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Attorneys for Plaintiff
JEFFERSON LOPEZ

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

JEFFERSON LOPEZ, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

MISSION POOLS, INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No. 30-2022-01283102-CU-OE-CXC

*[Assigned for all purposes to the Hon. William D.
Claster, Dept. CX101]*

**DECLARATION OF MILAN MOORE IN
SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: November 17, 2023

Time: 9:00 a.m.

Dept.: CX101

Action Filed: December 5, 2022

Trial Date: None Set

1 I, MILAN MOORE, declare as follows:

2 1. I am an Associate with Lidman Law, APC, counsel for named Plaintiff Jefferson Lopez
3 (“Plaintiff”) and the proposed Settlement Class in the above-captioned matter. I am a member in good
4 standing of the bar of the State of California and am admitted to practice in this Court. I have personal
5 knowledge of the facts stated in this declaration and could testify competently to them if called upon
6 to do so.

7 2. I am a 2015 graduate of UConn School of Law. I was admitted to the California State
8 Bar in December 2015 after passing the bar exam on my first attempt. Since that time, I have practiced
9 exclusively in the area of employment litigation. Prior to joining Lidman Law, APC, I worked for an
10 employment litigation boutique, where I successfully represented employees in discrimination,
11 harassment, retaliation and wrongful termination cases in both state and federal court. While non-
12 exhaustive, the type of work I performed included: conducting client intakes, performing pre-filing
13 research and analysis, drafting complaints, attending court hearings, corresponding with opposing
14 counsel, drafting and responding to written discovery, preparing for and taking and defending
15 depositions, drafting and opposing motions for remand, demurrers and motions to strike, motions to
16 compel, drafting mediation briefs, and attending mediations.

17 3. Since June 11, 2018, I have worked as an associate at my current firm, Lidman Law,
18 APC. I am currently staffed on approximately seventy (70) active wage and hour class action lawsuits
19 in both state and federal court.

20 4. I have been appointed Class Counsel in *Hanke v. C&W Facility Services, Inc.*, Case No.
21 CIVDS1814412, California Superior Court, County of San Bernardino, Honorable Judge David Cohn
22 presiding; *Molina v. Mader News, Inc.*, Case No. BC685960, California Superior Court, County of Los
23 Angeles, Honorable Judge Yvette M. Palazuelos presiding; *Alvarez v. Salamander Fire Protection,*
24 *Inc.*, Case No. BC688326, California Superior Court, County of Los Angeles, Honorable Judge
25 William F. Highberger presiding; *Fregoso v. Amerigas Propane, Inc.*, Case No. BC697973, California
26 Superior Court, County of Los Angeles, Honorable Rafael A. Ongkeko presiding; *Teran v. Western*
27 *Plastics, Inc.*, Case No. RIC1722619, California Superior Court, County of Riverside, Honorable Judge
28

1 Sunshine Sykes presiding; *Villegas de Torres v. El Monte Superstore Inc.*, Case No. BC688477,
2 California Superior Court, County of Los Angeles, Honorable Judge Daniel J. Buckley presiding;
3 *Guzman v. Century Blinds*, Case No. RIC1723654, California Superior Court, County of Riverside,
4 Honorable Judge Sunshine S. Sykes presiding; *George v. Convergence Marketing*, Case No.
5 CIVDS1901039, California Superior Court, County of San Bernardino, Honorable Judge David S.
6 Cohn presiding; *Romero v. Fillmore Hospitality, LLC*, Case No. BC705667, California Superior Court,
7 County of Los Angeles, Honorable Judge Maren E. Nelson presiding; *Davis v. WeDriveU*, Case No.
8 18CV322578, California Superior Court, County of Santa Clara, Honorable Judge Brian C. Walsh
9 presiding; *Acuna v. Canton Food Co., Inc.*, Case No. BC685001, California Superior Court, County of
10 Los Angeles, Honorable Judge David S. Cunningham presiding; and *Contreras v. Worldwide Flight*
11 *Services, Inc.*, Case No. 2:18-cv-06036-PSG-SS, United States District Court for the Central District
12 of California, the Honorable Judge Philip S. Gutierrez presiding.

13 5. In 2023, Thomson Reuters and Los Angeles Magazine recognized me as a Top Young
14 Attorney in Southern California in the annual Rising Star Edition of Super Lawyer. This is an honor
15 awarded to no more than two and a half percent of attorneys under the age of forty in Southern
16 California each year.

17 6. As co-counsel for Plaintiff and the proposed Settlement Class, I have been intimately
18 involved in every aspect of this case from its inception through the present, and I believe that the
19 proposed Settlement is a favorable result for the Settlement Class under the circumstances presented.

20 7. Defendant Mission Pools of Escondido, Inc. (hereinafter “Mission Pools” or
21 “Defendant”) designs and installs swimming pools and spas. On September 28, 2022, Plaintiff filed the
22 instant putative class action complaint. On September 29, 2022, Plaintiff submitted a letter to the
23 California Labor & Workforce Development Agency (“LWDA”) and Mission Pools, Inc. of his
24 intention of filing a PAGA claim based on the labor code violations alleged in his complaint. On
25 December 5, 2022, after exhausting his administrative remedies, Plaintiff filed a First Amended Class
26 and Representative Action Complaint adding a cause of action for civil penalties under the PAGA.
27 Plaintiff’s primary claims/allegations are that Mission Pools: (1) failed to pay all minimum wages owed;
28 (2) failed to pay all overtime wages owed; (3) failed to provide meal periods; (4) failed to authorize and

1 permit rest periods; (5) failed to reimburse necessary business expenses; (6) failed to provide accurate,
2 itemized wage statements; (7) failed to timely pay all wages upon termination; (8) engaged in unlawful
3 business practices; and (9) is liable for civil penalties under the Private Attorneys General Act
4 (“PAGA”). On September 28, 2022, Plaintiff filed the instant putative class action complaint. On
5 December 5, 2022, after exhausting his administrative remedies, Plaintiff filed a First Amended Class
6 and Representative Action Complaint adding a cause of action for civil penalties under the PAGA. On
7 April 13, 2023, Plaintiff submitted a supplemental letter to the LWDA and Mission Pools of Escondido,
8 Inc. regarding his intention of filing a PAGA claim based on the labor code violations alleged in his
9 complaint. On July 12, 2023, Plaintiff filed an Amendment to Complaint identifying Mission Pools of
10 Escondido, Inc. as DOE 1. A true and correct copy of the letters to the LWDA dated September 29,
11 2022 and April 13, 2023 are attached as **Exhibit 1**. Mission Pools, Inc. is the parent company and does
12 not employ any individuals in California. The actual employing entity is Mission Pools of Escondido,
13 Inc. Defendants Mission Pools, Inc. and Mission Pools of Escondido, Inc. are collectively referred to
14 herein as “Mission Pools”.

15 8. In advance of mediation, Mission Pools produced a 20% sampling timekeeping and
16 payroll data for the putative class, as well as its wage and hour policies and other relevant documents
17 and information relevant to the claims alleged. After the detailed review of the documents and data
18 produced by Mission Pools, Class Counsel drew on their extensive experience in similar cases to assess
19 the strengths and weaknesses of Plaintiff’s case. This discovery allowed the parties to assess the merits
20 and value of Plaintiff’s claims and Mission Pools defenses.

21 9. On June 1, 2022, a mediation was held with Jill Sperber, Esq., a well-respected wage
22 and hour class action mediator. During mediation, the parties vigorously debated their opposing legal
23 positions, the likelihood of certification of Plaintiff’s claims, and the legal basis for the claims and
24 defenses. Ultimately, the Parties agreed on a class-wide resolution. In the weeks that followed, the
25 parties finalized the terms of settlement and executed the Stipulation of Settlement (“Settlement”). A
26 true and correct copy of the Settlement is attached hereto as **Exhibit 2**. The proposed Notice Packet is
27 attached as Exhibit A to the Settlement.

28 10. The monetary terms of the Settlement are summarized below:

Gross Settlement Amount (“GSA”):	\$405,000.00
Minus Court-approved attorneys’ fees (update to 1/3 of GSA):	\$135,000.00
Minus Court-approved, verified costs (up to \$25,000.00):	\$20,000.00
Minus Court-approved Class Representative Service Award:	\$5,000.00
Minus Settlement Administration Costs:	\$9,950.00
Minus PAGA payment to the LWDA:	\$22,500.00
Net Settlement Amount (“NSA”):	\$212,550.00
Settlement Class Members	227
Average Individual Payment: NSA/Settlement Class	\$936.34

Defendant shall deposit the Gross Settlement Amount (including one-third of any increase to the Gross Settlement Amount pursuant to the Escalator Clause) and employer’s share of payroll taxes on the portion allocated as wages with a mutually-selected third party administrator as follows within (30) days of the Effective Date. See Settlement, ¶ 4.B.

After deducting amounts for the Court-approved attorneys’ fees and verified costs, Service Award to Plaintiff, Settlement Administrator costs, and the PAGA payment to the LWDA, the Settlement results in a Net Settlement Amount (“NSA”) of at least \$212,550.00 to be paid out to all Settlement Class Members who do not timely opt out.

Therefore, this calculation of $\$212,550/227 = \936.34 , assumes the Court approves the requested attorneys’ fees, maximum attorneys’ costs, enhancement award, settlement administration costs, and payment to the LWDA. This calculation also assumes that all 227 putative class members participate in the settlement and do not submit timely requests for exclusions.

11. There were approximately 227 total Settlement Class Members as of the date of mediation. The proposed Settlement Class is defined as “All current and former non-exempt, hourly employees of Defendant Mission Pools of Escondido, Inc. who worked at any time in California between September 28, 2018 and the date the Court enters an order granting preliminary approval. For purposes of this Settlement Agreement, the “Class Period” shall mean the time period between

1 September 28, 2018 and the date the Court enters an order granting preliminary approval. Thus, the
2 average Individual Class Payment is **\$936.34**, with the lowest individual payment being \$10.00 for a
3 Settlement Class Member that worked one (1) workweek to the highest individual payment being for
4 \$2,682.27 for a Settlement Class Member that worked the entire Class Period and the Court granting
5 preliminary approval on November 17, 2023.

6 Additionally, there were approximately 136 Aggrieved Employees. The proposed Aggrieved
7 Employees are defined as “All current and former non-exempt, hourly employees of Defendant Mission
8 Pools of Escondido, Inc. who worked at any time in California between September 28, 2021 and the
9 date the Court enters an order granting preliminary approval. For purposes of this Settlement
10 Agreement, the “PAGA Period” shall mean the time period between September 28, 2018 and the date
11 the Court enters an order granting preliminary approval. Thus, the average Individual PAGA Payment
12 is projected to be approximately **\$55.15**.

13 12. Here, Plaintiff alleges Settlement Class Members’ claims arise from Mission Pools’
14 common, uniform policies and practices that applied to Settlement Class Members during the class
15 period. Specifically, Plaintiff alleged that Mission Pools’ common and uniform policies and practices
16 resulted in the following violations: (1) failure to pay all minimum wages owed; (2) failure to pay all
17 overtime wages owed; (3) failure to provide meal periods; (4) failure to authorize and permit rest
18 periods; (5) failure to reimburse necessary business expenses; (6) failure to provide accurate, itemized
19 wage statements; (7) failure to timely pay all wages upon termination; (8) engagement in unlawful
20 business practices; and (9) liability for civil penalties under the Private Attorneys General Act
21 (“PAGA”).

22 13. Plaintiff alleges that he and the Class Members were not fully compensated for all of
23 their time worked because Mission Pools would unlawfully shave their work time and/or round their
24 work time such that they would not be fully paid for all time worked. This time-shaving and/or
25 rounding practice utilized by Defendants was not even-handed over time and would almost exclusively
26 round and shave in Defendants’ favor such that employees were routinely unpaid for his time worked.
27 As such, Plaintiff alleges Defendants failed to pay Plaintiff all required minimum and overtime wages,
28

1 and then calculated a total wage underpayment of approximately \$4,407.00 (10,619 pay periods x .03
2 per workweek x \$20.75 average hourly rate).

3 14. Mission Pools contends that it compensated Class Members for all of their time worked.
4 Mission Pools also contends that its rounding practices were lawful, and any unpaid time, if any, was
5 de minimis and therefore non-compensable. Mission Pools further asserts that Plaintiff would be
6 unable to certify a rounding class given the individualized inquiries that would be required, and also
7 that Mission Pools' rounding policy/mechanism was, according to it, neutral on its face and in its
8 application. In light of these defenses, Plaintiff discounted the maximum exposure by 30% for the risk
9 of non-certification, and an additional 30% to account for Mission Pools' defenses on the merits, to
10 arrive at an estimated exposure of \$2,159.43.

11 15. Plaintiff alleges that he and the Class Members were not provided all required meal
12 periods due to Defendants' meal period policies/practices which fail to provide uninterrupted, duty-
13 free 30-minute meal periods prior to the start of the fifth hour of work. Specifically, Plaintiff alleges
14 that due to the work demands imposed by Defendants, Defendants provided late or otherwise unlawful
15 meal periods to Plaintiff and their non-exempt employees because they would begin their shift around
16 6:30 a.m. but could not take a meal period until typically around 12:30 p.m. or later. Moreover, Plaintiff
17 alleges that there were shifts where Defendants failed to provide a meal period altogether. Further,
18 based on the timekeeping data produced by Mission Pools in connection with mediation, it appears
19 Mission Pools did not require Plaintiff and the other non-exempt employees to clock in and out for
20 meal periods. Therefore, despite Defendants' failure to keep any records of meal periods, at least during
21 a portion of the relevant Class Period, Plaintiff alleges that Defendants unlawfully and automatically
22 deducted thirty minutes from Plaintiff's work time each shift for a purported meal period regardless of
23 whether or not a meal period was taken and regardless of whether the meal period, if taken, was less
24 than 30 minutes in length. Accordingly, based on the review of the time keeping records, Plaintiff
25 calculated Mission Pools' maximum exposure for the alleged meal period violations at approximately
26 \$2,059,935.00 ((80,127 shifts with auto-deduct x \$20.75) + (19,147 shifts with recorded non-compliant
27 meal periods x \$20.75)).
28

1 16. Mission Pools counters that it has always maintained a lawful meal period policy and
2 provided non-exempt employees with an opportunity to take legally compliant meal periods, and any
3 non-compliant meal periods reflected in employee timekeeping records were solely the result of
4 employee choice, rather than any policy or practice of Mission Pools. Mission Pools points out that
5 under *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, it is only required to
6 “provide” the opportunity to take meal periods, not “ensure” meal periods are taken, and that they have
7 always done so. *Brinker, supra*, 53 Cal.4th at 1038 (rejecting “ensure” standard). Finally, Mission
8 Pools contends Plaintiff’s meal period claim is not suited for class certification, given that a number of
9 Class Members signed arbitration agreement and since individual inquiries would be required to assess
10 which employees took non-compliant meal periods, how many meal periods were non-compliant or
11 missed, and the reasons why a particular employee took a non-compliant meal period or missed a meal
12 period during a particular shift. Accordingly, Plaintiff discounted the maximum exposure by 40% for
13 the risk of non-certification, and an additional 45% to account for Mission Pools defenses on the merits
14 to arrive at an estimated exposure of \$679,778.55.

15 17. Plaintiff alleges that he and Settlement Class Members were also not authorized and
16 permitted to take all required rest periods due to Mission Pools rest period policies and practices.
17 Specifically, Plaintiff alleges that Mission Pools rest period policies and practices did not authorize
18 and permit Plaintiff and the other non-exempt employees a net ten-minute rest period for every four
19 hours worked, or major fraction thereof. Moreover, Plaintiff alleges on those occasions when Plaintiff
20 was not authorized and permitted to take all legally compliant rest periods to which he was entitled,
21 Defendants failed to compensate Plaintiff with the required rest period premium for each workday in
22 which he experienced a rest period violation as mandated by Labor Code § 226.7. Thus, Plaintiff
23 alleges that he and other non-exempt employees experienced at least one rest period violation on every
24 shift worked in excess of 6.0 hours. Therefore, Plaintiff calculated Mission Pools maximum exposure
25 for the alleged rest period violations at approximately \$2,131,544.00 (102,725 shifts x \$20.75 average
26 hourly rate).

1 18. Mission Pools contends it has always maintained and enforced lawful rest period
2 policies and practices, and that Settlement Class Members were authorized and permitted to take all
3 off-duty rest periods in compliance with California law. Mission Pools also argues that Plaintiff's rest
4 period claim is inherently unsuited for class treatment as a number of Class Members signed arbitration
5 agreements and it requires an individualized inquiry into whether each Settlement Class Member was
6 in fact authorized and permitted to take a compliant rest period, which would devolve into an
7 unmanageable series of mini-trials. Accordingly, Plaintiff discounted the maximum exposure by 60%
8 for the risk of non-certification, and an additional 60% to account for Mission Pools' defenses on the
9 merits to arrive at an estimated exposure of \$341,047.04.

10 19. Plaintiff alleges throughout Plaintiff's employment with Defendants, Defendants failed
11 to reimburse Plaintiff for expenses he incurred in direct consequence of the discharge of his duties
12 including, without limitation, costs incurred for using his personal cellular phone. Despite the necessity
13 of incurring expenses in the discharge of his duties, Plaintiff alleges he was never reimbursed for all
14 necessary expenditures he incurred as a direct consequence of the discharge of his duties. Specifically,
15 Plaintiff contends that this conduct violated Labor Code section 2802 and Cochran v. Schwan's Home
16 Service, Inc. (2014) 228 Cal.App.4th 1137. Therefore, Plaintiff calculated Mission Pools maximum
17 exposure for unreimbursed business expenses at approximately \$132,731.00 ((21,237 workweeks x
18 \$6.25/workweek)).

19 20. Mission Pools contends it has an expense reimbursement policy in effect during the
20 relevant time period and that any expenses incurred in direct consequence of the discharge of job duties
21 would have been reimbursed. Mission Pools contends that the use of cellular phones was not required
22 by Plaintiff or the class members to perform their job duties and that to the extent they used their
23 cellular phones, they did so purely because it was their personal preference, not because it was
24 necessary to perform their job duties. Mission Pools further contends it provided company issued
25 cellular phones to crew leads. Mission Pools therefore argues that this claim is not suitable for class
26 treatment because it would require individualized determinations as to whether employees used their
27 phone, whether the use was in direct discharge of their job duties, and the reasoning behind using a
28

1 personal cellular phone. Accordingly, Plaintiff discounted the maximum exposure by 60% for the risk
2 of non-certification, and an additional 65% to account for Mission Pools' defenses on the merits to
3 arrive at an estimated exposure of \$18,582.34.

4 21. Plaintiff further alleges that Mission Pools issued inaccurate wage statements in
5 violation of Labor Code § 226 as a result of the alleged unpaid minimum wages and overtime wages,
6 and meal and rest period premium wages described above. Therefore, Plaintiff calculated Mission
7 Pools maximum exposure for wage statement violations at approximately \$359,550.00 ($(\50.00×81
8 $\text{current employees}) + (\$100.00 \times 3,555 \text{ subsequent wage statements})$).

9 22. Mission Pools argues that its alleged wage statement violations could not be shown to
10 be "knowing and intentional," and that Plaintiff cannot show that he or any other employee "suffer[ed]
11 injury" as a result of the alleged wage statement violations, as required by Lab. Code § 226(e) for
12 imposition of penalties. As such, the calculated exposure is discounted by 45% for a risk of non-
13 certification and an additional 55% for a risk of being unsuccessful on the merits, to arrive at an
14 estimated total of \$88,988.63.

15 23. Plaintiff alleges that Mission Pools is also liable for waiting time penalties under Labor
16 Code section 203 as a result of its failure to timely pay all wages upon separation. Specifically, Plaintiff
17 alleges Defendants failed to pay all wages owed to Plaintiff upon his termination of employment with
18 Defendants. There are approximately 131 Settlement Class Members who have separated their
19 employment with Mission Pools during the relevant time period who could be entitled to waiting time
20 penalties. Therefore, Plaintiff calculated Mission Pools' maximum exposure for waiting time penalties
21 at approximately is \$652,380.00 ($\$20.75 \times 8 \times 30 \text{ days} \times 131 \text{ former employees}$).

22 24. Mission Pools asserts it has strong defenses to the waiting time claim because there
23 exist good-faith disputes as to Plaintiff's underlying claims, precluding imposition of penalties.
24 Accordingly, Plaintiff discounted the maximum exposure by 30% for the risk of non-certification, and
25 an additional 40% to account for Mission Pools defenses on the merits, to arrive at an estimated
26 exposure of \$273,999.00.

1 25. Plaintiff also seeks civil penalties under the PAGA as a result of the foregoing alleged
2 Labor Code violations. Plaintiff calculated Mission Pools' maximum exposure at \$363,600.00 ((3,636
3 pay periods x \$100 initial violation rate)).

4 26. Mission Pools argues that Plaintiff's PAGA claim will fail for the same reasons that his
5 underlying claims will fail. Mission Pools also maintains that, given its good faith defenses, this Court
6 would exercise its discretion to substantially reduce any PAGA penalties if it were to find Mission
7 Pools liable for any of Plaintiff's claims. Therefore, Plaintiff discounted the maximum exposure figure
8 by 40% for a risk of being unsuccessful on the merits, and an additional 45% to account for the
9 possibility of this Court reducing penalties, to arrive at an estimated exposure of \$119,988.00.

10 27. Using these estimated figures for each of the claims described above, Plaintiff predicted
11 the realistic total recovery for the Settlement Class would be approximately \$1,524,543.59. The
12 proposed settlement of \$405,000.00 therefore represents approximately 39% of the reasonably
13 forecasted recovery for the Settlement Class. Preliminary approval is appropriate as the settlement will
14 provide tangible monetary relief to Settlement Class Members, and will still provide an average recovery
15 to Settlement Class Members of over \$900.00.

16 28. Here, Class Counsel will also apply for an attorneys' fees award of one-third of the
17 GSA, which is currently estimated to be \$135,000, and up to \$20,000.00 in verified costs
18 reimbursement. Plaintiff submits the requested fee is fair compensation for undertaking complex, risky,
19 expensive, and time-consuming litigation on a purely contingent fee basis. Class Counsel has incurred
20 substantial attorney fees conducting pre-filing investigation, analyzing Plaintiff's claims, conducting
21 legal research, analyzing timekeeping data and payroll records, preparing for and attending mediation,
22 negotiating and revising the long-form Settlement, preparing this Motion, and otherwise litigating the
23 case. Class Counsel expect to expend additional attorney time in attending the hearing on this Motion,
24 overseeing the Notice process and fielding questions from Settlement Class Members, preparing the
25 final approval papers and attending the Final Approval hearing.

26 29. Plaintiff has provided written approval of the split of attorneys' fees in this action.
27
28

30. Plaintiff will separately apply for a service payment at the time of seeking final approval in the amount of \$5,000.00. As will be fully briefed at the time of final approval, Plaintiff's requested service award is intended to recognize the time and effort Plaintiff expended on behalf of the Settlement Class, including providing substantial factual information and documents to Class Counsel, attending multiple meetings with Class Counsel to discuss the claims and theories at issue in the litigation, as well as the significant risks Plaintiff undertook by agreeing to serve as the named plaintiff in this case, and the fact that Plaintiff has agreed to a general release of all claims subject to a waiver of Civil Code § 1542.

31. Although the parties engaged in informal discovery throughout this action, the parties still had significant discovery to complete in formal litigation had the matter not settled. Moreover, Plaintiff still had to file for class certification, and faced the prospect of appeals in the wake of a disputed class certification ruling for Plaintiff and/or an adverse summary judgment ruling. Even if the classes were certified, the parties would incur considerably more attorneys' fees and costs through a possible decertification motion, trial, and possible appeal. This Settlement avoids those risks and the accompanying expense. Thus, this factor supports preliminary approval.

32. Plaintiff will serve the instant Motion and proposed Settlement Agreement on the LWDA on the same date he files this Motion and will submit a supplemental proof of service showing the submission.

33. Defendant and its counsel also confirmed that they are not aware of any other actions – class, individual, or PAGA (whether filed in court or in the pre-filing LWDA stage) – that may be affected by this settlement. My firm and co-counsel’s firm are not aware of any other actions – class, individual, or PAGA (whether filed in court or in the pre-filing LWDA stage) – that may be affected by this settlement.

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

Executed on September 18, 2023, at El Segundo, California.

Milan Moore

EXHIBIT 1

EXHIBIT 1

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

September 29, 2022

VIA LWDA WEBSITE

Labor and Workforce Development Agency

Attn: PAGA Administrator

1515 Clay Street, Suite 801

Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Mission Pools, Inc.

c/o George Bruce Dunn, Registered Agent

755 West Grand Avenue

Escondido, CA 92025

Re: *Jefferson Lopez v. Mission Pools, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Jefferson Lopez in claims arising from his employment with Mission Pools, Inc., a California corporation (“Defendant”). Mr. Lopez is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, if the LWDA decides not to investigate, Mr. Lopez intends to pursue a lawsuit on behalf of other “Aggrieved Employees”, which should be considered to include all of Defendant’s current and former non-exempt employees in California who have worked for Defendant, at least in part, during the one year immediately preceding the date of this letter through the date of trial, the date judgment is entered, the date of settlement and/or other date approved by the Court.

Mr. Lopez, a former non-exempt employee, was employed by Defendant from approximately October 28, 2020 through or about April 29, 2022. During his employment, Mr. Lopez worked as a General Laborer and primarily built swimming pools.

During his employment with Defendant, Mr. Lopez and other non-exempt employees would travel to Defendant’s office in Lake Forest, California, clock in, drive a work vehicle to Defendant’s clients with building supplies and then return to the office to clock out at the end of his shift. Throughout his employment with Defendant, Mr. Lopez and other non-exempt employees frequently worked over 8 hours in a shift and/or 40 hours in a workweek.

During his employment with Defendant, Defendant would keep track of Mr. Lopez's and other non-exempt employees time worked and would unlawfully shave their work time and/or round their work time such that they would not be fully paid for all time worked. This time-shaving and/or rounding practice utilized by Defendant was not even-handed over time and would almost exclusively round and shave in Defendant's favor such that Mr. Lopez and other non-exempt employees were routinely unpaid for his time worked. As a result, Defendant failed to pay Mr. Lopez and other non-exempt employees all required minimum and overtime wages.

Throughout Mr. Lopez's employment with Defendant, Mr. Lopez and other non-exempt employees were not provided all required meal periods due to Defendant's meal period policies/practices which fail to provide uninterrupted, duty-free 30-minute meal periods prior to the start of the fifth hour of work. Specifically, due to the work demands imposed by Defendant, Defendant provided late or otherwise unlawful meal periods to Mr. Lopez and their non-exempt employees because they would begin their shift around 6:30 a.m. but could not take a meal period until typically around 12:30 p.m. or later. Moreover, there were shifts where Defendant failed to provide a meal period altogether. Further, Defendant did not require Mr. Lopez and the other non-exempt employees to clock in and out for their meal periods. Therefore, despite Defendant's failure to keep any records of Mr. Lopez's meal periods, Mr. Lopez is informed and believes that Defendant unlawfully and automatically deducted thirty minutes from Mr. Lopez's work time each shift for a purported meal period regardless of whether or not a meal period was taken and regardless of whether the meal period, if taken, was less than 30 minutes in length. As a result, Defendant failed to pay Mr. Lopez and other non-exempt employees all of their minimum and overtime wages owed.

Although Mr. Lopez and other non-exempt employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate Mr. Lopez and other non-exempt employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

Mr. Lopez and other non-exempt employees were also not authorized and permitted to take all legally required and compliant rest periods due to Defendant's rest period policies and practices. Specifically, Defendant's rest period policies and practices did not authorize and permit Mr. Lopez and the other non-exempt employees a net ten-minute rest period for every four hours worked, or *major fraction thereof*.

On those occasions when Mr. Lopez and other non-exempt employees were not authorized and permitted to take all legally-compliant rest periods to which they were entitled, Defendant failed to compensate Mr. Lopez and other non-exempt employees with the required rest period premium for each workday in which they experienced a rest period violation as mandated by Labor Code § 226.7.

Throughout Mr. Lopez's employment with Defendant, Defendant failed to reimburse Mr. Lopez and other non-exempt employees for expenses they incurred in direct

consequence of the discharge of their duties including, without limitation, costs incurred for using their personal cellular phones. Despite the necessity of incurring expenses in the discharge of his duties, Mr. Lopez and other non-exempt employees were never reimbursed for all necessary expenditures they incurred as a direct consequence of the discharge of his duties, as mandated by Labor Code section 2802 and *Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137.

As a result of Defendant's failure to pay all minimum wages, overtime wages, as well as meal period premium wages and rest period premium wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Lopez and other non-exempt employees.

As a further result of Defendant's failure to pay all minimum and overtime wages and meal and rest period premium wages, Defendant failed to pay all wages owed to Mr. Lopez and other non-exempt employees upon their termination of employment with Defendant.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 16 ("Wage Order 16"):

Overtime Violations

Defendant was required to pay Mr. Lopez and other aggrieved employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 16, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further provides, "Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated equal to one and one-half times their regular rate of pay for all overtime hours worked." As explained above, Mr. Lopez and other Aggrieved Employees often worked over eight hours in a day and/or 40 hours in a week, and Defendant's policy and practice of failing to compensate them for all hours worked also deprived them of all overtime wages owed due to Defendant's unlawful time shaving/rounding practice.

Minimum Wage Violations

Defendant was required to pay Mr. Lopez and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197; The Wage Order 16, § 4. Mr. Lopez and other aggrieved employees were not paid for all hours worked due to Defendant's timekeeping and compensation practices. As alleged above, Mr. Lopez was not fully paid for all time worked due to Defendant's timekeeping policies and practices because Defendant would unlawfully

shave Mr. Lopez's work time and/or round Mr. Lopez's work time such that Mr. Lopez would not be fully paid all wages he was rightfully owed. This time shaving/rounding practice utilized by Defendant was not-even handed over time and would round and/or shave in Defendant's favor such that Mr. Lopez was routinely underpaid for his time worked, including minimum wages. As a result of this policy or practice, Defendant failed to properly account for and track all time actually worked by Mr. Lopez, and also failed to pay Mr. Lopez all required minimum wages. Further, Mr. Lopez and other non-exempt, hourly employees often worked over eight hours in a day and/or 40 hours in a week, and Defendant's policy and practice of failing to compensate them for all hours worked also deprived them of all overtime wages owed.

Meal Period Violations

As alleged above, Defendant failed to provide Mr. Lopez and other Aggrieved Employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 16, § 11. Specifically, due to the work demands imposed by Defendant, Defendant provided late or otherwise unlawful meal periods to Mr. Lopez and other Aggrieved Employees because they would begin their shift around 6:30 a.m. but could not take a meal period until typically around 12:30 p.m. or later. Moreover, there were shifts where Defendant failed to provide a meal period altogether. Further, Defendant did not require Mr. Lopez and other Aggrieved Employees to clock in and out for their meal periods. Therefore, despite Defendant's failure to keep any records of Mr. Lopez's meal periods, Mr. Lopez is informed and believes that Defendant unlawfully and automatically deducted thirty minutes from Mr. Lopez's work time each shift for a purported meal period regardless of whether or not a meal period was taken and regardless of whether the meal period, if taken, was less than 30 minutes in length. Therefore, Mr. Lopez and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."). Although Mr. Lopez and other Aggrieved Employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate Mr. Lopez and other Aggrieved Employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

Rest Period Violations

Defendant also failed to authorize and permit Mr. Lopez and other Aggrieved Employees to take all required rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 16, § 12. As alleged above, Defendant's rest period policies/practices fail to authorize and permit all rest periods for every four hours worked, or *major fraction thereof*. Specifically, as a result of the work demands imposed by Defendant, Defendant did not authorize and permit one rest period for every four hours worked, or *major fraction thereof*. As a result, Mr. Lopez and other Aggrieved Employees are owed an additional

hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest period is not provided.”)

Failure to Reimburse Business Expenses

Defendant failed to reimburse Mr. Lopez and other aggrieved employees for necessary work expenses, including, but not limited to, expenses incurred for the reasonable portion of cellular phone expenses incurred in the direct discharge of the job duties of such employees. Defendant’s policy of not providing reimbursement for necessary work-related expenses is in violation of Wage Order 16, § 9, and Labor Code § 2802 (“An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.”) Mr. Lopez and other aggrieved employees are therefore entitled to reimbursement of such unpaid work expenses with interest.

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Mr. Lopez and other Aggrieved Employees all of their final wages at the time of separation, which included, among other things, underpaid minimum and overtime wages, and meal and rest period premium wages. Pursuant to Labor Code § 203, Defendant’s failure to pay all final wages due to Mr. Lopez and other aggrieved employees was willful and, consequently, entitles Mr. Lopez and other similarly aggrieved employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day Defendant failed to pay their final wages after their separation, up to a maximum of thirty days.

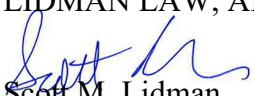
Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Mr. Lopez and other aggrieved employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, meal and rest period premiums, and total gross and net wages earned, in violation of Labor Code § 226 *et seq.* Defendant’s failure to furnish Mr. Lopez and other aggrieved employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages earned, and meal and rest period premium wages, and deprived them of the information necessary to identify discrepancies in Defendant’s reported data.

As an “aggrieved employee,” Mr. Lopez will initiate a civil action on behalf of himself and other Aggrieved Employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Lopez’s own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Mr. Lopez and other Aggrieved Employees the statutory minimum wage for all hours worked;
- b) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Mr. Lopez and other Aggrieved Employees all overtime compensation earned;
- c) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Mr. Lopez and other Aggrieved Employees;
- d) Defendant violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Mr. Lopez and other Aggrieved Employees;
- e) Defendant violated Labor Code § 2802 by failing to reimburse Mr. Lopez and other Aggrieved Employees for necessary work expenditures;
- f) Defendant violated Labor Code § 226 by failing to furnish Mr. Lopez and other Aggrieved Employees with accurate and compliant itemized wage statements;
- g) Defendant violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Mr. Lopez and other Aggrieved Employees;
- h) Defendant violated Labor Code § 204 by failing to pay Mr. Lopez and other Aggrieved Employees all earned wages at least twice during each calendar month; and
- i) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Mr. Lopez and other Aggrieved Employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC

Scott M. Lidman

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

April 13, 2023

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Mission Pools, Inc.
c/o George Bruce Dunn, Registered Agent
755 West Grand Avenue
Escondido, CA 92025

VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Mission Pools of Escondido
c/o George Bruce Dunn, Registered Agent
755 West Grand Avenue
Escondido, CA 92025

Re: *Jefferson Lopez v. Mission Pools, Inc.*
LWDA Case No. LWDA-CM-910972-22

To Whom It May Concern:

This letter is to supplement the letter sent by my office on behalf of Jefferson Lopez on September 29, 2023 (the “PAGA Letter”) regarding the Labor Code violations committed by Mission Pools, Inc. against Mr. Lopez and other aggrieved employees. A copy of the PAGA Letter is attached hereto as Exhibit 1 and incorporated herein by reference.

Mr. Lopez contends that he was employed by Mission Pools of Escondido and Mission Pools, Inc. Accordingly, by this letter, Mr. Lopez hereby supplements the PAGA Letter and provides notice to Mission Pools of Escondido, by and through its Registered Agent George Bruce Dunn that, along with Mission Pools, Inc., Mission Pools of Escondido committed the Labor Code violations against Mr. Lopez and the aggrieved employees described in the PAGA Letter.

Should you have questions regarding any of the above, please do not hesitate to contact me.

Very truly yours,
LIDMAN LAW, APC


Scott M. Lidman

EXHIBIT 1

EXHIBIT 1

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

September 29, 2022

VIA LWDA WEBSITE

Labor and Workforce Development Agency

Attn: PAGA Administrator

1515 Clay Street, Suite 801

Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Mission Pools, Inc.

c/o George Bruce Dunn, Registered Agent

755 West Grand Avenue

Escondido, CA 92025

Re: *Jefferson Lopez v. Mission Pools, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Jefferson Lopez in claims arising from his employment with Mission Pools, Inc., a California corporation (“Defendant”). Mr. Lopez is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, if the LWDA decides not to investigate, Mr. Lopez intends to pursue a lawsuit on behalf of other “Aggrieved Employees”, which should be considered to include all of Defendant’s current and former non-exempt employees in California who have worked for Defendant, at least in part, during the one year immediately preceding the date of this letter through the date of trial, the date judgment is entered, the date of settlement and/or other date approved by the Court.

Mr. Lopez, a former non-exempt employee, was employed by Defendant from approximately October 28, 2020 through or about April 29, 2022. During his employment, Mr. Lopez worked as a General Laborer and primarily built swimming pools.

During his employment with Defendant, Mr. Lopez and other non-exempt employees would travel to Defendant’s office in Lake Forest, California, clock in, drive a work vehicle to Defendant’s clients with building supplies and then return to the office to clock out at the end of his shift. Throughout his employment with Defendant, Mr. Lopez and other non-exempt employees frequently worked over 8 hours in a shift and/or 40 hours in a workweek.

During his employment with Defendant, Defendant would keep track of Mr. Lopez's and other non-exempt employees time worked and would unlawfully shave their work time and/or round their work time such that they would not be fully paid for all time worked. This time-shaving and/or rounding practice utilized by Defendant was not even-handed over time and would almost exclusively round and shave in Defendant's favor such that Mr. Lopez and other non-exempt employees were routinely unpaid for his time worked. As a result, Defendant failed to pay Mr. Lopez and other non-exempt employees all required minimum and overtime wages.

Throughout Mr. Lopez's employment with Defendant, Mr. Lopez and other non-exempt employees were not provided all required meal periods due to Defendant's meal period policies/practices which fail to provide uninterrupted, duty-free 30-minute meal periods prior to the start of the fifth hour of work. Specifically, due to the work demands imposed by Defendant, Defendant provided late or otherwise unlawful meal periods to Mr. Lopez and their non-exempt employees because they would begin their shift around 6:30 a.m. but could not take a meal period until typically around 12:30 p.m. or later. Moreover, there were shifts where Defendant failed to provide a meal period altogether. Further, Defendant did not require Mr. Lopez and the other non-exempt employees to clock in and out for their meal periods. Therefore, despite Defendant's failure to keep any records of Mr. Lopez's meal periods, Mr. Lopez is informed and believes that Defendant unlawfully and automatically deducted thirty minutes from Mr. Lopez's work time each shift for a purported meal period regardless of whether or not a meal period was taken and regardless of whether the meal period, if taken, was less than 30 minutes in length. As a result, Defendant failed to pay Mr. Lopez and other non-exempt employees all of their minimum and overtime wages owed.

Although Mr. Lopez and other non-exempt employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate Mr. Lopez and other non-exempt employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

Mr. Lopez and other non-exempt employees were also not authorized and permitted to take all legally required and compliant rest periods due to Defendant's rest period policies and practices. Specifically, Defendant's rest period policies and practices did not authorize and permit Mr. Lopez and the other non-exempt employees a net ten-minute rest period for every four hours worked, or *major fraction thereof*.

On those occasions when Mr. Lopez and other non-exempt employees were not authorized and permitted to take all legally-compliant rest periods to which they were entitled, Defendant failed to compensate Mr. Lopez and other non-exempt employees with the required rest period premium for each workday in which they experienced a rest period violation as mandated by Labor Code § 226.7.

Throughout Mr. Lopez's employment with Defendant, Defendant failed to reimburse Mr. Lopez and other non-exempt employees for expenses they incurred in direct

consequence of the discharge of their duties including, without limitation, costs incurred for using their personal cellular phones. Despite the necessity of incurring expenses in the discharge of his duties, Mr. Lopez and other non-exempt employees were never reimbursed for all necessary expenditures they incurred as a direct consequence of the discharge of his duties, as mandated by Labor Code section 2802 and *Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137.

As a result of Defendant's failure to pay all minimum wages, overtime wages, as well as meal period premium wages and rest period premium wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Lopez and other non-exempt employees.

As a further result of Defendant's failure to pay all minimum and overtime wages and meal and rest period premium wages, Defendant failed to pay all wages owed to Mr. Lopez and other non-exempt employees upon their termination of employment with Defendant.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 16 ("Wage Order 16"):

Overtime Violations

Defendant was required to pay Mr. Lopez and other aggrieved employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 16, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further provides, "Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated equal to one and one-half times their regular rate of pay for all overtime hours worked." As explained above, Mr. Lopez and other Aggrieved Employees often worked over eight hours in a day and/or 40 hours in a week, and Defendant's policy and practice of failing to compensate them for all hours worked also deprived them of all overtime wages owed due to Defendant's unlawful time shaving/rounding practice.

Minimum Wage Violations

Defendant was required to pay Mr. Lopez and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197; The Wage Order 16, § 4. Mr. Lopez and other aggrieved employees were not paid for all hours worked due to Defendant's timekeeping and compensation practices. As alleged above, Mr. Lopez was not fully paid for all time worked due to Defendant's timekeeping policies and practices because Defendant would unlawfully

shave Mr. Lopez's work time and/or round Mr. Lopez's work time such that Mr. Lopez would not be fully paid all wages he was rightfully owed. This time shaving/rounding practice utilized by Defendant was not-even handed over time and would round and/or shave in Defendant's favor such that Mr. Lopez was routinely underpaid for his time worked, including minimum wages. As a result of this policy or practice, Defendant failed to properly account for and track all time actually worked by Mr. Lopez, and also failed to pay Mr. Lopez all required minimum wages. Further, Mr. Lopez and other non-exempt, hourly employees often worked over eight hours in a day and/or 40 hours in a week, and Defendant's policy and practice of failing to compensate them for all hours worked also deprived them of all overtime wages owed.

Meal Period Violations

As alleged above, Defendant failed to provide Mr. Lopez and other Aggrieved Employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 16, § 11. Specifically, due to the work demands imposed by Defendant, Defendant provided late or otherwise unlawful meal periods to Mr. Lopez and other Aggrieved Employees because they would begin their shift around 6:30 a.m. but could not take a meal period until typically around 12:30 p.m. or later. Moreover, there were shifts where Defendant failed to provide a meal period altogether. Further, Defendant did not require Mr. Lopez and other Aggrieved Employees to clock in and out for their meal periods. Therefore, despite Defendant's failure to keep any records of Mr. Lopez's meal periods, Mr. Lopez is informed and believes that Defendant unlawfully and automatically deducted thirty minutes from Mr. Lopez's work time each shift for a purported meal period regardless of whether or not a meal period was taken and regardless of whether the meal period, if taken, was less than 30 minutes in length. Therefore, Mr. Lopez and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."). Although Mr. Lopez and other Aggrieved Employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate Mr. Lopez and other Aggrieved Employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

Rest Period Violations

Defendant also failed to authorize and permit Mr. Lopez and other Aggrieved Employees to take all required rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 16, § 12. As alleged above, Defendant's rest period policies/practices fail to authorize and permit all rest periods for every four hours worked, or *major fraction thereof*. Specifically, as a result of the work demands imposed by Defendant, Defendant did not authorize and permit one rest period for every four hours worked, or *major fraction thereof*. As a result, Mr. Lopez and other Aggrieved Employees are owed an additional

hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest period is not provided.”)

Failure to Reimburse Business Expenses

Defendant failed to reimburse Mr. Lopez and other aggrieved employees for necessary work expenses, including, but not limited to, expenses incurred for the reasonable portion of cellular phone expenses incurred in the direct discharge of the job duties of such employees. Defendant’s policy of not providing reimbursement for necessary work-related expenses is in violation of Wage Order 16, § 9, and Labor Code § 2802 (“An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.”) Mr. Lopez and other aggrieved employees are therefore entitled to reimbursement of such unpaid work expenses with interest.

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Mr. Lopez and other Aggrieved Employees all of their final wages at the time of separation, which included, among other things, underpaid minimum and overtime wages, and meal and rest period premium wages. Pursuant to Labor Code § 203, Defendant’s failure to pay all final wages due to Mr. Lopez and other aggrieved employees was willful and, consequently, entitles Mr. Lopez and other similarly aggrieved employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day Defendant failed to pay their final wages after their separation, up to a maximum of thirty days.

Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Mr. Lopez and other aggrieved employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, meal and rest period premiums, and total gross and net wages earned, in violation of Labor Code § 226 *et seq.* Defendant’s failure to furnish Mr. Lopez and other aggrieved employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages earned, and meal and rest period premium wages, and deprived them of the information necessary to identify discrepancies in Defendant’s reported data.

As an “aggrieved employee,” Mr. Lopez will initiate a civil action on behalf of himself and other Aggrieved Employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Lopez’s own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Mr. Lopez and other Aggrieved Employees the statutory minimum wage for all hours worked;
- b) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Mr. Lopez and other Aggrieved Employees all overtime compensation earned;
- c) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Mr. Lopez and other Aggrieved Employees;
- d) Defendant violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Mr. Lopez and other Aggrieved Employees;
- e) Defendant violated Labor Code § 2802 by failing to reimburse Mr. Lopez and other Aggrieved Employees for necessary work expenditures;
- f) Defendant violated Labor Code § 226 by failing to furnish Mr. Lopez and other Aggrieved Employees with accurate and compliant itemized wage statements;
- g) Defendant violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Mr. Lopez and other Aggrieved Employees;
- h) Defendant violated Labor Code § 204 by failing to pay Mr. Lopez and other Aggrieved Employees all earned wages at least twice during each calendar month; and
- i) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Mr. Lopez and other Aggrieved Employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

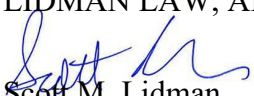
Very truly yours,
LIDMAN LAW, APC

Scott M. Lidman

EXHIBIT 2

EXHIBIT 2

STIPULATION OF CLASS AND PAGA ACTION SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement” or “Settlement”) is reached by and between Plaintiff Jefferson Lopez (“Plaintiff”), individually and on behalf of all members of the Settlement Class (defined below), on one hand, and Defendant Mission Pools, Inc. and Mission Pools of Escondido, Inc. (collectively “Mission Pools” or “Defendants”), on the other hand. Plaintiff and Mission Pools are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Paul K. Haines of Haines Law Group, APC and Scott M. Lidman, Elizabeth Nguyen, and Milan Moore of Lidman Law, APC (collectively, “Class Counsel”). Mission Pools is represented by Noah J. Woods and Jamie Santos of Littler Mendelson, P.C.

On September 28, 2022, Plaintiff filed a Complaint against Defendant Mission Pools, Inc in Orange County Superior Court, in the matter entitled *Jefferson Lopez v. Mission Pools, Inc.*, Case No. 30-2022-01283102-CU-OE-CXC (the “Action”). On December 5, 2022, Plaintiff filed a First Amended Complaint alleging that Mission Pools: (i) failed to pay all minimum wages owed; (ii) failed to pay all overtime wages owed; (iii) failed to provide meal periods; (iv) failed to authorize and permit rest periods; (v) failed to reimburse necessary business; (vi) failed to issue accurate, itemized wage statements; and (vii) waiting time penalties. As a result of the foregoing alleged violations, Plaintiff contends that Mission Pools is further liable to Plaintiff and the Settlement Class (defined below) because it engaged in unlawful business practices. Plaintiff further alleges that Mission Pools is liable for civil penalties pursuant to the Labor Code Private Attorneys General Act, Cal. Labor Code § 2698 *et seq.* (“PAGA”) as a result of the aforementioned alleged violations of the California Labor Code.

On or about July 12, 2023, Plaintiff filed an Amendment to Complaint amending the Complaint by adding Mission Pools of Escondido, Inc. as DOE 1.

Mission Pools denies Plaintiff’s claims. Mission Pools, Inc. confirms it currently does not and has not employed any hourly employees in the State of California since September 28, 2018. Mission Pools enters into this conditional Settlement and executes this agreement with no admission of liability whatsoever, and solely for the purposes of compromising and settling the Action.

Given the uncertainty of litigation, Plaintiff and Mission Pools wish to settle both individually and on behalf of the Settlement Class. Accordingly, Plaintiff and Mission Pools agree as follows:

1. **Settlement Class.** For the purposes of this Settlement Agreement only, Plaintiff and Mission Pools stipulate to the certification of the following Settlement Class:

All current and former non-exempt, hourly employees of Defendant Mission Pools of Escondido, Inc., who worked at any time in California between September 28, 2018 and the date the Court enters an order granting preliminary approval.

For purposes of this Settlement Agreement, the “Class Period” shall mean the time period between September 28, 2018 and the date the Court enters an order granting preliminary approval.

The Parties agree that certification for purposes of this Settlement Agreement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure. If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

2. **PAGA Employees.** For the purposes of this Settlement Agreement only, Plaintiff and Mission Pools stipulate to the following definition of PAGA Employees:

All current and former non-exempt, hourly employees of Defendant Mission Pools of Escondido, Inc. who worked at any time in California between September 28, 2021 and the date the Court enters an order granting preliminary approval.

For purposes of this Settlement Agreement, the “PAGA Period” and time period for the PAGA Release shall mean the time period between September 28, 2021 and the date the Court enters an order granting preliminary approval.

3. **Release by Settlement Class Members and Plaintiff.** Plaintiff and every member of the Settlement Class (except those who timely and properly submit a Request for Exclusion as set forth below) will fully and forever completely discharge Mission Pools, and all of its past and present officers, directors, shareholders, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, and its respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys, (collectively the “Released Parties”), as follows:

- A. Settlement Class Members’ Release: Settlement Class Members and Plaintiff will release any and all claims, demands, rights, liabilities and causes of action against the Released Parties that were pled in the Complaints in the Action or arose from the same operative facts and/or allegations as those set forth in the Complaints in the Action, that arose during the Class Periods defined above with respect to the following claims: (a) failure to pay all wages owed, including minimum wages owed and overtime wages owed; (b) failure to provide meal periods, or premium pay for non-compliant meal periods; (c) failure to authorize and permit rest periods, or premium pay for non-compliant rest periods; (d) failure to reimburse necessary business expenditures; (e) failure to issue accurate, itemized wage statements; (f) failure to timely pay wages during employment and upon separation of employment; and (g) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories described above (collectively, “Released Class Claims”). The time period for the release of the Released Class Claims against the Released Parties shall be the same time period as the Class Period.
- B. PAGA Release: PAGA Employees, including Plaintiff, will release and forever discharge all claims, demands, rights, liabilities and causes of action under the

California Labor Code Private Attorneys General Act of 2004 against the Released Parties arising from the same set of operative facts and/or allegations asserted in the Complaints and/or alleged in the letter to the Labor & Workforce Development Agency (“LWDA”) dated September 29, 2022 and April 13, 2023, including the following: (a) failure to pay all wages owed, including minimum wages owed and overtime wages owed; (b) failure to provide meal periods, or premium pay for non-compliant meal periods; (c) failure to authorize and permit rest periods, or premium pay for non-compliant rest periods; (d) failure to reimburse necessary business expenditures; (e) failure to issue accurate, itemized wage statements; (f) failure to timely pay wages during employment and upon separation of employment that occurred during the PAGA Period (collectively, “PAGA Released Claim”). The time period for the release of the PAGA Release against the Released Parties shall be the same time period as the PAGA Period.

- C. General Release by Plaintiff: Plaintiff, as of the Effective Date of the Releases, and his respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been alleged based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff’s letters to the LWDA dated September 29, 2022 and April 13, 2023 (“Plaintiff’s Release.”). Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff’s Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff’s discovery of them.

Plaintiff does not release any other claims, including claims for wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

Notwithstanding the above or anything else in this Settlement, Plaintiff’s waiver and release in this Settlement Agreement does not apply to: (i) those rights as a matter of law that cannot be waived, including, but not limited to, workers’ compensation claims; (ii) rights or claims arising out of this Agreement after this Agreement is executed by Plaintiff; and (iii) rights or claims arising of this Agreement. The Settlement Agreement in no way affects Plaintiff’s entitlement and/or benefits to be received by Plaintiff in workers’ compensation pursuant to the jurisdiction of workers’ compensation. Plaintiff also agrees to not request an exclusion from this settlement. Any Incentive Award approved by the Court will result in the issuance of a Form 1099 to the class representative, who shall assume full responsibility and liability for the payment of taxes due on such award.

- D. The releases identified herein shall become effective on the date on which Defendant fully funds the Gross Settlement Amount and the employer's share of payroll taxes ("Effective Date of the Releases"). Upon the Effective Date of the Releases, all Settlement Class Members shall be deemed to have, and by operation of Judgment shall have, released, waived and relinquished the Released Class Claims.

4. **Gross Settlement Amount.** As consideration, Defendant agrees to pay a "Gross Settlement Amount" of Four Hundred Five Thousand Dollars (**\$405,000.00**) in full and complete settlement of the Action, as follows:

- A. The Parties have agreed to engage Phoenix Class Action Administration as the "Settlement Administrator" to administer this Settlement. All settlement administration costs shall be paid from the Gross Settlement Amount.
- B. This Settlement shall become effective on the "Effective Date" which is defined as the latest date after all of the following events have occurred: (i) the Settlement Agreement has been signed by the Parties; (ii) the Court has given preliminary approval to the Settlement; (iii) the Notice has been sent to the Class Members, providing them the opportunity to object to the Settlement, and the opportunity to opt out of the Settlement; (iv) the Court has held a formal fairness hearing and entered the Court's Final Order and Judgment; and (v) the later of the following events: (A) when the period for filing any appeal, writ or other appellate proceeding opposing the Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; i.e., within 60 calendar days after entry of the Order and Judgment; (B) when any appeal, writ or other appellate proceeding opposing the Settlement has been dismissed finally and conclusively with no right to pursue further remedies or relief; or (C) when any appeal, writ or other appellate proceeding has upheld the Court's Final Order and Judgment with no right to pursue further remedies or relief ("Effective Date"). Defendant shall deposit the Gross Settlement Amount (including one-third of any increase to the Gross Settlement Amount pursuant to the Escalator Clause) and employer's share of payroll taxes on the portion allocated as wages with a mutually-selected third party administrator as follows within (30) days of the Effective Date.
- C. This is a **non-reversionary** settlement. The Gross Settlement Amount includes:
- (1) All payments (including interest) to the Settlement Class Members;
 - (2) All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater than Nine Thousand Nine Hundred Fifty Dollars and Zero Cents (\$9,950.00);
 - (3) Up to Five Thousand Dollars and Zero Cents (\$5,000.00) for Plaintiff's Class Representative Service Award, in recognition of his contributions to the Action, and his service to the Settlement Class. Even in the event that the Court reduces or does not approve the requested Class Representative

Service Award, Plaintiff shall not have the right to revoke this Settlement Agreement, and this Settlement shall remain binding;

- (4) Up to one-third of the Gross Settlement Amount (including one-third of any increase to the Gross Settlement Amount pursuant to the Escalator Clause) in Class Counsel's attorneys' fees, plus actual costs and expenses incurred by Class Counsel related to the Action as supported by declaration, which are currently estimated to be no greater than Twenty Thousand Dollars and Zero Cents (\$20,000.00). In the event that the Court reduces or does not approve the requested Class Counsel attorneys' fees or costs, Class Counsel shall not have the right to revoke this Settlement Agreement, and it will remain binding; and
 - (5) Thirty Thousand Dollars and Zero Cents (\$30,000.00) of the Gross Settlement Amount has been set aside by the Parties as "PAGA Civil Penalties". Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Twenty-Two Thousand Five Hundred Dollars and Zero Cents (\$22,500.00) will be payable to the Labor & Workforce Development Agency ("LWDA"), and the remaining twenty-five percent (25%), or Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00), will be payable to certain Settlement Class Members as the "PAGA Amount," as described below.
- D. Defendant's share of payroll taxes shall be paid by Defendant separately from, and in addition to, the Gross Settlement Amount within 30 days of the Effective Date).
- E. **Right to Rescind.** Defendant will have, in its sole discretion, the right to void and withdraw from the Settlement if, at any time prior to Final Approval, seven-and-a-half percent (7.5%) or more of Class Members opt out of the settlement. Defendant must exercise this right of rescission in writing to Class Counsel within fourteen (14) calendar days after the Response Deadline. If the option to rescind is exercised, then Defendant will be solely responsible for all Settlement Administration Costs incurred to the date of rescission.
- F. **Escalator Clause.** Defendant represents that there are an estimated 21,237 workweeks worked by Settlement Class Members during the Class Period. If the actual number of workweeks worked by Settlement Class Members during the Class Period is more than 10% greater than this figure (i.e., if there are 23,361 or more workweeks worked by the Settlement Class Members), Defendant shall have the option to select between whether: (a) the Gross Settlement Amount will be increased proportionately for workweeks worked above the 10% (e.g., if there was an 11% increase in the number workweeks during the Class Period, Defendant would agree to increase the Gross Settlement Amount by 1%); or (b) elect to end the Class Period, PAGA Period, and release periods on the date the actual workweeks is closest to and does not exceed 23,361 total workweeks. Defendant will notify Plaintiff's counsel of its election by no later than 7 days of

being notified by the Settlement Administrator that the Escalator Clause is triggered.

5. **Payments to the Settlement Class.** Settlement Class Members are not required to submit a claim form to receive a payment (“Settlement Award”) from the Settlement. Settlement Awards will be determined and paid as follows:

- A. The Settlement Administrator shall first deduct from the Gross Settlement Amount the amounts approved by the Court for Class Counsel’s attorneys’ fees, Class Counsel’s costs and expenses, Plaintiff’s Class Representative Service Award, the Settlement Administrator’s fees and expenses for administration, and the amount designated as PAGA Civil Penalties. The remaining amount shall be known as the “Net Settlement Amount.”
- B. From the Net Settlement Amount, the Settlement Administrator will calculate each Settlement Class member’s Settlement Award based on the following formula:
 - i. Each participating Settlement Class member shall receive a proportionate settlement share based upon the number of workweeks worked during the Class Period, the numerator of which is the Settlement Class member’s total workweeks worked during the Class Period, and the denominator of which is the total workweeks worked by all Settlement Class Members who worked during the Class Period.
 - b. PAGA Amount: In addition, Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) of the Gross Settlement Amount has been designated as the “PAGA Amount” as described above. Each PAGA Employee shall receive a portion of the PAGA Amount proportionate to the number of pay periods that he or she worked during the PAGA Period, and which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the PAGA Employee’s number of pay periods worked during the PAGA Period, and the denominator of which is the total number of pay periods worked by all PAGA Employees.
- C. Within ten (10) calendar days following Mission Pools fully funding the Gross Settlement Amount and required employer-side payroll taxes with the Settlement Administrator, the Settlement Administrator will calculate Settlement Award amounts and provide the same to counsel for the Parties for review and approval. Within seven (7) calendar days of approval by counsel for the Parties, the Settlement Administrator will prepare and mail Settlement Awards, less applicable taxes and withholdings, to participating Settlement Class Members. The Settlement Administrator shall simultaneously pay the withholdings to the applicable authorities with the necessary reports, submitting copies to Mission Pools’s counsel.
- D. For purposes of calculating applicable taxes and withholdings, each Settlement Award shall be allocated as follows: Sixty-Seven percent (67%) as penalties and

interest; and Thirty-Three percent (33%) as wages. If a PAGA Employee submits a Request for Exclusion, the PAGA Employee's Settlement Award shall be designated as 100% penalties and reported on an IRS Form 1099. The Settlement Administrator will be responsible for issuing to participating Settlement Class Members IRS Forms W-2 for amounts deemed "wages" and IRS Forms 1099 for the amounts allocated as penalties and interest. Each Settlement Class member who receives a Settlement Award will be responsible for correctly characterizing the payment for tax purposes and for payment of any taxes owing on said amount. Notwithstanding the treatment of the payments to each Settlement Class member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.

Each member of the Settlement Class who receives a Settlement Award must cash the check(s) within 180 days from the date the Settlement Administrator mails it/them. Any Settlement Award returned to the Settlement Administrator as non-delivered on or before the 180-day deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within 5 business days of receiving the returned Settlement Payment.

- E. Any funds payable to Settlement Class Members whose checks were not cashed within 180 days after mailing will escheat to the California Secretary of State-Unclaimed Property Fund under the unclaimed property laws in the name of the Settlement Class member.
- F. Neither Plaintiff nor Mission Pools shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

6. **Attorneys' Fees and Costs.** Mission Pools will not object to Class Counsel's request for a total award of attorneys' fees of one-third of the Gross Settlement Amount (including one-third of any increase of the Gross Settlement Amount pursuant to the Escalator Clauses above if triggered); the amount is currently estimated to be One Hundred Thirty-Five Thousand Dollars and Zero Cents (\$135,000.00). Additionally, Class Counsel will request an award of actual costs and expenses as supported by declaration, in an amount not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00) from the Gross Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when the Settlement Administrator pays the fee award allowed by the Court.

7. **Class Representative Service Award.** Mission Pools will not object to a request for a Class Representative Service Award of up to Five Thousand Dollars and Zero Cents (\$5,000.00) to Plaintiff for his time and risk in prosecuting this case, and his service to the Settlement Class. This award will be in addition to Plaintiff's Settlement Award as a Settlement Class member and shall be reported on an IRS Form 1099 issued by the Settlement Administrator. Even in the event that the Court reduces or does not approve the requested Service Award, Plaintiff shall not have the right to revoke this Settlement, and it will remain binding.

8. **Settlement Administrator.** Mission Pools will not object to the appointment of Phoenix Class Action Administration Solutions as the Settlement Administrator. Defendant will not object to Plaintiff's request to pay the Settlement Administrator a flat fee amount of Nine Thousand Nine Hundred Fifty Dollars and Zero Cents (\$9,950.00) from the Gross Settlement Amount for its services. The Settlement Administrator shall be responsible for sending notices and for calculating Settlement Awards and preparing all checks and mailings, calculating Mission Pools' share of taxes payable on the wages, which shall be paid by Mission Pools separate and apart from the Gross Settlement Amount, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay itself from the Gross Settlement Amount by Class Counsel only after Settlement Awards have been mailed to all participating Settlement Class Members.

9. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiff shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
- B. Appointing Paul K. Haines of Haines Law Group, APC and Scott M. Lidman, Milan Moore and Elizabeth Nguyen of Lidman Law, APC as Class Counsel;
- C. Appointing Jefferson Lopez as Class Representative for the Settlement Class;
- D. Approving **Phoenix Class Action Administration Solutions** as the Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Notice Packet (which is comprised of the Notice of Pendency of Class Action and Proposed Class and PAGA Settlement, Notice of Settlement Award, Request for Exclusion Form, and Objection Form, drafts of which are attached collectively hereto as **Exhibit A**), and directing the mailing of same in both Spanish and English; and
- G. Scheduling a Final Approval hearing.

10. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within ten (10) business days after entry of an order preliminarily approving this Agreement, Mission Pools will provide the Settlement Administrator with the names, last known addresses, phone numbers, social security numbers, the number of workweeks worked by each Settlement Class Member and PAGA Employee while employed during the Class Period and PAGA Period, respectively (collectively referred to as the “Class Data”). The Class Data shall be provided to the Settlement Administrator in an electronic format satisfactory to the Settlement Administrator.
- B. Within ten (10) business days from receipt of this information, the Settlement Administrator shall (i) run the names of all Settlement Class Members through the National Change of Address (“NCOA”) database to determine any updated addresses for Settlement Class Members; (ii) update the address of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Settlement Award for each Settlement Class member; and (iv) mail a Notice Packet to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Requests for Exclusion. Any Settlement Class member who wishes to opt-out of the Settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator within sixty (60) calendar days of the date of the initial mailing of the Notice Packets (the “Response Deadline”).
 - i. The Notice Packet shall state that Settlement Class Members who wish to exclude themselves from the Settlement must submit a Request for Exclusion by the Response Deadline. The Notice Packet shall state that Settlement Class Members who submit a Request for Exclusion by the Response Deadline shall remain a PAGA Employee, bound by the PAGA Release, and receive a portion of the PAGA Amount. The Request for Exclusion must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the Settlement, except a Request for Exclusion not containing a Class Member’s telephone number and/or last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the Settlement or have any right to object, appeal or comment thereon.

- D. Objections. Members of the Settlement Class who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by appearing at the Final Fairness Hearing or submitting a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Mission Pools' counsel). Mission Pools' counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval. To be valid, any written objection must: (1) contain the objecting Settlement Class member's full name and current address, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection; (2) a concise statement of the objection, including the factual basis for it; and (3) be postmarked no later than the Response Deadline. Members of the Settlement Class who do not request exclusion may also object to the Settlement by appearing at the Final Approval Hearing irrespective of whether they submitted any written objections.
- E. No Right to Exclusion or Objections to the PAGA Settlement. Because this settlement resolves claims and actions brought pursuant to PAGA by Plaintiff acting as a proxy and as a Private Attorney General of, and for, the State of California and the LWDA, the Parties agree that no PAGA Employee has the right to exclude himself or herself from the PAGA Release, and all PAGA Employees will receive their shares of the PAGA Amount. The Parties also agree that no PAGA Employee Member has the right to object to the PAGA Settlement Amount.
- F. Notice of Settlement Award / Disputes. Each Notice Packet mailed to a Settlement Class member shall disclose the amount of the Settlement Class member's estimated Settlement Award as well as all of the information that was used from Mission Pools's records in order to calculate the Settlement Award, including the Settlement Class member's number of workweeks worked during the Class Period. Settlement Class Members will have the opportunity, should they disagree with Mission Pools's records regarding the information stated in the Notice of Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Settlement Awards under the terms of this Settlement Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Settlement Award shall be binding upon the Settlement Class member and the Parties, unless the Court determines otherwise.
- G. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within five (5) business days of receiving the returned

Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member immediately, and in any event within three (3) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. Settlement Class Members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have fourteen (14) calendar days from the date of re-mailing, or until the Response Deadline has expired, whichever is later, to submit a Request for Exclusion, Objection, or dispute. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline. If a Settlement Class member's Notice Packet is returned to the Settlement Administrator more than once as non-deliverable, the Settlement Administrator shall continue to locate an updated address up to and including the Response Deadline to re-mail the Notice Packet. Nothing else shall be required of, or done by, the Parties, Class Counsel, or Mission Pools's Counsel to provide notice of the proposed settlement.

11. **Final Approval.** Following preliminary approval and the close of the period for filing requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
- B. Approving Plaintiff's and Class Counsel's application for attorneys' fees and costs, Class Representative Service Award, and settlement administration costs; and
- C. Entering judgment pursuant to California Rule of Court 3.769 and posting notice of the judgment on a static website created and maintained by the Settlement Administrator.

12. **Non-Admission of Liability.** Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this Settlement. In particular, but without limiting the generality of the foregoing, nothing about this Settlement Agreement shall be offered or construed as an admission of liability, wrongdoing, impropriety, responsibility, or fault whatsoever on the part of Mission Pools and/or the Released Parties, and it shall not be construed as or deemed to be evidence of, or an admission or concession that the any Settling Class Member has suffered any damage. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

13. **Legal Developments.** The Parties agree that Plaintiff will submit to the Court a motion for preliminary approval of this Settlement containing all of the terms and conditions contained herein notwithstanding any new legal developments regarding the Released Claims.

14. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

15. **Attorneys' Fees:** In the event of any dispute arising out of the interpretation, performance, or breach of any provision of this Settlement Agreement, the prevailing party in such dispute(s) shall be entitled to recover her and/or its reasonable attorneys' fees and costs incurred arising from such dispute. This provision only applies to the Parties identified in this Settlement Agreement and does not apply to the unidentified Settlement Class Members or PAGA Employees.

16. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Defendant: Noah J. Woods and Jamie Santos at Littler Mendelson, P.C. 501 W. Broadway, Suite 900, San Diego, CA 92101; nwoods@littler.com and jsantos@littler.com.

if to Plaintiff: Scott M. Lidman, Elizabeth Nguyen, and Milan Moore of Lidman Law, APC, 2155 Campus Drive, Suite 150, El Segundo, California 90245; slidman@lidmanlaw.com and enguyen@lidmanlaw.com

Paul K. Haines, Haines Law Group, APC, 2155 Campus Drive, Suite 180, El Segundo, California 90245; phaines@haineslawgroup.com

17. **Cooperation.** The Parties agree to work cooperatively, diligently and in good faith to ensure that all documents necessary to effectuate this Settlement are properly and timely filed. Defendant agrees to cooperate and provide any declarations and/or necessary information regarding the payment plan in support of preliminary approval or final approval should the Court request additional information regarding the payment plan.

18. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

19. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

20. **Continuing Jurisdiction of the Court.** The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement pursuant to California Code of Civil Procedure section 664.6 solely for purposes of (i) enforcing this Agreement and/or

Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

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 Code of Civil Procedure section 583.330 to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

DATED: 7-13-23

DEFENDANT MISSION POOLS, INC.

By: 
Its: Chief Financial Officer

DATED: 7-13-23

DEFENDANT MISSION POOLS OF
ESCONDIDO, INC.

By: 
Its: Chief Financial Officer

DATED:

PLAINTIFF JEFFERSON LOPEZ

By: _____
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: July 13, 2023

LITTLER MENDELSON, P.C.

By: 
Noah Woods

Attorneys for Defendant MISSION POOLS, INC.

Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

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 Code of Civil Procedure section 583.330 to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

DATED: DEFENDANT MISSION POOLS, INC.

By: _____

Its: _____

DATED: DEFENDANT MISSION POOLS OF
ESCONDIDO, INC.

By: _____

Its: _____

DATED: Sep 1, 2023 PLAINTIFF JEFFERSON LOPEZ

By:  _____
Jefferson Lopez (Sep 1, 2023 15:46 PDT)

Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: LITTLER MENDELSON, P.C.

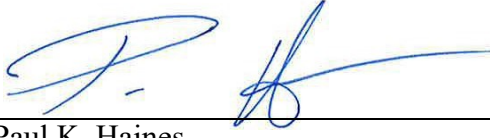
By: _____

Noah Woods

Attorneys for Defendant MISSION POOLS, INC.

DATED: September 6, 2023

HAINES LAW GROUP, APC

By: 
Paul K. Haines
Attorneys for Plaintiff JEFFERSON LOPEZ

DATED: September 6, 2023

LIDMAN LAW, APC

By: 
Scott M. Lidman
Attorneys for Plaintiff JEFFERSON LOPEZ

EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE COUNTY

JEFFERSON LOPEZ,

Plaintiff,

vs.

MISSION POOLS, INC., a California corporation; and
Does 1 through 100,

Defendants.

Case No. 30-2022-01283102-CU-OE-CXC

**NOTICE OF PENDENCY OF CLASS
ACTION AND PROPOSED CLASS AND
PAGA SETTLEMENT**

To: All current and former non-exempt, hourly employees of Defendant Mission Pools of Escondido, Inc. who worked at any time in California between September 28, 2018 and [the date the Court enters an order granting preliminary approval]. Collectively, these employees will be referred to as "Settlement Class Members."

**PLEASE READ THIS NOTICE CAREFULLY
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT**

Why should you read this notice?

The Court has granted preliminary approval of a proposed class action settlement (the "Settlement") in entitled *Jefferson Lopez v. Mission Pools, Inc.*, Case No. 30-2022-01283102-CU-OE-CXC (the "Lawsuit"). Because your rights may be affected by the Settlement, it is important that you read this notice carefully.

You may be entitled to money from this Settlement. Defendants' records show that you were employed at Defendant Mission Pools of Escondido, Inc. as a current or former non-exempt, hourly employees who worked at any time in California between September 28, 2018 and [the date the Court enters an order granting preliminary approval] (the "Class Period"). The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this notice is to provide you with a brief description of the Lawsuit, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment.

What is this case about?

Plaintiff Jefferson Lopez ("Plaintiff") brought this Lawsuit against Defendants Mission Pools of Escondido, Inc. and Mission Pools, Inc. (collectively referred to as "Mission Pools" or "Defendants"), seeking to assert claims on behalf of a class of current and former hourly, non-exempt employees of Defendant Mission Pools of Escondido, Inc. who worked at any time in California between September 28, 2018 and [the date the Court enters an order granting preliminary approval]. Plaintiff Jefferson Lopez is known as the "Class Representative," and his attorneys, who also represent the interests of all Settlement Class Members, are known as "Class Counsel."

The Lawsuit alleges that Defendants failed to pay all overtime wages owed, failed to pay all minimum wages owed, failed to provide meal periods, or premium pay for non-compliant meal periods, failed to authorize and permit rest periods, or premium pay for non-compliant rest periods, failed to timely pay all wages due upon separation of employment failed to issue accurate, itemized wage statements, and failed to reimburse necessary business expenses in compliance with California law. As a result of the foregoing alleged violations, Plaintiff also alleges that Defendants engaged in unfair business practices and are liable for civil penalties under the Labor Code Private Attorney General Act.

Defendants deny the claims. Defendants further deny that it owes Settlement Class Members any wages, restitution,

penalties, or other damages. No Court has made any determination as to the factual allegations in the Lawsuit. Rather, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Defendants, and they expressly deny all liability.

The Court has not ruled on the merits of Plaintiff's claims. However, to avoid additional expense, inconvenience, and interference with its business operations, Defendants have concluded that it is in its best interests and the interests of Settlement Class Members to settle the Lawsuit on the terms summarized in this Notice. After Defendants provided relevant information to Class Counsel, the Settlement was reached after mediation and arm's-length negotiations between the parties.

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to Defendants, the risk of denial of class certification, the inherent risks of trial on the merits, and the delays and uncertainties associated with litigation.

If you are still employed by Defendants, your decision about whether to participate in the Settlement will not affect your employment. California law and Defendants' policies strictly prohibit unlawful retaliation. Defendants will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Settlement Class Member because of the Settlement Class Member's decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for the Plaintiff / Settlement Class Members: LIDMAN LAW, APC Scott M. Lidman slidman@lidmanlaw.com Elizabeth Nguyen enguyen@lidmanlaw.com Milan Moore mmoore@lidmanlaw.com 2155 Campus Drive, Suite 150 El Segundo, California 90245 Tel: (424) 322-4772 Fax: (424) 322-4775 www.lidmanlaw.com HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com 155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 www.haineslawgroup.com	Attorneys for Defendants LITTLER MENDELSON, P.C. Noah J. Woods nwoods@littler.com Jamie Santos jsantos@littler.com 501 W. Broadway, Suite 900, San Diego, CA 92101; Tel: (619) 515-1827
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What are the terms of the Settlement?

On **[INSERT DATE OF PRELIMINARY APPROVAL]**, the Court preliminarily certified a class, for settlement purposes only, of all current and former non-exempt, hourly employees of Defendant Mission Pools of Escondido, Inc. who worked at any time in California between September 28, 2018 and **[the date the Court enters an order granting preliminary approval]**. Settlement Class Members who do not opt out of the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Defendants as described

below in the section titled “Released Class Claims”. A Settlement Class Member who opts-out cannot opt-out of the PAGA Release.

Defendants have agreed to pay \$405,000.00 (the “Gross Settlement Amount”) to fully resolve all claims in the Lawsuit, which includes payments to Settlement Class Members, attorneys’ fees and expenses, payment to the Labor Workforce Development Agency (“LWDA”), settlement administration costs, and the Class Representative’s Service Award and monies to be paid to the LWDA. Defendants’ share of payroll taxes associated with any wage payments to Settlement Class Members shall be paid by Defendants separately from, and in addition to, the Gross Settlement Amount.

The following deductions from the Gross Settlement Amount will be requested by the parties:

Settlement Administration Costs. The Court has approved **Phoenix Class Action Administrator Solutions** to act as the “Settlement Administrator,” who is sending this Notice to you and will perform many other duties relating to the Settlement. The Court has approved paying the Settlement Administrator a flat fee of **\$9,950.00** from the Gross Settlement Amount to administer the settlement.

Attorneys’ Fees and Expenses. Class Counsel have been prosecuting the Lawsuit on behalf of the Settlement Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys’ fees, which will be paid from the Gross Settlement Amount. Settlement Class Members are not personally responsible for any of Class Counsel’s attorneys’ fees or expenses. Class Counsel will ask for fees of up to one-third of the Gross Settlement Amount, which is currently estimated to be \$135,000.00, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit through Settlement finalization. Class Counsel also will ask for reimbursement in an amount not to exceed **\$20,000.00** for verified costs Class Counsel incurred in connection with the Lawsuit.

Service Award to Class Representative. Class Counsel will ask the Court to award the Class Representative a service award in the amount not to exceed \$5,000.00, to compensate him for his service and extra work provided on behalf of the Settlement Class Members.

LWDA Payment. Class Counsel will ask the Court to approve a payment in the total amount of \$30,000.00 as and for alleged civil penalties, payable pursuant to the California Labor Code Private Attorney General Act (“PAGA”). Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Twenty-Two Thousand Five Hundred Dollars and Zero Cents (\$22,500.00) will be payable to the LWDA, and the remaining twenty-five percent (25%), or Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00), will be payable to certain Settlement Class Members as the “PAGA Amount,” as described below.

Calculation of Individual Settlement Class Members’ Settlement Award. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Amount (“NSA”), which will be distributed to all Settlement Class Members who do not submit a valid and timely Request for Exclusion (described below). The NSA is estimated at approximately **\$<< >>**, to be shared among an up to **<< >>** estimated Settlement Class Members. The NSA will be divided as follows:

Each participating Settlement Class Member shall receive a proportionate settlement share based upon the number of workweeks worked during the Class Period, the numerator of which is the Settlement Class Member’s total workweeks worked during the Class Period, and the denominator of which is the total workweeks worked by all Settlement Class Members who worked during the Class Period.

In addition, Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00), of the Gross Settlement Amount has been designated as the “PAGA Amount” as described above. All PAGA Employees shall receive a portion of the PAGA. “PAGA Employees” include all current and former non-exempt, hourly employees of Defendant Mission Pools of Escondido, Inc. who worked at any time in California between September 28, 2021 and **[the date the Court enters an order granting preliminary approval]**. A PAGA Employee shall receive a portion of the PAGA Amount proportionate to the number of pay periods that he or she worked during the period the PAGA Period and which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the PAGA

Employee's number of pay periods worked during the PAGA Period, and the denominator of which is the total number of pay periods worked by all PAGA Employees during the PAGA Period. As noted above, a PAGA Employee cannot opt-out of the PAGA Release and will receive their portion of the PAGA Amount regardless of whether they opt-out of the Class Action Settlement.

Payments to Settlement Class Members. If the Court grants final approval of the Settlement, Settlement Awards will be mailed to all Settlement Class Members who did not submit a valid and timely Request for Exclusion.

If you submit a Request for Exclusion, you will still receive a proportionate share of the PAGA Payment regardless of whether you exclude yourself from the Settlement if you are a PAGA Employee.

Payment by Defendants of Gross Settlement Amount. The Gross Settlement Amount shall be paid by Defendants with the Settlement Administrator within 30 days of the Effective Date. The Effective Date is defined as the latest date after all of the following events have occurred: (i) the Court has held a formal fairness hearing and entered the Court's Final Order and Judgment; and (ii) the later of the following events: (A) when the period for filing any appeal, writ or other appellate proceeding opposing the Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; i.e., within 60 calendar days after entry of the Order and Judgment; (B) when any appeal, writ or other appellate proceeding opposing the Settlement has been dismissed finally and conclusively with no right to pursue further remedies or relief; or (C) when any appeal, writ or other appellate proceeding has upheld the Court's Final Order and Judgment with no right to pursue further remedies or relief

Within ten (10) calendar days following Defendants' deposit of the Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator will calculate Individual Settlement Award amounts and provide the same to the Parties' counsel for review and approval. Within seven (7) calendar days of approval by the Parties' counsel, the Settlement Administrator will prepare and mail Individual Settlement Awards, less applicable taxes and withholdings, to participating Settlement Class Members.

Allocation and Taxes. For tax purposes, each Settlement Award shall be allocated as follows: sixty-seven percent (67%) as penalties and interest; and thirty-three percent (33%) as wages. If an PAGA Employee submits a Request for Exclusion, the PAGA Employee's Settlement Award shall be designated as 100% penalties and reported on an IRS Form 1099. The Settlement Administrator will be responsible for issuing to participating Settlement Class Members IRS Forms W-2 for amounts deemed "wages" and IRS Forms 1099 for the amounts allocated as penalties and interest. Settlement Class Members are responsible for the proper income tax treatment of the Individual Settlement Awards. The Settlement Administrator, Defendants and their counsel, and Class Counsel cannot provide tax advice. Accordingly, Settlement Class Members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Released Class Claims. If the Court approves the Settlement, the Settlement Class, and each Settlement Class Member who has not submitted a timely and valid Request for Exclusion, will fully and forever completely and Mission Pools and all of their past and present officers, directors, shareholders, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, and its respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys (collectively the "Released Parties"), from all claims, demands, rights, liabilities and causes of action that were pled in the Complaints in the Action or arose from the same operative facts and/or allegations as those set forth in the Complaints in the Action, that arose during the Class Periods defined above with respect to the following claims: (a) failure to pay all wages owed, including minimum wages owed and overtime wages owed; (b) failure to provide meal periods, or premium pay for non-compliant meal periods; (c) failure to authorize and permit rest periods, or premium pay for non-compliant rest periods; (d) failure to reimburse necessary business expenditures; (e) failure to issue accurate, itemized wage statements; (f) failure to timely pay wages during employment and upon separation of employment; and (g) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories described above (collectively, "Released Class Claims").

The time period for the release of the Released Class Claims against the Released Parties shall be the same time period as the Class Period.

PAGA Release and PAGA Employees. If the Court approves the Settlement, all PAGA Employees (including employees who submit a Request for Exclusion) will release and forever discharge all claims, demands, rights, liabilities and causes of action under the California Labor Code Private Attorneys General Act of 2004 against the Released Parties arising from the same set of operative facts and/or allegations asserted in the Complaints and/or the letters to the Labor & Workforce Development Agency (“LWDA”) dated September 29, 2022 and April 13, 2023, including the following claims: (a) failure to pay all wages owed, including minimum wages owed and overtime wages owed; (b) failure to provide meal periods, or premium pay for non-compliant meal periods; (c) failure to authorize and permit rest periods, or premium pay for non-compliant rest periods; (d) failure to reimburse necessary business expenditures; (e) failure to issue accurate, itemized wage statements; (f) failure to timely pay wages during employment and upon separation of employment that occurred during the PAGA Period (collectively, “PAGA Released Claim”).

The time period for the release of the PAGA Release against the Released Parties shall be the same time period as the PAGA Period.

You are a PAGA Employee if you were a non-exempt, hourly employees of Defendant Mission Pools of Escondido, Inc., who worked at any time in California between September 28, 2021 and [the date the Court enters an order granting preliminary approval]. The time period of the PAGA Release is between September 28, 2021 and [the date the Court enters an order granting preliminary approval] (“PAGA Period”).

You cannot submit a Request for Exclusion from the PAGA Release.

The releases are null and void if Defendants fail to fully fund the Settlement.

Conditions of Settlement. The Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate and in the best interests of the Settlement Class, and the entry of Judgment.

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your share of the Settlement based on the proportionate number of workweeks you worked during the Class Period (as explained above), and as stated in the accompanying Notice of Settlement Award. You also will be bound by the Settlement, including the release of claims stated above.

What other options do I have?

Dispute Information in Notice of Individual Settlement Award. Your award is based on the proportionate number of workweeks you worked during the Class Period and pay periods you worked during the PAGA Period. The information contained in Defendants’ records regarding all of these factors, along with your estimated Settlement Award, is listed on the accompanying Notice of Settlement Award. If you disagree with the information in your Notice of Individual Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Individual Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>.

DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.

The Parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class Members. Unless the Court determines otherwise, the Settlement Administrator’s decision regarding any dispute will be final. The Court has the right to review the Settlement Administrator’s decision.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by completing, signing and mailing the enclosed Request for Exclusion Form directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Any person who files a timely Request for Exclusion from the Settlement shall, upon receipt by the Settlement Administrator, no longer be a Settlement Class Member, shall be

barred from participating in any portion of the Class Action Settlement, and shall receive no benefits from the Class Action Settlement.

If you submit a Request for Exclusion, you will only be excluded from the Released Claims. You cannot submit a Request for Exclusion from the PAGA Release. You will receive a proportionate share of the PAGA Payment regardless of whether you exclude yourself from the Settlement if you were employed between September 28, 2021 and [the date the Court enters an order granting preliminary approval].

Do not submit both a Dispute and a Request for Exclusion. If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you may complete, sign and mail the enclosed Objection Form to the Settlement Administrator or you may appear at the Final Approval Hearing to object orally. If you choose to submit a written objection, your written objection must include your name, address, phone number, the case name and number, and a concise reason for your objection, including the factual basis for it. Written objections must be postmarked on or before <<RESPONSE DEADLINE>>.

If you choose to object to the Settlement, you may also appear at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department CX104 of the Orange County Superior Court, located at 751 W. Santa Ana Blvd., Santa Ana, CA 92701. You have the right to appear either remotely, in person or through your own attorney (at your own expense) at this hearing. All objections or other correspondence must state the name and number of the case, which *Jefferson Lopez v. Mission Pools, Inc* Orange County Superior Court Case No. 30-2022-01283102-CU-OE-CXC.

Any Class Member who elects to appear personally at the Court for any reason related to this Lawsuit must comply with the Court's orders related to COVID-19. All such rules and orders can be located at the Court's website: <https://www.occourts.org/media-relations/CoronaVirusUpdate.html>

For more information on how to appear remotely, please visit the Court's website at <https://www.occourts.org/media-relations/civil.html>.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class members who do not object.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department CX104 of the Orange County Superior Court, located at 751 W. Santa Ana Blvd., Santa Ana, CA 92701. The Court will consider any requests for exclusion, objections, and disputes at the Final Approval Hearing. The Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses and the Service Award to the Class Representative. The Final Approval Hearing may be postponed without further notice to Settlement Class members. **You are not required to attend the Final Approval Hearing, although any Settlement Class Member is welcome to attend the hearing.**

Any changes to date, time, or location of the Final Approval Hearing will be posted on the Settlement Administrator's website (<http://www. .com>). Notice of the Court's final judgment will be posted on the Settlement Administrator's website (<http://www. .com>).

How can I get additional information?

This Notice is only a summary of the Lawsuit and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the Orange County Superior Court, located at 751 W.

Santa Ana Blvd., Santa Ana, CA 92701, during regular court hours. You may also access the documents at <https://civilwebshopping.occourts.org/Login.do>, enter the “01283102” for the Case Number and “2022” for the Year Filed. You may also contact Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE THE COURT, DEFENDANTS OR THEIR ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS

REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is <<RESPONSE DEADLINE>>. These deadlines will be strictly enforced.

BY ORDER OF THE COURT ENTERED ON <<PRELIM APPROVAL DATE>>.

NOTICE OF INDIVIDUAL SETTLEMENT AWARD

LOPEZ V. MISSION POOLS

Orange County Superior Court Case No. 30-2022-01283102-CU-OE-CXC

You do NOT have to mail this Allocation Form to get your Individual Settlement Payment

Please complete, sign, date and return this form to <<ADMINISTRATOR CONTACT INFO>> **ONLY IF** (1) your personal contact information has changed, and/or (2) you wish to dispute any of the items listed in Section (III), below. It is your responsibility to keep a current address on file with the Settlement Administrator.

(I) Please type or print your name:

(First, Middle, Last)

(II) Please type or print the following identifying information if your contact information has changed:

Former Names (if any)

New Street Address

City

State

Zip Code

(III) Information Used to Calculate Your Individual Settlement Payment and Aggrieved Employee Payment:

According to Mission Pools of Escondido, Inc.:

You were employed by Mission Pools of Escondido, Inc. as a non-exempt, hourly employees who worked a total of [] workweeks in California September 28, 2018 and [the date the Court enters an order granting preliminary approval].

Based on the above, your Individual Settlement Award is estimated to be \$ [] and PAGA Employee Payment is estimated to be \$ [].

(IV) If you disagree with items in Section (III) above, please explain why in the space provided below and include copies of any supporting evidence or documentation with this form:

If you dispute the above information from Mission Pools' records, Mission Pools' records will control unless you are able to provide documentation that establishes that Mission Pools' records are mistaken. If there is a dispute about whether Mission Pools' information or yours is accurate, and the dispute cannot be resolved informally, the dispute will be resolved by the Parties and the Settlement Administrator as described in the "NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED CLASS AND PAGA SETTLEMENT" that accompanies this Form. Unless the Court orders otherwise, the Settlement Administrator will render all final decisions on disputes.

**ANY DISPUTES, ALONG WITH ANY SUPPORTING DOCUMENTATION, MUST BE POSTMARKED
NO LATER THAN <<RESPONSE DEADLINE>**

REQUEST FOR EXCLUSION FORM

LOPEZ V. MISSION POOLS

Orange County Superior Court Case No. 30-2022-01283102-CU-OE-CXC

**SUBMIT THIS FORM ONLY IF YOU WISH TO BE EXCLUDED FROM PARTICIPATING IN THE
CLASS ACTION SETTLEMENT**

By signing and returning this form, I represent that it is my desire to exclude myself from participating in the Settlement of the Class Action entitled *Jefferson Lopez v. Mission Pools, Inc.* Case No. 30-2022-01283102-CU-OE-CXC, and that I received notice of the Settlement. I understand by excluding myself, I will receive a PAGA Employee Payment if I worked during the PAGA Period, but I will not receive any other money from the settlement reached in this matter.

Please note: Any person who submits this form will not receive an Individual Settlement Payment.

Name (Please Print): _____
(First) (Middle) (Last)

Address: _____
(Street)

(City) (State) (Zip)

Last 4 Digits of Social Security Number: _____ Telephone No.: _____

Dated: _____ Signature: _____

**TO BE VALID, THIS FORM MUST BE POST-MARKED NO LATER THAN _____, 2023 AND
MAILED TO THE SETTLEMENT ADMINISTRATOR AT:**

LOPEZ V. MISSION POOLS

Administrator Name

c/o _____

OBJECTION FORM
LOPEZ V. MISSION POOLS

Orange County Superior Court Case No. 30-2022-01283102-CU-OE-CXC

**COMPLETE THIS FORM ONLY IF YOU WISH TO OBJECT TO THE
CLASS ACTION SETTLEMENT**

In order for you to object to the Class Action Settlement entitled *Lopez v. Mission Pools*, you must complete all steps listed in 1-5 below. You are not required to appear in Court in order to object to the Settlement. However, if you are planning on appearing in Court, please circle "yes" in Section 3 below.

1. Provide the following information:

Your Name (Please Print): _____
(First) (Middle) (Last)

Your Address: _____

Last 4 Digits of your Social Security Number: _____

2. Describe the reasons for your objection to the Settlement, including the factual basis for it (please attach additional documents if you need more space):

3. Do you intend to appear in Court at the Final Fairness Hearing, currently scheduled for [ADD DATE AND TIME].

Circle One: Yes No

You are not required to retain an attorney to object. However, if you are represented by an attorney, provide the name of your attorney and the attorney's phone number _____

4. Date and sign this form below:

Dated: _____ Signature: _____

5. COMPLETE AND MAIL THIS FORM TO THE SETTLEMENT ADMINISTRATOR AT THE ADDRESS BELOW SO THAT IT IS POST-MARKED NO LATER THAN _____.

LOPEZ V. MISSION POOLS

Administrator Name

c/o _____

