein and as a matter of policy and practice, Defendants routinely

1 underpay sick pay wages and thus did not timely pay Plaintiff and current and former aggrieved
2 California-based hourly non-exempt employees employed as truck drivers owing and underpaid sick
3 pay wages. As a result, Defendants violated Cal. Lab. Code §§ 201-203, 233, and 246, among other
4 Labor Code provisions.

5 149. **Failure to timely pay earned wages during employment:** In California, wages
6 must be paid at least twice during each calendar month on days designated in advance by the
7 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages earned
8 between the 1st and 15th days, inclusive, of any calendar month must be paid between the 16th and
9 the 26th day of that month and wages earned between the 16th and the last day, inclusive, of any
10 calendar month must be paid between the 1st and 10th day of the following month. *Id.* Other payroll
11 periods such as those that are weekly, biweekly, or semimonthly, must be paid within seven (7)
12 calendar days following the close of the payroll period in which wages were earned. Labor Code
13 section 204(d).

14 150. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed to
15 timely pay all of Plaintiff's and other current and former aggrieved California-based hourly non-
16 exempt truck drivers' earned wages (including minimum wages, overtime wages, meal period
17 premium wages and/or rest period premium wages), in violation of Labor Code section 204.
18 Defendants' aforementioned policies, practices, and/or procedures resulted in their failure to pay
19 Plaintiff's and other current and former aggrieved California-based hourly non-exempt truck
20 drivers' all of their earned wages within the applicable time frames outlined in Labor Code section
21 204.

22 151. **Failure to provide complete and accurate wage statements:** Labor Code section
23 226(a) provides, *inter alia*, that, upon paying an employee his or her wages, the employer must
24 "furnish each of his or her employees ... an itemized statement in writing showing (1) gross wages
25 earned, (2) total hours worked by the employee, except for any employee whose compensation is
26 solely based on a salary and who is exempt from payment of overtime under subdivision (a) of
27 Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-
28 rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all

1 deductions, provided, that all deductions made on written orders of the employee may be aggregated
2 and shown as one item, (5) net wages earned, (6) the inclusive dates of the pay period for which the
3 employee is paid, (7) the name of the employee and his or her social security number, (8) the name
4 and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during
5 the pay period and the corresponding number of hours worked at each hourly rate by the employee.”

6 152. As a derivative of Plaintiff’s allegations above, Defendants’ failure to pay Plaintiff
7 and other current and former aggrieved California-based hourly non-exempt employees employed
8 as truck drivers all wages earned (including minimum wages, overtime wages, meal period premium
9 wages, and/or rest period premium wages) rendered Plaintiff’s and other current and former
10 aggrieved California-based hourly non-exempt employees employed as truck drivers’ wage
11 statements inaccurate, in violation of Labor Code section 226.

12 153. **Failure to pay employees all wages due at time of termination/resignation:** An
13 employer is required to pay all unpaid wages timely after an employee’s employment ends. The
14 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
15 hours of resignation (Labor Code section 202).

16 154. As a derivative of Plaintiff’s allegations above, because Defendants failed to pay
17 Plaintiff and other former aggrieved California-based hourly non-exempt employees employed as
18 truck drivers all their earned wages (including minimum wages, overtime wages, meal period
19 premium wages, and/or rest period premium wages), Defendants failed to pay those employees
20 timely after each employee’s termination and/or resignation, in violation of Labor Code sections
21 201, 202, and 203.

22 155. Defendants’ violations of Wage Order 4 constituted violations of Labor Code section
23 1198, which prohibits employment under conditions of labor that violate the Wage Orders.

24 156. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved employee,
25 on behalf of himself or herself and other current or former employees, to bring a civil action to
26 recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code
27 section 2699.3.

28 157. Plaintiff has complied with the procedures for bringing suit specified in Labor Code

1 section 2699.3. On August 11, 2022, Plaintiff filed a PAGA Claim Notice with the LWDA and
2 provided notice to Defendants by certified mail which provided notice of the specific provisions of
3 the Labor Code alleged to have been violated, including the facts and theories to support the
4 violations alleged.

5 158. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
6 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
7 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
8 parties notice within 60 days of the date of Plaintiff's PAGA Claim Notice that the LWDA intends
9 to investigate Plaintiff's claims.

10 159. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
11 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204, 226, 226.7, 233.
12 246, 246.5, 510, 512, 558, 1194, 1197, 1197.1 and 1198 beginning one (1) year preceding Plaintiff
13 sending the initial PAGA Claim Notice to the LWDA to the present, in the following amounts:

14 (a) For violations of Labor Code sections 201, 202, 203, 204, 226.7, 512, and
15 1198; one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation
16 and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent
17 violation [penalty amounts established by Labor Code section 2699(f)(2)].

18 (b) For violations of Labor Code section 226, two hundred fifty dollars (\$250)
19 for each employee for each pay period for the initial violation, and for each subsequent violation,
20 one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts
21 established by Labor Code section 226.3].

22 (c) For violations of Labor Code section 510, fifty dollars (\$50) for each
23 employee for each pay period for the initial violation, and for each subsequent violation, one
24 hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts
25 established by Labor Code section 558] and any unpaid wages.

26 (d) For violations of Labor Code section 1194 and 1197, one hundred dollars
27 (\$100) for each underpaid employee for each pay period for the initial violation, and for each
28 subsequent violation, two hundred fifty dollars (\$250) for each underpaid employee for each pay

1 period [penalty amounts established by Labor Code section 1197.1] and any unpaid wages.

2 160. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of
3 reasonable attorneys' fees and costs in connection with his claims for civil penalties.

4 **PRAYER FOR RELIEF**

5 **WHEREFORE, PLAINTIFF, ON BEHALF OF HIMSELF AND ON BEHALF OF**
6 **OTHERS SIMILARLY SITUATED, PRAYS AS FOLLOWS:**

7 **ON THE FIRST SECOND, THIRD, FOURTH, FIFTH, SIXTH, SEVENTH,**
8 **EIGHTH, and NINTH CAUSES OF ACTION:**

9 1. That the Court determine that this action may be maintained as a class action (for the
10 entire California Class and/or any and all of the specified sub-classes) pursuant to Code of Civil
11 Procedure section 382 and any other applicable law;

12 2. That the named Plaintiff be designated as a class representative for the California
13 Class (and all sub-classes thereof); and

14 3. For a declaratory judgment that the policies, practices, and/or procedures
15 complained herein are unlawful.

16 **ON THE FIRST CAUSE OF ACTION:**

17 1. That Defendants be found to have violated the minimum wage provisions of the
18 Labor Code and the IWC Wage Order as to Plaintiff and the Minimum Wage Class;

19 2. For damages, according to proof, including but not limited to unpaid wages;

20 3. For any and all legally applicable penalties;

21 4. For liquidated damages pursuant to Labor Code section 1194.2;

22 5. For pre-judgment interest, including but not limited to that recoverable under Labor
23 Code section 1194, and post-judgment interest;

24 6. For attorneys' fees and costs of suit, including but not limited to that recoverable
25 under Labor Code section 1194;

26 7. For pre-judgment interest, including but not limited to that recoverable under Labor
27 Code section 218.6, and post-judgment interest; and,

28 8. For such other further relief, in law and/or equity, as the Court deems just or

appropriate.

ON THE SECOND CAUSE OF ACTION:

1. That Defendants be found to have violated the overtime provisions of the Labor Code and the IWC Wage Order as to Plaintiff and the Overtime Class;

2. For damages, according to proof, including but not limited to unpaid wages;

3. For any and all legally applicable penalties;

4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 1194, and post-judgment interest;

5. For attorneys' fees and costs of suit, including but not limited to that recoverable under Labor Code section 1194; and

6. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE THIRD CAUSE OF ACTION:

1. That Defendants be found to have violated the meal period provisions of the Labor Code and the IWC Wage Order as to Plaintiff and the Meal Period Class;

2. For damages, according to proof, including unpaid premium wages;

3. For any and all legally applicable penalties;

4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 218.6, and post-judgment interest; and

5. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE FOURTH CAUSE OF ACTION:

1. That Defendants be found to have violated the rest period provisions of the Labor Code and the IWC Wage Order as to Plaintiff and the Rest Period Class;

2. For damages, according to proof, including unpaid premium wages;

3. For any and all legally applicable penalties;

4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 218.6, and post-judgment interest; and

1 5. For such other further relief, in law and/or equity, as the Court deems just or
2 appropriate.

3 **ON THE FIFTH CAUSE OF ACTION:**

4 1. That Defendants be found to have violated the provisions of the Labor Code
5 regarding sick pay wages to Plaintiff and the Sick Pay Class

6 2. For damages, according to proof, including unpaid wages;

7 3. For any and all legally applicable penalties;

8 4. For pre-judgment interest, including under Labor Code section 218.6. and post-
9 judgment interest; and

10 5. For such other further relief, in law and/or equity, as the Court deems just or
11 appropriate.

12 **ON THE SIXTH CAUSE OF ACTION:**

13 1. That Defendants be found to have violated the provisions of the Labor Code
14 regarding accurate itemized paystubs as to Plaintiff and the Wage Statement Class;

15 2. For damages and/or penalties, according to proof, including damages and/or statutory
16 penalties under Labor Code section 226, subdivision (e), and any other legally applicable damages
17 or penalties;

18 3. For pre-judgment interest and post-judgment interest;

19 4. For attorneys' fees and costs of suit, including but not limited to that recoverable
20 under Labor Code section 226, subdivision (e); and,

21 5. For such other further relief, in law and/or equity, as the Court deems just or
22 appropriate.

23 **ON THE SEVENTH CAUSE OF ACTION:**

24 1. That Defendants be found to have violated Labor Code 204 as to Plaintiff and the
25 Pay Day Class;

26 2. For damages, according to proof;

27 3. For any and all legally applicable penalties, including but not limited to those
28 recoverable pursuant to Labor Code section 210(a);

4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 218.6, and post-judgment interest; and

5. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE EIGHTH CAUSE OF ACTION:

1. That Defendants be found to have violated the provisions of the Labor Code regarding payment of all unpaid wages due upon resignation or termination as to Plaintiff and the Waiting Time Class;

2. For damages and/or penalties, according to proof, including damages and/or statutory penalties under Labor Code section 203 and any other legally applicable damages or penalties;

3. For pre-judgment interest, including under Labor Code section 218.6, and post-judgment interest; and,

4. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE NINTH CAUSE OF ACTION:

1. That Defendants be found to have violated Business and Professions Code sections 17200, et seq., for the conduct alleged herein as to the California Class;

2. A declaratory judgment that the practices complained herein are unlawful;

3. For restitution to the full extent permitted by law; and

4. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

WHEREFORE, PLAINTIFF, ON BEHALF OF HIMSELF AND ON OTHER AGGRIEVED EMPLOYEES, PRAYS AS FOLLOWS

ON THE TENTH CAUSE OF ACTION:

1. That Defendants be found to have violated the provisions of the Labor Code and the IWC Wages Orders as to the Plaintiff and aggrieved hourly non-exempt truck drivers;

2. For any and all legally applicable penalties during the relevant statute of limitations

1 subject to any permissible tolling, including but not limited to those recoverable under the California
2 Labor Code, including but not limited to section 2699(f);

3 3. For attorneys' fees and costs of suit, including but not limited to those recoverable
4 under California Labor Code section 2699(g); and

5 4. For such and other further relief, in law and/or equity, as the Court deems just or
6 appropriate.

7
8 Dated:

Respectfully submitted,
Lavi & Ebrahimian, LLP

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By: _____

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14

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Attorneys for Plaintiff

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TREVOR JOHNSON,

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on behalf of himself and others similarly
situated

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