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10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 FOR THE COUNTY OF LOS ANGELES

13
14 JEREMIAH CLAIBORNE and PABLO
15 CAMPOS HERNANDEZ on behalf of
16 themselves and all others similarly situated

17 Plaintiff,

18 vs.

19 PERFORMANCE TRANSPORTATION,
20 LLC, a California limited liability company;
21 PERFORMANCE FOOD GROUP, INC., a
Colorado corporation, and DOES 1 through
22 50, inclusive,

23 Defendants.

Case No. 22STCV31766

ASSIGNED FOR ALL PURPOSES TO:

JUDGE: Hon. David S. Cunningham III

DEPT: SS11

CLASS AND PAGA ACTION

**JOINT STIPULATION FOR
SETTLEMENT AND RELEASE OF
CLASS ACTION AND
REPRESENTATIVE ACTION CLAIMS**

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Attorneys for MARCOS RODRIGUEZ and VICTOR AVALOS

1 This Joint Stipulation re: Class Action and Representative Action Settlement (“Settlement”
2 or “Agreement” or “Settlement Agreement”) is made by and between Plaintiff Jeremiah Claiborne
3 (“Claiborne”), Plaintiff Pablo Campos-Hernandez (“Hernandez”), Proposed Plaintiff Marcos
4 Rodriguez (“Rodriguez”), and Proposed Plaintiff Victor Avalos (“Avalos”) (Claiborne, Hernandez,
5 Rodriguez, and Avalos are together referred to herein as “Plaintiffs”), individually and on behalf of
6 the Settlement Class and on behalf of the State of California as its representatives under the
7 California Labor Code Private Attorney General Act (“PAGA”), on the one hand; and Defendants
8 Performance Transportation, LLC (“PTL”) and Performance Food Group, Inc. (“PFG”) (PTL and
9 PFG are together referred to herein as “Defendants”), on the other hand. This Settlement Agreement
10 pertains to: (1) all claims that have been and/or are asserted in this action including, without
11 limitation, any and all claims asserted in the Second Amended Complaint (“SAC”) the Parties are
12 stipulating to be filed by the Plaintiffs, pursuant to and for purposes of this Settlement Agreement,
13 and (2) all violations asserted in any notice sent to the California Labor and Workforce Development
14 Agency (“LWDA”) by the Plaintiffs as referenced in any such pleadings. For purposes of this
15 Settlement Agreement, Plaintiffs and Defendants shall be, at times, collectively referred to as the
16 “Parties.”

17 **1. DEFINITIONS**

18 **A. “Action”** means the civil action entitled *Claiborne et al. v. Performance*
19 *Transportation, LLC et al.*, filed in Los Angeles County Superior Court, bearing Case
20 No. 22STCV31766.

21 **B. “Aggrieved Employees”** means all persons who were employed by PTL in
22 California in an hourly-paid position including, but not limited to, hourly and component-pay truck
23 drivers, at any time during the PAGA Period.

24 **C. “Aggrieved Employees PAGA Payment”** is the twenty-five percent (25%) share of
25 the \$37,500.00 PAGA Payment, equivalent to Nine Thousand Three Hundred and Seventy-Five
26 Dollars and Zero Cents (\$9,375.00), that will be distributed to Aggrieved Employees on a *pro rata*
27 basis based on the Pay Periods in which an Aggrieved Employee was paid wages for hours worked
28 as a non-exempt, hourly-paid employee during the PAGA Period. Any Aggrieved Employee PAGA

1 Payment to an Aggrieved Employee shall be in addition to his or her Individual Settlement Payment
2 if he or she is also a Participating Class Member.

3 **D. “Class Counsel”** means: James R. Hawkins, Isandra Fernandez, and Kacey Cook of
4 James Hawkins APLC; Ruben Escobedo of Workworld Law Corp.; and Jean-Claude Lapuyade of
5 JCL Law Firm, APC and Shani I. Zakay of Zakay Law Group, APLC. The term “Class Counsel”
6 shall be used synonymously with the term “Plaintiffs’ Counsel.”

7 **E. “Class Period”** means the period from September 1, 2018 through the Preliminary
8 Approval Date or March 18, 2024, whichever is earlier.

9 **F. “Class Notice”** means and refers to the notice sent to Class Members after
10 preliminary approval of the Settlement in the manner described in Section 6 of this Agreement.

11 **G. “Court”** means the Superior Court of the State of California for the County of Los
12 Angeles.

13 **H. “Final Approval Date”** means the later of: (1) the date the Court signs an Order
14 granting final approval of this Settlement (“Final Approval”) and Judgment; (2) if there is an
15 objector, 60 days from the date the Final Approval and Judgment; or (3) to the extent any appeals
16 have been filed, the date on which they have been resolved or exhausted.

17 **I. “Defendants”** collectively means Performance Transportation, LLC and
18 Performance Food Group, Inc.

19 **J. “Effective Date”** is the date on which this Settlement Agreement shall become
20 effective, and when the settlement is considered to be Final. For purposes of this Settlement
21 Agreement, “Effective Date” and “Final” mean: (i) in the event that the Settlement has received
22 Final Approval by the Court, and regardless of whether any timely objections thereto have been
23 filed or withdrawn, then sixty-five (65) calendar days after the Court’s issuance of the Final
24 Approval Order without a timely appeal being filed; or, (ii) in the event that a timely appeal of the
25 Court’s Final Approval Order has been filed, then the Settlement Agreement shall be “Final” when
26 the applicable appellate court has rendered a final decision or opinion affirming the Court’s Final
27 Approval Order without material modification, and the applicable date for seeking further appellate
28 review has passed without further appellate review being sought. In the event that the Court fails to

1 approve the Settlement, or if the appropriate appellate court fails to approve the Settlement: (1) this
2 Settlement Agreement shall have no force and effect and the Parties shall be restored to their
3 respective positions prior to entering into it, and no Party shall be bound by any of the terms of the
4 Settlement Agreement; (2) Defendants shall have no obligation to make any payments to the
5 LWDA, Class Members, Plaintiffs or Plaintiffs' Counsel; and (3) any preliminary approval order
6 and/or Final Approval Order shall be vacated.

7 **K. "Employer Taxes"** means employer-funded taxes and contributions imposed on the
8 wage portions of the Individual Settlement Payments under the Federal Insurance Contributions
9 Act, the Federal Unemployment Tax Act, and any similar state and federal taxes and contributions
10 required to be paid to federal and state tax authorities as a result of this Settlement.

11 **L. "General Release"** means the broader release of claims by Plaintiffs, which is in
12 addition to Plaintiffs' limited release of claims as Participating Class Members.

13 **M. "Gross Settlement Amount"** means a non-reversionary fund in the sum of Seven
14 Hundred and Five Thousand Dollars and Zero Cents (\$705,000.00),¹ which shall be paid by
15 Defendants and from which all payments for the Individual Settlement Payments to Participating
16 Class Members, the Court-approved amounts for attorneys' fees and reimbursement of litigation
17 costs and expenses to Class Counsel, Settlement Administration Costs, the Service Awards, the
18 PAGA Payment, and the LWDA Payment shall be paid. It expressly excludes Employer Taxes,
19 which shall be paid by Defendants separate, apart, and in addition to the Gross Settlement Amount.
20 Defendants shall not be obligated to pay any other sums in conjunction with this Settlement except
21 as set forth herein.

22 **N. "Individual PAGA Payment"** means a payment made to an Aggrieved Employee
23 for his or her share of the Aggrieved Employee PAGA Payment.

24 **O. "Individual Settlement Payment"** means a payment to a Participating Class
25 Member of his or her net share of the Net Settlement Amount.

26 **P. "Individual Settlement Share"** means the gross amount of the Net Settlement
27 Amount that a Participating Class Member is projected to receive based on the number of
28

¹ As the same may be increased in accordance with Section 18, below (if applicable).

1 Workweeks that he or she worked as a Settlement Class Member during the Class Period, which
2 shall be reflected in his or her Class Notice.

3 **Q. “LWDA Payment”** means the payment to the State of California Labor and
4 Workforce Development Agency (“LWDA”) for its seventy-five percent (75%) share of the PAGA
5 Payment, equivalent to Twenty-Eight Thousand One Hundred and Twenty-Five Dollars and Zero
6 Cents (\$28,125.00).

7 **R. “Net Settlement Amount”** means the portion of the Gross Settlement Amount that
8 is available for distribution to the Participating Class Members after deductions for the Court-
9 approved allocations for Settlement Administration Costs, the Service Awards to Plaintiffs, an
10 award of attorneys’ fees, reimbursement of litigation costs and expenses to Class Counsel, and the
11 PAGA Payment.

12 **S. “Operative Complaint”** means the Second Amended Complaint to be filed with the
13 Court in *Claiborne et al. v. Performance Transportation, LLC et al.*, filed in Los Angeles County
14 Superior Court, Case No. 22STCV31766, pursuant to the terms of the Parties’ Agreement, which,
15 following execution of this Agreement and for settlement purposes only, the Parties will stipulate
16 to be filed for purposes of settlement.

17 **T. “PAGA Payment”** is the gross amount of Thirty-Seven Thousand Five Hundred
18 Dollars and Zero Cents (\$37,500.00) that is allocated toward PAGA penalties under this Agreement,
19 all of which is payable from the Gross Settlement Amount. Out of the PAGA Payment, seventy-
20 five percent (75%), equivalent to Twenty-Eight Thousand One Hundred and Twenty-Five Dollars
21 and Zero Cents (\$28,125.00), will be paid to the LWDA (*i.e.*, the LWDA Payment), and twenty-
22 five percent (25%), equivalent to Nine Thousand Three Hundred and Seventy-Five Dollars and Zero
23 Cents (\$9,375.00), will be paid to Aggrieved Employees on a *pro rata* basis based on the number
24 of Pay Periods worked for PTL in the PAGA Period (*i.e.* the Aggrieved Employee PAGA Payment).

25 **U. “PAGA Period”** means the period from January 5, 2021 through the end of the Class
26 Period (March 18, 2024).

27 **V. “Participating Class Members”** means all Settlement Class Members who do not
28 submit a timely and valid Request for Exclusion. Settlement Class Members who are not

1 Participating Class Members will still be eligible to receive an Individual PAGA Payment if such
2 individual(s) qualify as an “Aggrieved Employee” within the meaning of this Settlement
3 Agreement.

4 **W. “Participating Individual Settlement Share”** means the gross amount of the Net
5 Settlement Amount that a Participating Class Member is eligible to receive based on the number of
6 Workweeks in which he or she received wages for hours worked as a Settlement Class Member
7 during the Class Period once all opt-outs have been factored in. A Participating Class Member’s
8 Participating Individual Settlement Share does not include any Individual PAGA Payment to which
9 he or she may be entitled if he or she is also an Aggrieved Employee.

10 **X. “Plaintiffs,” “Named Plaintiffs,” or “Class Representatives”** shall refer to
11 Plaintiffs Jeremiah Claiborne and Pablo Campos-Hernandez and proposed plaintiffs Marcos
12 Rodriguez and Victor Avalos, who shall be added as named plaintiffs in this action pursuant to the
13 SAC to be filed pursuant to Section 6 below.

14 **Y. “Preliminary Approval Date”** means the date on which the Court enters an Order
15 granting preliminary approval of the Settlement.

16 **Z. “Released Parties”** shall mean Defendants and each of their past, present, and future
17 respective subsidiaries, dba’s, affiliates, parents, insurers and reinsurers, and company-sponsored
18 employee benefit plans of any nature and their successors and predecessors in interest, including all
19 of their officers, directors, shareholders, employees, agents, principals, heirs, representatives,
20 accountants, auditors, consultants, attorneys, administrators, fiduciaries, trustees, and agents
21 (including without limitation, Performance Transportation, LLC, Performance Food Group, Inc.,
22 and Performance FoodService).

23 **AA. “Response Deadline”** means the deadline for Settlement Class Members to mail
24 any Requests for Exclusion, Objections, or Workweek Disputes to the Settlement Administrator,
25 which is forty-five (45) calendar days from the date that the Class Notice is first mailed by the
26 Settlement Administrator, unless a Class Member’s notice is re-mailed. In such an instance, the
27 Response Deadline shall be fifteen (15) calendar days from the re-mailing, or forty-five (45)
28 calendar days from the date of the initial mailing, whichever is later, in which to postmark a Request

1 for Exclusion, Workweek Dispute or Objection. The date of the postmark shall be the exclusive
2 means for determining whether a Request for Exclusion, Objection, or Workweek Dispute was
3 submitted by the Response Deadline.

4 **BB. “Request for Exclusion”** means a written request to be excluded from the Settlement
5 Class pursuant to Section 10.C below.

6 **CC. “Service Award(s)”** means monetary amounts to be paid to Plaintiffs of up to Ten
7 Thousand Dollars and Zero Cents (\$10,000.00) each (for a combined total of \$40,000.00), which
8 subject to Court approval, will be paid out of the Gross Settlement Amount.

9 **DD. “Settlement Administration Costs”** means all charges and expenses incurred by
10 the Settlement Administrator in administration of the Settlement.

11 **EE. “Settlement Administrator”** means the Third-Party Administrator mutually agreed
12 upon by the Parties that will be responsible for the administration of the Settlement as set forth in
13 Section 9 below.

14 **FF. “Settlement Class” or “Settlement Class Members”** means all current and former
15 non-exempt, hourly-paid employees (including but not limited to hourly and component-pay truck
16 drivers) who performed work for PTL in California at any time during the Class Period.

17 **GG. “Workweek”** means a workweek during which a Settlement Class Member or
18 Aggrieved Employee (as applicable) was employed by PTL and was paid any wages for hours
19 worked in a non-exempt, hourly position during the Class Period or PAGA Period (as applicable).

20 **“Pay Period”** is any pay period during the Class Period or PAGA Period in which a Settlement
21 Class Member or Aggrieved Employee (as applicable) had a Workweek.

22 **2. BACKGROUND**

23 **A.** This Settlement is made and entered into by and between Plaintiffs and Defendants,
24 and is subject to the terms and conditions hereof, and to the Court’s approval. The Parties expressly
25 acknowledge that this Agreement is entered into solely for the purpose of compromising
26 significantly disputed claims and that nothing herein is an admission of liability or wrongdoing by
27 Defendants. Defendants deny that they are liable to Plaintiffs or the Class Members and/or
28 Aggrieved Employees and deny that they have violated any law.

1 **B.** On September 28, 2022, Claiborne commenced this Action by filing a putative Class
2 Action Complaint against PTL and PFG seeking to represent all non-exempt, hourly employees
3 during the four-year period prior to the filing of his Complaint for: (1) failure to pay lawful wages
4 including overtime; (2) failure to provide lawful meal periods or compensation in lieu thereof; (3)
5 failure to provide lawful rest periods or compensation in lieu thereof; (4) failure to pay employee
6 expenses; (5) failure to timely pay wages during employment; (6) failure to timely pay wages at
7 termination; (7) failure to provide accurate, itemized wage statements; and (8) violations of the
8 unfair competition law (the “*Claiborne Action*”). That same day, Claiborne sent a PAGA notice to
9 the LWDA, including a copy of his proposed PAGA complaint (the “*Claiborne PAGA Notice*”).
10 The *Claiborne PAGA Notice* asserts the same underlying Labor Code violations asserted in the
11 *Claiborne Action*.

12 **C.** On October 25, 2022, Claiborne filed and served an amended PAGA Notice which
13 identifies PTL and PFG as separate entities but otherwise asserts the same underlying violations of
14 the California Labor Code set forth in the *Claiborne Action* (the “*Claiborne Amended PAGA*
15 *Notice*”).

16 **D.** On January 5, 2022, Hernandez instituted a PAGA representative action in the Kern
17 County Superior Court, Case No. BCV-22-100592-JEB, for the following alleged violations:
18 (1) requiring and permitting unsafe work, and failing to provide safe workplace, practices, and
19 processes in violation of Labor Code §§ 6400-6404; (2) failure to pay minimum wages owed in
20 violation of Labor Code § 1197.1; (3) untimely payment of wages in violation of Labor Code § 204;
21 (4) failure to issue and keep/produce compliant records of wage statements in violation of Labor
22 Code § 226(a); (5) failure to pay wages at termination in violation of Labor Code §§ 201-203; and
23 (6) failure to provide time records in violation of Labor Code § 1198 (the “*Hernandez PAGA*
24 *Action*”). Hernandez also filed and served a PAGA Notice on January 5, 2022, and an amended
25 PAGA Notice on April 15, 2022. Hernandez subsequently amended his Complaint twice, on April
26 15, 2022 and August 5, 2022.

27 **E.** On December 22, 2022, Claiborne and Hernandez jointly filed an amended putative
28 Class Action and PAGA Complaint in this action against PTL and PFG, asserting the following

1 claims: (1) failure to pay lawful wages including overtime; (2) failure to provide lawful meal periods
2 or compensation in lieu thereof; (3) failure to provide lawful rest periods or compensation in lieu
3 thereof; (4) failure to pay employee expenses; (5) failure to timely pay wages during employment;
4 (6) failure to timely pay wages at termination; (7) failure to provide accurate, itemized wage
5 statements; (8) violations of the unfair competition law; (9) Failure to Establish, Implement, and
6 Maintain Effective Injury Prevention Program; (10) Permitting Unsafe Work and Failure to Provide
7 Safe Workplace, Practices, and Processes; (11) Failure to Pay Minimum Wages; (12) Failure to
8 Provide Time Records; and (13) Labor Code Private Attorneys General Act (Lab. Code § 2699 et
9 seq.).

10 **F.** Prior to the filing of the instant Action, on September 1, 2022, Rodriguez filed a
11 putative Class Action Complaint against PFG in Alameda Superior Court alleging the following
12 claims: (1) unfair competition, (2) failure to pay minimum wages; (3) failure to pay overtime wages;
13 (4) failure to provide meal periods or compensation in lieu thereof; (5) failure to provide rest periods
14 or compensation in lieu thereof; (6) failure to provide accurate, itemized wage statements, and
15 (7) failure to reimburse employees for business expenses.

16 **G.** That same day, Rodriguez filed with the LWDA and served on PFG a PAGA notice
17 letter (the “*Rodriguez* PAGA Notice”) seeking PAGA penalties for the following alleged violations:
18 (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal
19 periods; (4) failure to provide rest periods; (5) failure to provide accurate itemized wage statements;
20 and (6) failure to reimburse for required business expenses. On November 8, 2022, Rodriguez filed
21 a separate PAGA Complaint (the “*Rodriguez* PAGA Complaint”) against PFG on behalf of himself
22 and other allegedly aggrieved employees (the “*Rodriguez* Action”). The *Rodriguez* PAGA
23 Complaint asserted the same underlying violations of the California Labor Code as set forth in the
24 *Rodriguez* PAGA Notice.

25 **H.** On January 10, 2023, Rodriguez dismissed his Class Action lawsuit.

26 **I.** On January 26, 2023, Hernandez dismissed the *Hernandez* PAGA Action as a result
27 of being added as a named party and having his claims added into Claiborne’s class and
28 representative action on December 22, 2022 as described above.

1 **J.** On February 9, 2023, Avalos filed with the LWDA and served on PTL a PAGA
2 notice letter (the “*Avalos* PAGA Notice”) asserting the same alleged PAGA violations by PTL as
3 set forth in the *Rodriguez* PAGA Complaint. On February 13, 2023, Avalos served an amended
4 PAGA notice (the “*Avalos* Amended PAGA Notice”) asserting the same alleged PAGA violations
5 by PTL as set forth in the *Rodriguez* PAGA Complaint.

6 **K.** On February 13, 2023, Rodriguez served an amended PAGA notice letter (the
7 “*Rodriguez* Amended PAGA Notice”) adding PTL as a named employer and otherwise asserting
8 the same violations as in his original PAGA Notice. Thereafter, on February 14, 2023, Rodriguez
9 filed an amendment to the *Rodriguez* PAGA Complaint to substitute and/or add PTL to the action.

10 **L.** On September 27, 2023, the Parties participated in a global, full-day mediation
11 before Jason Marsili, a well-regarded mediator experienced in mediating complex labor and
12 employment matters. Although the Parties were unable to reach an agreement at the mediation, the
13 Parties subsequently continued negotiations and accepted a mediator’s proposal and reached a
14 global resolution of all claims asserted in the instant Action, the *Rodriguez* Action (Alameda
15 Superior Court Case No. 22CV021320), the now-dismissed *Hernandez* PAGA Action, and each and
16 every one of the PAGA Notices submitted by the Plaintiffs (and any as yet unpled Labor Code
17 violations asserted therein which could have been pled on a class-wide or PAGA basis). As part
18 of this Settlement, the Parties have agreed to move for approval of the Settlement in this Action,
19 which approval shall be sought with respect to the Second Amended Complaint the Parties are
20 stipulating for Plaintiffs to have leave to file and which adds Rodriguez and Avalos as Plaintiffs
21 and class and PAGA representatives and which asserts, *inter alia*, all of the facts, theories and
22 alleged Labor Code violations that have been or could reasonably have been asserted in the
23 *Rodriguez* Action (Alameda Superior Court Case No. 22CV021320) and all of the Plaintiffs’
24 original and/or amended PAGA Notices which have not been pleaded to date; and (2) dismissal of
25 the *Rodriguez* Action, with prejudice, within seven days of the final approval of this settlement in
26 this Action.

27 **M.** The Parties recognize the risk, expense, and delay in continuing litigation, and
28 therefore believe the Settlement is a fair, adequate, and reasonable settlement of the Actions and

1 have arrived at this Settlement after arm's-length negotiations, mediation, and in the context of
2 adversarial litigation, taking into account all relevant factors, present and potential. The Parties
3 further acknowledge that they are each represented by competent counsel and that they have had an
4 opportunity to consult with their counsel regarding the fairness and reasonableness of this
5 Agreement.

6 **3. JURISDICTION**

7 The Court has jurisdiction over the Parties and the subject matter of the Action. The Action
8 includes claims that, if proven, would authorize the Court to grant relief pursuant to the applicable
9 statutes. After the Court has granted Final Approval of the Settlement and entered judgment, the
10 Court shall retain jurisdiction over the Parties to enforce the terms of the judgment pursuant to
11 California Rule of Court, rule 3.769, subdivision (h).

12 **4. STIPULATION OF CLASS CERTIFICATION**

13 The Parties stipulate to the certification of the Settlement Class under this Agreement for
14 purposes of settlement only.

15 **5. DISMISSAL OF THE RODRIGUEZ ACTION**

16 Plaintiff Rodriguez agrees to take all steps necessary to maintain a stay in the *Rodriguez*
17 Action pending approval of this settlement, and shall file a request for dismissal of the *Rodriguez*
18 Action, with prejudice, within seven (7) days of the final approval of this settlement in this Action.

19 **6. AMENDMENT OF PLEADING AND MOTIONS FOR APPROVAL OF**
20 **SETTLEMENT**

21 As part of the global settlement reached between the Parties and for purposes of this
22 Settlement Agreement only, the Parties will separately stipulate following the execution of this
23 Settlement Agreement, and subject to the Court's entry of an order approving the same, for Plaintiffs
24 to have leave to file a proposed SAC in a form reviewed and approved by Defendants for purposes
25 of his stipulation, which SAC shall add Rodriguez and Avalos as Plaintiffs and class and PAGA
26 representatives and assert, *inter alia*, all of the facts, theories and alleged Labor Code violations that
27 have been or could reasonably have been asserted in the *Rodriguez* Action (Alameda Superior Court
28 Case No. 22CV021320) and all of the Plaintiffs' original and/or amended PAGA Notices which

1 have not been pleaded to date. For purposes of settlement only, the Parties agree that all defenses
2 of timeliness with respect to the claims asserted in the SAC to be filed as a condition of preliminary
3 approval shall be waived, with all such limitations on Plaintiffs' class and PAGA claims to run from
4 the earliest possible limitations periods applicable to the Plaintiffs. In the event the Court does not
5 grant final approval of the settlement, then the SAC will be deemed withdrawn *ab initio* without
6 prejudice to the Parties' pre-settlement positions and defenses in the Actions, and the original
7 limitations periods shall apply.

8 After full execution of this Agreement, Plaintiffs will move in the Action for an order
9 granting preliminary approval of the Settlement, approving the filing of the SAC, approving and
10 directing the mailing of the proposed Notice of Class Action Settlement ("Class Notice") attached
11 hereto as **Exhibit "A"**, conditionally certifying the Settlement Class for settlement purposes only,
12 and approving the deadlines proposed by the Parties for the submission of Requests for Exclusion,
13 Workweek Disputes, and Objections. If and when the Court preliminarily approves the Settlement,
14 and after administration of the Class Notice in a manner consistent with the Court's Preliminary
15 Approval Order, Plaintiffs will move for an order finally approving the Settlement and seek entry
16 of a Judgment in line with this Settlement. The Parties may both respond to any Objections lodged
17 to final approval of the Settlement up to five (5) court days before the Final Approval Hearing.

18 Plaintiffs' counsel will submit near-final drafts of the moving papers for preliminary
19 approval to counsel for Defendants for their review and comment. The moving papers for
20 preliminary approval (including all supporting papers, declarations, and proposed order) shall be
21 provided to counsel for Defendant at least five (5) court days prior to their intended filing. Counsel
22 for Defendants will provide their comments to the draft motion for preliminary approval and
23 supporting papers in a timely fashion so as not to delay its filing. Plaintiffs' counsel will also prepare
24 Plaintiffs' motion final approval of the settlement. Not later than five (5) court days prior to the
25 submission of the motion for final approval to the Court, Plaintiffs' counsel will submit near-final
26 drafts of the moving papers (including all supporting papers, declarations, and proposed order) to
27 counsel for Defendants for their review and comment. Defendants will provide their comments to
28 the draft motion for final approval and supporting papers as soon as practicable after receipt and

1 prior to the deadline to file the final approval motion. Plaintiffs shall file the motion for preliminary
2 approval as soon as practicable following execution of this Settlement Agreement.

3 **7. STATEMENT OF NO ADMISSION**

4 Defendants deny any wrongdoing of any sort and further deny any liability to Plaintiffs and
5 the Settlement Class and/or Aggrieved Employees with respect to any claims or allegations asserted
6 in the Litigation. This Agreement shall not be deemed an admission by Defendants of any claims
7 or allegations asserted in the Action and/or the PAGA Notice. Except as set forth elsewhere herein,
8 in the event that this Agreement is not approved by the Court, or any appellate court, is terminated,
9 or otherwise fails to be enforceable, Plaintiffs will not be deemed to have waived, limited or affected
10 in any way any claims, rights or remedies, or defenses in the Action or the PAGA Notice, and
11 Defendants will not be deemed to have waived, limited, or affected in any way any of their
12 objections or defenses in the Action and the PAGA Notice. The Parties shall be restored to their
13 respective positions in the Action prior to the entry of this Settlement.

14 **8. RELEASE OF CLAIMS**

15 **a. Release by All Participating Class Members.**

16 Effective only upon the entry of an Order granting Final Approval of the Settlement, entry
17 of Judgment, and payment by Defendants to the Settlement Administrator of the full Gross
18 Settlement Amount and Employer's Taxes necessary to effectuate the Settlement, Plaintiffs and all
19 Participating Class Members release the Released Parties of any and all claims that have been or
20 could reasonably have been asserted based on the factual allegations in the Operative Complaint as
21 follows: For the duration of the Class Period, the release includes, for Participating Class Members:
22 (1) all claims for failure to pay (or properly pay) wages of any kind (including overtime, doubletime,
23 meal and rest period premiums, and sick pay); (2) all claims for failure to provide meal periods or
24 pay (or properly pay) compensation in lieu thereof (including, without limitation, break premiums);
25 (3) all claims for failure to provide rest periods or (or properly pay) compensation in lieu thereof
26 (including, without limitation, break premiums); (4) all claims asserting a failure to properly
27 reimburse employees for any kind of business-related expenses; (5) all claims for failure to timely
28 pay wages during employment; (6) all claims for failure to pay all wages due upon separation from

1 employment; (7) all claims for failure to issue accurate, itemized wage statements; (8) all claims
2 asserted through California Business & Professions Code section 17200, *et seq.* arising out of the
3 Labor Code violations referenced in the SAC; (9) all claims for failure to establish, implement, and
4 maintain an effective injury prevention program; (10) all claims for permitting unsafe work and
5 failure to provide safe workplace, practices, and processes; (11) all claims for failure to pay
6 minimum or other wages for all hours worked; (12) all claims for failure to provide time records;
7 and (13) all claims for relief, including damages, statutory and/or civil penalties, equitable and/or
8 injunctive relief, attorneys' fees, interest, costs, and any other kind of relief whatsoever that could
9 be sought based on the factual allegations and theories of liability asserted in the SAC (the "Class
10 Released Claims"). The Parties additionally agree that the Class Released Claims shall include the
11 release of claims under the federal Fair Labor Standards Act ("FLSA") pursuant to *Rangel v. Check*
12 *Cashers*, 899 F.3d 1106 (9th Cir. 2018).

13 **b. PAGA Release by All Aggrieved Employees**

14 Effective only upon the entry of an Order granting Final Approval of the Settlement, entry
15 of Judgment, and payment by Defendants to the Settlement Administrator of the full Gross
16 Settlement Amount and Employer's Taxes necessary to effectuate the Settlement, Plaintiffs, the
17 Aggrieved Employees, and, to the extent permitted by law, the State of California, release the
18 Released Parties for the duration of the PAGA Period from all claims alleged in the PAGA Notices
19 and the SAC for PAGA civil penalties in connection with alleged violations of Labor Code sections
20 200, 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 223, 225, 226, 226.2, 226.3, 226.7, 246 *et*
21 *seq.*, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.5, 1197.14, 1198,
22 1198.5, 1199, 2800, 2802, 2804, 2699, 2699.3, 2699.5, 6400, 6401, 6401.7, 6402, 6403, and 6404,
23 including for alleged: (1) failure to pay (or properly pay) wages (including overtime, doubletime,
24 meal and rest period premiums, and sick pay); (2) failure to provide meal periods or compensation
25 in lieu thereof (including, without limitation, break premiums); (3) failure to provide rest periods or
26 compensation in lieu thereof (including, without limitation, break premiums); (4) failure to properly
27 reimburse employees for business-related expenses; (5) failure to timely pay wages during
28 employment; (6) failure to pay all wages due upon separation from employment; (7) failure to issue

1 accurate, itemized wage statements; (8) failure to maintain accurate timekeeping and payroll
2 records; (9) failure to establish, implement, and maintain an effective injury prevention program;
3 (10) permitting unsafe work and failure to provide safe workplace, practices, and processes;
4 (11) failure to pay minimum or other wages for all hours worked; and (12) all claims for failure to
5 provide time records (the "PAGA Released Claims"). The Class Released Claims and PAGA
6 Released Claims shall be collectively referred to herein as the "Released Claims."

7 **c. Claims Not Released**

8 The Released Claims expressly excludes all other claims, including claims for vested
9 benefits, wrongful termination, unemployment insurance, disability, social security, workers'
10 compensation, and any other claims outside of the Class Released Claims of Participating Class
11 Members arising during the Class Period and the PAGA Released Claims of Aggrieved Employees
12 (and, to the extent permitted by law, the State of California) arising during the PAGA Period.

13 **d. General Release**

14 Effective only upon the entry of an Order granting Final Approval of the Settlement, entry
15 of Judgment, and payment by Defendants to the Settlement Administrator selected of the full Gross
16 Settlement Amount and Employer's Taxes necessary to effectuate the Settlement, in addition to the
17 Release provided by the Plaintiffs in Sections 8.a. and 8.b. of this Agreement, Plaintiffs make the
18 additional following General Release: Plaintiffs release the Released Parties from all claims,
19 demands, rights, liabilities and causes of action of every nature and description whatsoever, known
20 or unknown, asserted or that might have been asserted, whether in tort, contract, or for violation of
21 any state or federal statute, rule, law or regulation arising out of, relating to, or in connection with
22 any act or omission of the Released Parties through the date of final approval of this Agreement in
23 connection with Plaintiffs' employment with PTL or the termination thereof, except for any and all
24 other claims that may not be released as a matter of law through this Agreement. To the extent of
25 the General Release provided herein, Plaintiffs stipulate and agree that, upon entry of an Order
26 granting Final Approval of the Settlement, entry of Judgment, and payment by Defendants to the
27 Settlement Administrator selected of the full Gross Settlement Amount and Employer's Taxes
28 necessary to effectuate the Settlement, they shall have expressly waived and relinquished, to the

1 fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California
2 Civil Code, or any other similar provision under federal or state law, which provides:

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

8 **9. SETTLEMENT ADMINISTRATOR**

9 **A.** Plaintiffs and Defendants, through their respective counsel, have selected ILYM
10 Group, Inc. to administer the Settlement, which includes but is not limited to: distribution of the
11 Class Notice, calculating Individual Settlement Shares, Individual Settlement Payments, Individual
12 PAGA Payments, and Participating Individual Settlement Shares, as well as processing associated
13 taxes and withholdings, providing declarations, generating Individual Settlement Payment checks
14 and related tax reporting forms, doing administrative work related to unclaimed checks, transmitting
15 payment to Class Counsel for the Court-approved amounts for attorneys' fees and reimbursement
16 of litigation costs and expenses, to Plaintiffs for their Service Awards, and to the LWDA for the
17 LWDA Payment, providing weekly reports of opt-outs, objections and related information, and any
18 other actions of the Settlement Administrator as set forth in this Agreement, all pursuant to the terms
19 of this Agreement. The Settlement Administration Costs are estimated not to exceed \$11,500.00.
20 If the actual amount of the Settlement Administration Costs is less than \$11,500.00, the difference
21 between \$11,500.00 and the actual Settlement Administration Costs shall be a part of the Net
22 Settlement Amount. If the Settlement Administration Costs exceed \$11,500.00 then such excess
23 will be paid solely from the Gross Settlement Amount and Defendants will not be responsible for
24 paying any additional funds in order to pay these additional costs

25 **10. NOTICE, WORKWEEK DISPUTE, OBJECTION, AND EXCLUSION**
26 **PROCESS**

27 **A. Notice to the Settlement Class Members**

28 (1) Within twenty-five (25) days after the Preliminary Approval Date, Counsel
for Defendants shall provide the Settlement Administrator with information with respect to each

1 Settlement Class Member and/or Aggrieved Employee, including his or her: (1) name; (2) last
2 known address(es) currently in Defendants' possession, custody, or control; (3) last known
3 telephone number(s) currently in Defendants' possession, custody, or control; (4) last known Social
4 Security Number(s) in Defendants' possession, custody, or control; (5) the hire date of record with
5 PTL; (6) the termination date of records with PTL, if any; (7) the number of Workweeks for each
6 Settlement Class Member for the Class Period, and (8) the number of Pay Periods for each
7 Aggrieved Employee for the PAGA Period (hereafter, the "Class List"). The final Class List will
8 be designated as Highly Confidential, Attorneys' Eyes Only, pursuant to a Court-approved and
9 entered Stipulated Protective Order to be submitted by the Parties in the Action prior to the filing of
10 the motion for preliminary approval, and provided by Defendants after the Settlement Administrator
11 signs and returns to Counsel for Defendants the Acknowledgment and Agreement to be Bound
12 attached as Exhibit A to such Protective Order. The final Class List shall be used only by the
13 Settlement Administrator and only for purposes of administering the Settlement and shall not be
14 provided to Class Counsel, and nothing in this Settlement Agreement limits the use of it for that
15 purpose. The Settlement Administrator shall perform an address search using the United States
16 Postal Service National Change of Address ("NCOA") database and update the addresses contained
17 on the Class List with the newly-found addresses, if any. Within seven (7) calendar days, or soon
18 thereafter, of receiving the Class List from Defendants, the Settlement Administrator shall mail the
19 Class Notice to the Settlement Class Members via first-class regular U.S. Mail using the most
20 current mailing address information available. The Settlement Administrator shall maintain the
21 Class List and digital copies of all the Settlement Administrator's records evidencing the giving of
22 notice to any Settlement Class Member and/or other records pertaining to its administration of the
23 Settlement (including, without limitation, records pertaining to Class Member queries, requests for
24 exclusions, opt-outs, Workweek disputes, and undeliverable mailing), for at least four (4) years from
25 the Final Approval Date.

26 (2) The proposed Class Notice will include verbiage jointly agreed to by the
27 Parties and will set forth:
28

- 1 (a) the Settlement Class Member's estimated Individual Settlement
2 Payment and Individual PAGA Payment, as applicable, and the basis
3 for each;
- 4 (b) the information required by California Rule of Court, rule 3.766,
5 subdivision (d);
- 6 (c) the material terms of the Settlement;
- 7 (d) the proposed Settlement Administration Costs;
- 8 (e) the definition of the Settlement Class;
- 9 (f) a statement that the Court has preliminarily approved the Settlement;
- 10 (g) how the Settlement Class Member can obtain additional information,
11 including contact information for Class Counsel;
- 12 (h) information regarding opt-out, objection and dispute procedures;
- 13 (i) the date and location of the Final Approval Hearing; and
- 14 (j) that the Settlement Class Member must notify the Settlement
15 Administrator no later than the Response Deadline if the Settlement
16 Class Member disputes the accuracy of the number of Workweeks as
17 set forth on his or her Class Notice ("Workweek Dispute"). If a
18 Settlement Class Member fails to timely dispute the number of
19 Workweeks attributed to him or her in conformity with the
20 instructions in the Class Notice, then he or she shall be deemed to
21 have waived any objection to its accuracy and any claim to any
22 additional settlement payment based on different data.

23 (3) If a Class Notice from the initial notice mailing is returned as undeliverable,
24 the Settlement Administrator will attempt to obtain a current address for the Settlement Class
25 Member to whom the returned Class Notice had been mailed, within five (5) calendar days of receipt
26 of the returned Class Notice, by: (1) contacting the Settlement Class Member by phone, if possible,
27 and (2) undertaking skip tracing. If the Settlement Administrator is successful in obtaining a new
28 address, it will promptly re-mail the Class Notice to the Settlement Class Member. Further, any

1 Class Notices that are returned to the Settlement Administrator with a forwarding address before the
2 Response Deadline shall be promptly re-mailed to the forwarding address affixed thereto.

3 (4) No later than seven (7) calendar days after the Response Deadline, the
4 Settlement Administrator shall provide counsel for the Parties with a declaration attesting to the
5 completion of the notice process, including the number of attempts to obtain valid mailing addresses
6 for and re-sending of any returned Class Notices, as well as the identities, number of, and copies of
7 all Requests for Exclusion and Objections received by the Settlement Administrator, if any.

8 **B. Objections.**

9 Participating Class Members may object only to the Class Settlement; neither Participating
10 Class Members nor PAGA Aggrieved Employees may object to the PAGA settlement. In order for
11 any Settlement Class Member to object to this Class Settlement in writing, or any term of it, he or
12 she must do so by mailing a written objection to the Settlement Administrator at the address
13 provided on the Class Notice, with such objection postmarked no later than the Response Deadline.
14 The Settlement Administrator shall email a copy of the Objection forthwith to Class Counsel and
15 counsel for Defendants and attach copies of all Objections to the Declaration it provides Class
16 Counsel, which Class Counsel shall file in support of Plaintiffs' Motion for Final Approval. To be
17 valid, the Objection must be timely submitted and must set forth the following in writing: (1) the
18 Objector's name; (2) the Objector's address; (3) the last four digits of the Objector's Social Security
19 Number; (4) the Objector's signature; (5) a statement of whether the Objector plans to appear at the
20 Final Approval Hearing; and (6) the reason(s) for the Objection, along with whatever legal authority,
21 if any, the Objector asserts in support of the Objection. If a Settlement Class Member objects to the
22 Class Settlement, the Settlement Class Member will remain a member of the Settlement Class and
23 if the Court approves this Agreement, the Settlement Class Member will be bound by the terms of
24 the Settlement in the same way and to the same extent as a Settlement Class Member who does not
25 object. The date of mailing of the Class Notice to the objecting Settlement Class Member shall be
26 conclusively determined according to the records of the Settlement Administrator. Settlement Class
27 Members need not object in writing to be heard at the Final Approval Hearing; they may object or
28

comment in person at the hearing at their own expense. Class Counsel and counsel for Defendants may respond to any objection lodged with the Court.

C. Requesting Exclusion.

Any Settlement Class Member may request exclusion from (*i.e.*, to “opt out” of) the Class Settlement by mailing a written request to be excluded from the Class Settlement (“Request for Exclusion”) to the Settlement Administrator, postmarked on or before the Response Deadline. To be valid, a Request for Exclusion must be timely submitted and must include the following in writing: (1) the Class Member’s name; (2) the Class Member’s Social Security Number; (3) the Class Member’s signature; and (4) a statement that the Class Member seeks to be excluded from the Settlement Class using the same or similar language standing for the proposition the Class Member seeks to be excluded from the Settlement Class: “Please exclude me from the Settlement Class in the *Claiborne et al. v. Performance Transportation, LLC et al.* matter. I understand that by requesting exclusion, I will not participate in the class settlement and will not receive any money from the class settlement.” The Settlement Administrator shall immediately provide copies of all Requests for Exclusion to Class Counsel and counsel for Defendants and shall report the Requests for Exclusions that it receives, to the Court, in its declaration to be provided in advance of the Final Approval Hearing. Any Settlement Class Member who timely and properly requests exclusion from the Settlement Class using this procedure will not be entitled to receive any Individual Settlement Share from the Settlement and will not be bound by the Settlement Agreement or have any right to object to, appeal, or comment on the Settlement as it relates to the Class Settlement and Class Released Claims. Any Settlement Class Member who does not opt out of the Settlement Class by submitting a timely and valid Request for Exclusion will be bound by all terms of the Settlement, including those pertaining to the Class Released Claims, as well as any Judgment that may be entered by the Court if Final Approval of the Class Settlement is granted. A Settlement Class Member cannot submit both a Request for Exclusion and an objection. If a Settlement Class Member submits an Objection and a Request for Exclusion, the Request for Exclusion will control and the Objection will be overruled. Settlement Class Members who worked during the PAGA Period as Aggrieved Employees that submit a valid Request for Exclusion from the Settlement Class

1 will still be deemed to be Aggrieved Employees, will still receive their Individual PAGA Payments,
2 and will be bound by the release of the PAGA Released Claims.

3 **D. Disputes Regarding Settlement Class Members' Workweek Data.**

4 Each Settlement Class Member may dispute the number of Workweeks attributed to him or
5 her with respect to the Individual Settlement Share on his or her Class Notice ("Workweek
6 Dispute"). Any such disputes must be in writing and mailed to the Settlement Administrator by the
7 Settlement Class Member, postmarked on or before the Response Deadline. To be valid, a
8 Workweek Dispute must be timely submitted and must include the following in writing: (1) the
9 Class Member's name, current mailing address, telephone number, the last four digits of his/her
10 social security number, and his/her signature; (2) a statement indicating that the Class Member seeks
11 to dispute the number of Workweeks credited to him or her, the time period(s) he or she worked for
12 PTL during the Class Period, and the number of Workweeks that he or she contends should be
13 credited to him or her; and (3) documentation and/or other facts supporting the Class Member's
14 position. The Settlement Administrator shall immediately provide copies of all Workweek Disputes
15 (if any) to Class Counsel and counsel for Defendants. In response to any timely Workweek Dispute,
16 PTL will first verify the information contained in the disputing Class Member's personnel file and
17 PTL's payroll records. Unless the Class Member can establish that the number of Workweeks
18 credited to him or her is incorrect, by providing documentation in support thereof or other details to
19 substantiate his or her position, the total number of Workweeks established by PTL's records will
20 control. Class Counsel and counsel for Defendants will then make a good faith effort to resolve the
21 dispute informally before the Final Approval Hearing. If counsel for the Parties cannot agree, the
22 dispute shall be resolved by the Settlement Administrator before the Final Approval Hearing, who
23 shall examine the records provided by PTL and the Class Member, and shall be the final arbiter of
24 disputes relating to a Class Member's Workweeks. The Settlement Administrator's determination
25 regarding any such dispute shall be final for purposes of administering notice of the Settlement,
26 subject to final review, determination, and approval by the Court.

27 **11. INDIVIDUAL SETTLEMENT PAYMENTS AND INDIVIDUAL PAGA**
28 **PAYMENTS**

1 Individual Settlement Payments will be calculated and distributed to Participating Class
2 Members from the Net Settlement Amount on a *pro rata* basis, based on the Participating Class
3 Members' respective number of Workweeks during the Class Period. Individual PAGA Payments
4 to Aggrieved Employees will be calculated and distributed to Aggrieved Employees from the
5 Aggrieved Employee PAGA Payment on a *pro rata* basis based on Aggrieved Employees'
6 respective number of Pay Periods during the PAGA Period. Specific calculations of the Individual
7 Settlement Shares and Individual PAGA Payments to Aggrieved Employees will be made as
8 follows:

9 **A. The Total Number of Workweeks.**

10 The Total Number of Workweeks worked by each Settlement Class Member during the
11 Class Period ("Class Member's Workweeks"), as well as the aggregate number of Workweeks
12 worked by all Settlement Class Members during the Class Period ("Class Workweeks"), shall be
13 determined from PTL's records and shall be provided on the Class List provided by PTL.
14 Additionally, the total number of Pay Periods worked by each Aggrieved Employee during the
15 PAGA Period ("Aggrieved Employee's Pay Periods"), as well as the aggregate number of Pay
16 Periods worked by all Aggrieved Employees during the PAGA Period ("PAGA Pay Periods"),
17 shall be determined from PTL's records and shall be provided on the Class List provided by PTL.

18 **B.** To determine each Participating Class Member's Participating Individual Class
19 Settlement Share, the Settlement Administrator will determine the aggregate number of
20 Workweeks worked by all Participating Class Members during the Class Period ("Total
21 Participating Class Member Workweeks") and use the following formula: Individual Settlement
22 Share = (Individual Participating Class Member's Workweeks ÷ Total Participating Class Member
23 Workweeks) × Net Settlement Amount.

24 **C.** To determine each Aggrieved Employee's Individual PAGA Payment, the
25 Settlement Administrator will use the following formula: Aggrieved Employee's Individual
26 PAGA Payment = (Aggrieved Employee's Pay Periods ÷ Total Aggrieved Employee PAGA Pay
27 Periods) x Aggrieved Employee PAGA Payment.

28 **D.** Individual Settlement Payments and Individual PAGA Payments shall be paid to

1 Participating Class Members and/or Aggrieved Employees by way of check. When a Participating
2 Class Member is also an Aggrieved Employee, one check may be issued that aggregates both the
3 Individual Settlement Payment and the Individual PAGA Payment.

4 **12. DISTRIBUTION OF PAYMENTS**

5 **A. Distribution of Individual Settlement Payments.**

6 Participating Class Members will receive an Individual Settlement Payment and Aggrieved
7 Employees will receive an Individual PAGA Payment as applicable. Individual Settlement
8 Payment and Individual PAGA Payment checks shall remain valid and negotiable for one hundred
9 and eighty (180) calendar days after the date of their issuance. In the event that any checks mailed
10 to Participating Class Members and/or Aggrieved Employees are not cashed, deposited, or
11 otherwise negotiated within the 180-day period, then the checks shall be sent to the California
12 State Controller's Office Unclaimed Property Fund in the name of the individual, and such Class
13 Members and/or Aggrieved Employees shall nevertheless be bound to the Settlement and the Final
14 Approval Order. Thus, there shall be no "Unpaid Residue" subject to the requirements of
15 California Code of Civil Procedure section 384.

16 **B. Funding of Settlement.**

17 Within thirty (30) days following the occurrence of the Effective Date of the Settlement as
18 defined above, Defendants shall remit payment of the Gross Settlement Amount (as the same may
19 be escalated pursuant to Section 18 of this Agreement) and Employer Taxes (as that term is defined
20 herein) to the Settlement Administrator pursuant to Internal Revenue Code section 1.468B-1 for
21 deposit in an interest-bearing qualified settlement account ("QSA") with an FDIC insured banking
22 institution, for distribution in accordance with this Agreement and the Court's Orders and subject
23 to the conditions described herein. The Settlement Administrator shall calculate and communicate
24 to counsel for Defendants the amount to be remitted for Employer Taxes at least ten (10) business
25 days in advance of the deadline to fund the settlement.

26 **C. Time for Distribution.**

27 Within fifteen (15) calendar days after payment of the full Gross Settlement Amount and
28 Employer Taxes by Defendants, or as soon thereafter as practicable, the Settlement Administrator

1 shall distribute Payments from the QSA for: (1) the Service Awards to Plaintiffs as approved by the
2 Court; (2) the Attorneys' Fees and Cost Award to be paid to Class Counsel, as approved by the
3 Court; (3) the Settlement Administrator Costs, as approved the Court; (4) the LWDA Payment, as
4 approved by the Court; and (5) Individual PAGA Payments as approved by the Court. The balance
5 remaining shall constitute the Net Settlement Amount from which Individual Settlement Payments
6 shall be made to Participating Class Members, less applicable taxes and withholdings.

7 **13. ATTORNEYS' FEES AND LITIGATION COSTS**

8 Class Counsel shall apply for, and Defendants shall not oppose, an award of attorneys' fees
9 of up to 35% of the Gross Settlement Amount, which, unless the Gross Settlement Amount is
10 escalated pursuant to Section 18 of this Agreement, amounts to Two Hundred Forty-Six Thousand
11 Seven Hundred and Fifty Dollars and Zero Cents (\$246,750.00). Class Counsel shall further apply
12 for, and Defendants shall not oppose, an application or motion by Class Counsel for reimbursement
13 of actual costs associated with Class Counsel's prosecution of this matter as set forth by declaration
14 testimony in an amount up to Thirty-Five Thousand Dollars and Zero Cents (\$35,000.00). Awards
15 of attorneys' fees and costs shall be paid out of the Gross Settlement Amount, for all past and future
16 attorneys' fees and costs necessary to prosecute, settle, and obtain Final Approval of the settlement
17 in Action. The "future" aspect of the amounts stated herein includes, without limitation, all time
18 and expenses expended by Class Counsel (including any appeals therein). There will be no
19 additional charge of any kind to either the Settlement Class Members or request for additional
20 consideration from Defendants for such work unless Defendants materially breach this Agreement,
21 and further efforts are necessary from Class Counsel to remedy said breach, including, without
22 limitation, moving the Court to enforce the Agreement. Should the Court approve attorneys' fees
23 and/or litigation costs and expenses in amounts that are less than the amounts provided for herein,
24 then the unapproved portion(s) shall become a part of the Net Settlement Amount for distribution
25 to Participating Class Members, and any such lesser award shall not be grounds for Plaintiffs and/or
26 Class Counsel to terminate the Settlement.

27 **14. SERVICE AWARDS TO PLAINTIFFS**

28

1 Named Plaintiffs shall seek, and Defendants shall not oppose, a Service Award in an amount
2 not to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00) payable to each of the Plaintiffs
3 (or \$40,000.00 in total) for participation in and assistance with the Action. Any Service Awards
4 awarded to Plaintiffs shall be paid from the Gross Settlement Amount and shall be reported to
5 Plaintiffs on an IRS Form 1099. If the Court approves the Service Awards to Plaintiffs in less than
6 the amounts sought herein, then the unapproved portion(s) shall become a part of the Net Settlement
7 Amount for distribution to Participating Class Members, and any such lesser award shall not be
8 grounds for Plaintiffs and/or Class Counsel to terminate the Settlement.

9 **15. TAXATION AND ALLOCATION**

10 **a.** Each Individual Settlement Share shall be allocated as follows: 20% as wages (to be
11 reported on an IRS Form W-2) and 80% for civil or statutory penalties and interest, with such non-
12 wage portions to be reported on an IRS Form 1099. Each Individual PAGA Payment shall be
13 allocated entirely as penalties and reported on an IRS Form 1099. The Parties agree that prior to
14 distribution, each Individual Settlement Share due to a Participating Class Member will be subject
15 to reduction for required employee-side payroll taxes, contributions and withholdings with respect
16 to the wage portion of the Individual Settlement Share, which shall yield each Participating Class
17 Member's "Individual Settlement Payment." The amount of federal income tax withholding will
18 be based upon a flat withholding rate for supplemental wage payments in accordance with Treasury
19 Regulation § 31.3402(g)-1(a)(2) as amended or supplemented. Income tax withholding will also be
20 made pursuant to applicable state and/or local withholding codes or regulations.

21 **b.** Forms W-2 and/or Forms 1099 will be timely and correctly prepared and distributed
22 by the Settlement Administrator at times and in the manner required by the Internal Revenue Code
23 of 1986 (the "Code") and consistent with this Agreement. If the Code, the regulations promulgated
24 thereunder, or other applicable tax law, is changed after the date of this Agreement, the processes
25 set forth in this Section may be modified in a manner to bring PTL into compliance with any such
26 changes.

27 **c.** Neither Counsel for Plaintiffs nor counsel for Defendants intend anything contained
28 in this Agreement to constitute advice regarding taxes or taxability, nor shall anything in this

1 Agreement be relied upon as such within the meaning of United States Treasury Department
2 Circular 230 (31 C.F.R. Part 10, as amended) or otherwise. Settlement Class Members and
3 Aggrieved Employees will be responsible for correctly characterizing the compensation that they
4 receive pursuant to the Form 1099 and for payment of any taxes owing on said amount(s).

5 **16. PRIVATE ATTORNEYS' GENERAL ACT ALLOCATION AND**
6 **NOTIFICATION TO THE LWDA**

7 The Parties agree to allocate Thirty-Seven Thousand Five Hundred Dollars and Zero Cents
8 (\$37,500.00) of the Gross Settlement Amount toward PAGA penalties. Pursuant to PAGA, seventy-
9 five percent (75%) of the amount allocated toward PAGA (\$28,125.00) will be paid to the LWDA,
10 and twenty-five percent (25%) (\$9,375.00) will be distributed to Aggrieved Employees on a *pro*
11 *rata* basis based upon their respective Pay Periods worked as Aggrieved Employees during the
12 PAGA Period.

13 Concurrently with the filing of the motion for preliminary approval of the settlement under
14 this Agreement, Plaintiffs and their counsel will comply with all requirements under PAGA to give
15 notice and make submissions regarding the proposed settlement to the LWDA, and promptly
16 provide written evidence thereof to counsel for Defendants.

17 **17. COURT APPROVAL**

18 This Agreement is contingent upon an order by the Court granting Final Approval of the
19 Settlement, and that the LWDA does not intervene and object to the Settlement. In the event it
20 becomes impossible to secure approval of the Settlement by the Court and the LWDA, the Parties
21 shall be restored to their respective positions in the Action prior to entry of this Settlement, except
22 as otherwise set forth herein. If this Settlement Agreement is voided, not approved by the Court or
23 approval is reversed on appeal, it shall have no force or effect and no Party shall be bound by its
24 terms except to the extent: (a) the Court reserves any authority to issue any appropriate orders when
25 denying approval; and/or (b) there are any terms and conditions in this Settlement Agreement
26 specifically stated to survive the Settlement Agreement being voided or not approved, and which
27 control in such an event.

28 **18. INCREASE IN WORKWEEKS**

PTL represents that the Settlement Class worked approximately 48,046 Workweeks through September 27, 2023. Should the number of workweeks for Class Members in the Class Period increase by more than 10%, Defendants shall have one of two options, at their sole election: (1) to end the Class Period at an earlier date to avoid triggering an escalator in the Gross Settlement Amount; or (2) to increase the Gross Settlement Amount proportionally for the number of additional workweeks over 110% of 52,851 workweeks. Under Option #2, for example, if the total workweeks in the Class Period are 115% of 52,851 workweeks, the Gross Settlement Amount shall be increased by five percent (5%).

19. NOTICE OF JUDGMENT

In addition to any duties set out herein, the Settlement Administrator shall provide notice of the Final Judgment entered in the Action by posting the same on its website for a period of no less than four (4) years.

20. WITHDRAWAL FROM SETTLEMENT BASED ON REQUESTS FOR EXCLUSION

Defendants shall retain the right to nullify the Agreement in the event that more than five percent (5%) of Class Members submit timely and valid Requests for Exclusion. Should the 5% threshold for opt outs be exceeded, the Settlement Administrator shall notify lead counsel for all Parties via email immediately, and Defendants must provide written notice to Class Counsel of its withdrawal within ten (10) calendar days of receiving sufficient information to determine that the opt out rate exceeds 10%. If Defendants exercise this right, they shall be solely responsible for the costs incurred for settlement administration up to the date of nullification.

21. CONFIDENTIALITY

Except as otherwise agreed in writing between the Parties, both before and following the execution of this Settlement Agreement by the Parties and their counsel, there will be no direct or indirect comment or publication by Plaintiffs and Class Counsel of the settlement in terms of affirmative or responsive media statements/comments, press releases or conferences, website postings or content, social media postings or content, other Internet postings or content, subscribed email messages, newsletters, disseminated updates, mass mailings, or any other comment or

1 publication to the press, media or public at large. This shall not apply to or limit the public filing
2 of motions or other case materials by Class Counsel in the Action related to seeking and obtaining
3 Court approval of the proposed settlement and the related awards of attorneys' fees and costs,
4 enhancements and the other relief set forth in this Settlement Agreement, dismissal of the
5 *Rodriguez* Action, or to communications between Class Counsel and Plaintiffs or Settlement Class
6 Members. Class Counsel may otherwise state only that the litigation has been settled on terms
7 mutually agreeable to the Parties. The Parties understand and agree that there may be media
8 coverage of the settlement of the Action not initiated by Plaintiffs or Class Counsel, directly or
9 indirectly. It is also agreed and understood that the Parties and each and every Settlement Class
10 Member, may disclose the settlement to their families, plus their legal, tax, or accounting advisors,
11 insurance companies, or as required by law, regulatory rules or regulatory requirements. Class
12 Counsel may disclose the names of the Parties in the Action, the venues/case numbers, and
13 settlement details available in the public record, for the limited purpose of allowing Class Counsel
14 to prove adequacy as class counsel in other actions or for purposes of seeking approval of an
15 unrelated settlement.

16 **22. SETTLEMENT WEBSITE**

17 The Parties agree that the Settlement Administrator may use U.S. mail and its own website
18 to provide notice and information about the Settlement. Reference to this Settlement on the
19 Settlement Administrator's website must be taken down within 45 days after the date the
20 Settlement Administrator must remit any unclaimed funds to the State, as set forth in Section 12.A
21 of this Agreement. No information about the Action or the settlement may be posted on Class
22 Counsel's websites or their social media without Defendants' prior written consent, except as
23 expressly set forth in this Agreement.

24 **23. MISCELLANEOUS PROVISIONS**

25 **A. Interpretation of the Agreement, Governing Law.**

26 This Agreement constitutes the entire agreement between the Parties with respect to its
27 subject matter, except for the Parties' signed Memorandum of Understanding ("MOU"), which may
28 be used in any interpretation or enforcement proceeding pertaining to this Agreement. Except as

1 expressly provided herein, this Agreement has not been executed in reliance upon any other written
2 or oral representations or terms (other than the MOU), and no such extrinsic oral or written
3 representations or terms shall modify, vary or contradict its terms. In entering into this Agreement,
4 the Parties agree that this Agreement is to be construed according to its terms and may not be varied
5 or contradicted by extrinsic evidence except as set forth herein. The Agreement will be interpreted
6 and enforced under the laws of the State of California, both in its procedural and substantive aspects,
7 without regard to its conflict of law provisions. Any claim arising out of or relating to the
8 Agreement, or the subject matter hereof, will be resolved solely and exclusively in the Superior
9 Court of the State of California for the County of Los Angeles, and Plaintiffs and Defendants hereby
10 consent to the personal jurisdiction of the Court in the Action over it solely in connection therewith.
11 The foregoing is only limited to disputes concerning this Agreement. The Parties, and each of them,
12 participated in the negotiation and drafting of this Agreement and had available to them the advice
13 and assistance of independent counsel. As such, neither Plaintiffs nor Defendants may claim that
14 any ambiguity in this Agreement should be construed against the other. The Agreement may be
15 modified only by a writing signed by counsel for the Parties and approved by the Court.

16 **B. Further Cooperation.**

17 The Parties and their respective attorneys shall proceed diligently to prepare and execute all
18 documents, to seek the necessary approvals from the Court, and to do all things reasonably necessary
19 to consummate the Settlement as expeditiously as possible. The Parties agree that they will not take
20 any action inconsistent with this Agreement, including, without limitation, encouraging Class
21 Members to opt out of the Settlement. In the event the Court finds that any Party has taken actions
22 inconsistent with the Settlement, including, without limitation, encouraging Class Members to opt
23 out of the Settlement, the Court may take any corrective actions, including enjoining any Party from
24 communicating regarding the Settlement on an *ex parte* basis, issuing (a) corrective notice(s),
25 awarding monetary, issue, evidentiary and/or terminating sanctions against that Party, and/or
26 enforcing this Agreement despite the presence of opt-outs and/or objections.

27 **C. Counterparts.**
28

1 The Agreement may be executed in one or more actual or non-original counterparts,
2 including via DocuSign, all of which will be considered one and the same instrument and all of
3 which will be considered duplicate originals.

4 **D. Authority.**

5 Each individual signing below warrants that he or she has the authority to execute this
6 Agreement on behalf of the Party for whom or which that individual signs.

7 **D. Binding On Assigns.**

8 This Settlement Agreement shall be binding upon and inure to the benefit of the Parties
9 hereto and their respective heirs, trustees, executors, administrators, successors and assigns.

10 **F. Deadlines Falling on Weekends or Holidays.**

11 To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday, or
12 legal holiday, that deadline shall be continued until the following business day.

13 **G. Jurisdiction of the Court.**

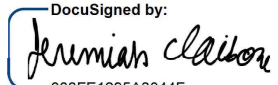
14 Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain
15 jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this
16 Settlement Agreement and all orders and judgments entered in connection therewith, and the Parties
17 and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting,
18 implementing, and enforcing the settlement embodied in this Settlement Agreement and all orders
19 and judgments entered in connection therewith.

20 **H. Severability.**

21 In the event that one or more of the provisions contained in this Agreement shall for any
22 reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or
23 unenforceability shall in no way effect any other provision if Defendants' counsel and Class
24 Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as
25 if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

IT IS SO AGREED:

Dated: 6/27/2024, 2024

DocuSigned by:

JEREMIAH CLAIBORNE
Plaintiff and Class Representative

Dated: 07 / 01 / 2024, 2024


PABLO CAMPOS HERNANDEZ
Plaintiff and Class Representative

Dated: 07/11/2024, 2024


Marcos Rodriguez (Jul 11, 2024 10:29 PDT)
MARCOS RODRIGUEZ
Plaintiff and Class Representative

Dated: 07/11/2024, 2024


Victor Avalos (Jul 11, 2024 08:35 PDT)
VICTOR AVALOS
Plaintiff and Class Representative

Dated: July 18, 2024


PERFORMANCE TRANSPORTATION, LLC
By: Edward M. Eakin, III
Its: Deputy General Counsel

Dated: July 18, 2024


PERFORMANCE FOOD GROUP, INC
By: Edward M. Eakin, III
Its: Deputy General Counsel

AGREED AS TO FORM:

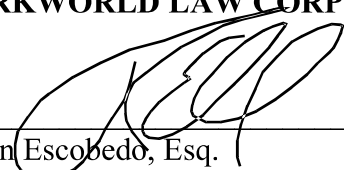
Dated: June 28, 2024

JAMES HAWKINS APLC

James R. Hawkins, Esq.
Isandra Fernandez, Esq.
Kacey Cook, Esq.
Counsel for Plaintiff Jeremiah Claiborne

AGREED AS TO FORM:

Dated: June 29, 2024

WORKWORLD LAW CORP, APC

Ruben Escobedo, Esq.
Counsel for Plaintiff Pablo Campos Hernandez

1 **AGREED AS TO FORM:**

JCL LAW FIRM, APC
ZAKAY LAW GROUP, APLC

2
3 Dated: July 11, 2024



Jean-Claude Lapuyade, Esq.
Shani O. Zakay, Esq.
Counsel for Plaintiff Marcos Rodriguez and
Victor Avalos

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8
9 Dated: July 12, 2024

MCGUIREWOODS LLP



Sabrina A. Beldner, Esq.
David Szwarczstejn, Esq.
Sarah Y. Oh, Esq.
Counsel for Defendants Performance
Transportation, LLC and Performance Food
Group, Inc.

1 **AGREED AS TO FORM:**

JCL LAW FIRM, APC
ZAKAY LAW GROUP, APLC

2
3 Dated: July 11, 2024



Jean-Claude Lapuyade, Esq.
Shani O. Zakay, Esq.
Counsel for Plaintiff Marcos Rodriguez and
Victor Avalos

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5
6
7
8
9 Dated: _____, 2024

MCGUIREWOODS LLP

Sabrina A. Beldner, Esq.
David Szwarczstejn, Esq.
Sarah Y. Oh, Esq.
Counsel for Defendants Performance
Transportation, LLC and Performance Food
Group, Inc.

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND DATE
FOR FINAL APPROVAL HEARING**

Claiborne et al. v. Performance Transportation, LLC et. al.
(County of Los Angeles, California Superior Court Case No. 22STCV31766)

**As a current or former hourly-paid California employee of Performance Transportation, LLC,
you are entitled to receive money from a class action settlement.**

Please read this Notice carefully. This Notice relates to a proposed settlement of class and representative action lawsuit. If you are a Class Member or an Aggrieved Employee, it contains important information about your right to receive a payment from the Settlement.

You have received this Notice of Class Action Settlement because the records of Performance Transportation, LLC (“PTL”) show you are a “Class Member” and/or an “Aggrieved Employee,” and therefore are entitled to a payment from this class and representative action Settlement. Class Members are all current and former employees who performed work for PTL in an hourly-paid position, including but not limited to hourly and component-pay truck drivers, in California at any time from September 1, 2018 through March 18, 2024 (“Class Period” or “Settlement Period”). Aggrieved Employees are all current and former employees who performed work for PTL in an hourly-paid position, including but not limited to hourly and component-pay truck drivers, in California at any time during the PAGA Period, which is defined as January 5, 2022 through March 18, 2024.

- The settlement is to resolve a class and representative action lawsuit, *Claiborne et al. v. Performance Transportation, LLC et al.*, pending in the Superior Court of California for the County of Los Angeles, Case Number 22STCV31766 (the “Lawsuit”), in which Plaintiffs Jeremiah Claiborne, Pablo Campos-Hernandez, Marcos Rodriguez, and Victor Avalos (“Plaintiffs”) allege, *inter alia*, that Defendants Performance Transportation, LLC and Performance Food Group, Inc. (“Defendant”), during the Class Period, as it pertains to Class Members: (1) failed to pay (or properly pay) wages (including overtime, doubletime, meal and rest period premiums, and sick pay); (2) failed to provide meal periods or pay (or properly pay) compensation in lieu thereof (including, without limitation, meal break premiums); (3) failed to provide rest periods or (or properly pay) compensation in lieu thereof (including, without limitation, rest break premiums); (4) failed to properly reimburse employees for business-related expenses; (5) failed to timely pay wages during employment; (6) failed to pay all wages due upon separation from employment; (7) failed to issue accurate, itemized wage statements; (8) violated California Business & Professions Code section 17200, *et seq.*; (9) failed to establish, implement, and maintain an effective injury prevention program; (10) permitted unsafe work and failure to provide safe workplace, practices, and processes; (11) failed to pay minimum or other wages for all hours worked; and (12) failed to provide time records. Based on these and other alleged Labor Code violations, Plaintiffs also seek penalties under the California Labor Code Private Attorney Generals Act (“PAGA”) for allegedly Aggrieved Employees.
- On [REDACTED], the Los Angeles County Superior Court granted preliminary approval of this class action settlement and ordered that all Class Members be notified of the Settlement. The Court has not made any determination of the validity of the claims in the Lawsuit. Defendants vigorously deny the claims in the Lawsuit and contends that they fully complied with all applicable laws.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE PAYMENT	Get a payment and give up your legal rights to pursue claims released by the settlement of the Lawsuit.
OPT OUT OF THE CLASS SETTLEMENT	Exclude yourself from the class action portion of the Settlement, get no payment for settlement of the class

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

	claims, and retain your legal rights to individually pursue the class claims that would otherwise be released by the settlement of the Lawsuit. If you worked in the PAGA Period for PTL in an hourly-paid position, then you will be deemed an “Aggrieved Employee” and you will still receive your share of the proceeds available from the settlement of the PAGA Released Claims, defined below, (your “Individual PAGA Payment”) even if you opt out of the class settlement.
OBJECT TO THE CLASS SETTLEMENT	If you do not opt out, you may write to the Settlement Administrator, [REDACTED], about why you object to the Settlement, and they will forward your concerns to counsel which will then be provided to the Court. If the Court approves the Settlement despite your objection, you will still be bound by the Settlement. You or your attorney may also address the Court during the Final Approval Hearing scheduled for [DATE AND TIME] in Department S11 of the Los Angeles County Superior Court, Spring Street Courthouse located at 312 North Spring Street, Los Angeles, CA 90012.

The Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at [REDACTED].m. on [REDACTED], in the Los Angeles County Superior Court, Spring Street Courthouse located at 312 North Spring Street, Los Angeles, CA 90012, in Department S11. You are not required to attend the Hearing, but you are welcome to do so.

Why Am I Receiving This Notice?

PTL’s records show that you currently work, or previously worked, for PTL in the State of California in an hourly-paid position, including but not limited to truck drivers, at some point during the Class Period and/or PAGA Period. You were sent this Class Notice because you have a right to know about a proposed settlement of a class action lawsuit, and about all of your options before the Court decides whether to finally approve the settlement. If the Court approves the settlement and then any objections and appeals are resolved, a “Settlement Administrator” appointed by the Court will make the payments described in this Notice. This Notice explains the Lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

What Is This Case About?

Plaintiffs Jeremiah Claiborne, Pablo Campos-Hernandez, Marcos Rodriguez, and Victor Avalos, were hourly-paid employees of PTL. They are the “Plaintiffs” in this case and are suing on behalf of themselves and Class Members for Defendants’ alleged failure to pay (or properly pay) wages (including overtime, doubletime, meal and rest period premiums, and sick pay), failure to provide meal periods or compensation in lieu thereof, failure to provide rest periods or compensation in lieu thereof, expense reimbursement violations, failure to timely pay wages during employment, failure to pay due wages upon separation from employment, failure to issue compliant and accurate wage statements, unfair competition, failure to establish, implement, and maintain an effective injury

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

prevention program, permitting unsafe work and failure to provide safe workplace, practices, and processes, failure to pay minimum or other wages for all hours worked, and failure to provide time records, among other claims.

Based on these and other alleged Labor Code violations, Plaintiffs also seek to recover civil penalties under PAGA.

Defendants deny all of the allegations made by Plaintiffs and deny that they violated any law. The Court has made no ruling on the merits of Plaintiffs' claims. The Court has only preliminarily approved this class action settlement. The Court will decide whether to give final approval to this settlement at the Final Approval Hearing.

Summary of the Settlement Terms

Plaintiffs and Defendants have agreed to settle this case on behalf of themselves and Class Members and Aggrieved Employees for the Gross Settlement Amount of \$705,000.00, unless escalated pursuant to the Settlement Agreement. The Gross Settlement includes: (1) Administration Costs up to \$[REDACTED]; (2) up to 35% of the Gross Settlement Amount in attorneys' fees which, unless escalated pursuant to the Settlement Agreement, shall amount to \$246,750.00; (3) up to \$35,000.00 in litigation costs to Class Counsel; (4) up to \$40,000.00 in total (or \$10,000.00 each) for Service Awards to the Class Representatives; and (5) payment allocated to PAGA penalties in the amount of \$37,500.00 of which 75% (or \$28,125.00) will be paid to the California Labor and Workforce Development Agency ("LWDA") and twenty-five percent 25% (or \$9,375.00) will be distributed to Aggrieved Employees. Subject to Court approval, after deducting these sums, a total of approximately not less than \$[REDACTED] will be available for distribution to Class Members ("Net Settlement Amount"). Employer-side payroll taxes are excluded and will be separately paid by Defendants.

Distribution to Class Members

Class Members who do not opt out will receive a *pro rata* payment of the Net Settlement Amount based on the number of Workweeks (as that term is defined in the Settlement) worked by Class Members in hourly-paid positions for PTL in California during the Class Period. Specifically, Class Members' payments will be calculated by dividing the number of Workweeks attributed to the Class Member by all Workweeks attributed to members of the Settlement Class, multiplied by the Net Settlement Amount. Otherwise stated, the formula for a Class Member is: (Individual's Workweeks ÷ total Settlement Class Workweeks) x Net Settlement Amount. In addition, Class Members who worked during the PAGA Period (*i.e.*, Aggrieved Employees) will receive a *pro rata* share of the \$9,375.00 allocated as PAGA penalties to Aggrieved Employees, whether or not they opt out of the class settlement, based on the number of Pay Periods worked by each Aggrieved Employees during the PAGA Period.

PTL's records indicate that you worked [Workweeks] as an hourly-paid employee in California during the Class Period, and [Pay Periods] during the PAGA Period. Based on these records, your estimated payment as a Class Member would be [\$Estimated Award], and your estimated payment as an Aggrieved Employee would be [\$Estimated Award]. If you believe this information is incorrect and wish to dispute it, you must mail a dispute to the Settlement Administrator and it must be postmarked no later than [RESPONSE DEADLINE]. Please include: (1) your name, address, telephone number, last four digits of your social security number and your signature; (2) a statement of your dispute and how many Workweeks you contend should be credited to you; and (3) any documentation you have that you contend supports your dispute.

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

Tax Reporting

100% of the payments for PAGA penalties to Aggrieved Employees will be allocated as penalties reported on IRS Form 1099. Twenty percent (20%) of each Settlement Payment to Class Members who do not opt out will be allocated as wages and reported on an IRS Form W-2, and eighty percent (80%) will be allocated as civil or statutory penalties and interest, which will be reported on an IRS Form 1099. This notice is not intended to provide legal or tax advice on your Settlement Share.

Your check will be valid for 180 days after issuance. After 180 days, uncashed checks shall be sent to the California State Controller's Office Unclaimed Property Fund in the name of the individual, and such Class Members and/or Aggrieved Employees shall nevertheless be bound to the Settlement and the Final Approval Order.

Your Options Under the Settlement

Option 1 – Do Nothing and Receive Your Payment

If you do not opt out, you are automatically entitled to your Individual Settlement Payment (*i.e.*, your share of the Net Settlement Amount) because you are a Class Member. If you do not dispute your settlement share calculation and do not opt out of the settlement, you will be bound by the entire release in the settlement and receive your Individual Settlement Payment, as well as your Individual PAGA Payment if you are also an Aggrieved Employee. **In other words, if you are a Class Member, you do not need to take any action to receive the settlement payment(s) set forth above.**

Class Members who do not submit a valid and timely opt out (pursuant to Option 2 below), will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Claims he or she may have or had upon final approval of this Settlement and payment by Defendants to the Settlement Administrator.

Effective only upon the entry of an Order granting Final Approval of the Settlement, entry of Judgment and payment by Defendants to the Settlement Administrator of the full Gross Settlement Amount and Employers' Taxes necessary to effectuate the Settlement, Plaintiffs and all Participating Class Members release the Released Parties of any and all claims that have been or could reasonably have been asserted based on the factual allegations in the Operative Complaint as follows: For the duration of the Class Period, the release includes, for Participating Class Members: (1) all claims for failure to pay (or properly pay) wages (including overtime, doubletime, meal and rest period premiums, and sick pay); (2) all claims for failure to provide meal periods or pay (or properly pay) compensation in lieu thereof (including, without limitation, break premiums); (3) all claims for failure to provide rest periods or (or properly pay) compensation in lieu thereof (including, without limitation, break premiums); (4) all claims asserting a failure to properly reimburse employees for business-related expenses; (5) all claims for failure to timely pay wages during employment; (6) all claims for failure to pay all wages due upon separation from employment; (7) all claims for failure to issue accurate, itemized wage statements; (8) all claims asserted through California Business & Professions Code section 17200, *et seq.* arising out of the Labor Code violations referenced in the SAC; (9) all claims for failure to establish, implement, and maintain an effective injury prevention program; (10) all claims for permitting unsafe work and failure to provide safe workplace, practices, and processes; (11) all claims for failure to pay minimum or other wages for all hours worked; (12) all claims for failure to provide time records; and (13) all claims for relief, including damages, statutory and/or civil penalties, equitable and/or injunctive relief, attorneys' fees, interest, costs, and any other kind of relief whatsoever that could be sought based on the factual allegations and theories of liability asserted in the Operative Complaint (the "Class

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

Released Claims”). The Parties additionally agree that the Class Released Claims shall include the release of claims under the federal Fair Labor Standards Act (“FLSA”) pursuant to *Rangel v. Check Cashers*, 899 F.3d 1106 (9th Cir. 2018).

For Plaintiffs, the Aggrieved Employees, and, to the extent permitted by law, the State of California, the release includes, for the duration of the PAGA Period, (a) all claims alleged in the SAC for PAGA civil penalties in connection with alleged violations of Labor Code sections 200, 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 223, 225, 226, 226.2, 226.3, 226.7, 246 *et seq.*, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.5, 1197.14, 1198, 1198.5, 1199, 2800, 2802, 2804, 2699, 2699.3, 2699.5, 6400, 6401, 6401.7, 6402, 6403, and 6404, including for alleged (1) failure to pay (or properly pay) wages (including overtime, doubletime, meal and rest period premiums, and sick pay); (2) failure to provide meal periods or compensation in lieu thereof (including, without limitation, break premiums); (3) failure to provide rest periods or compensation in lieu thereof (including, without limitation, break premiums); (4) failure to properly reimburse employees for business-related expenses; (5) failure to timely pay wages during employment; (6) failure to pay all wages due upon separation from employment; (7) failure to issue accurate, itemized wage statements; (8) failure to maintain accurate timekeeping and payroll records; (9) failure to establish, implement, and maintain an effective injury prevention program; (10) permitting unsafe work and failure to provide safe workplace, practices, and processes; (11) failure to pay minimum or other wages for all hours worked; and (12) failure to provide time records (the “PAGA Released Claims”). The Class Released Claims and PAGA Released Claims are collectively referred to herein as the “Released Claims”.

“Released Parties” means Defendants and each of their past, present, and future respective subsidiaries, dba’s, affiliates, parents, insurers and reinsurers, and company-sponsored employee benefit plans of any nature and their successors and predecessors in interest, including all of their officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, attorneys, administrators, fiduciaries, trustees, and agents (including without limitation, Performance Transportation, LLC, Performance Food Group, Inc., and Performance Foodservice).

Option 2 – Opt Out of the Settlement

If you do not wish to receive your Individual Settlement Payment or release the Class Released Claims, you may exclude yourself by submitting a written request to be excluded from the Class. Your written request must expressly and clearly indicate that you do not want to participate in the Settlement, and you desire to be excluded from the Settlement. The written request for exclusion must include your name, Social Security Number, and the following statement or any statement standing for the proposition that you seek to be excluded from the Settlement Class: “Please exclude me from the Settlement Class in the *Claiborne et al. w v. Performance Transportation, LLC et al.* matter. I understand that by requesting exclusion, I will not participate in the class settlement and will not receive any money from the class settlement.” or any statement of similar meaning standing for the proposition that you do not wish to participate in the Settlement. Sign, date, and mail your written request for exclusion by U.S. First-Class Mail to the address below.

Settlement Administrators
[Add Mailing Address]

Your written request for exclusion must be mailed to the Administrator and postmarked not later than [RESPONSE DEADLINE].

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

The proposed settlement includes the settlement of the PAGA Released Claims. An employee may not request exclusion from the settlement of a PAGA claim. Thus, if the court approves the settlement, then even if you request exclusion from the Class Settlement, if you are an Aggrieved Employee, you will still receive your Individual PAGA Payment and will be deemed to have released the PAGA Released Claims. A request for exclusion will preserve your right, if any, to individually pursue only the Class Released Claims.

Option 3 – Submit an Objection to the Settlement

If you wish to object to the Settlement, you may submit an objection in writing stating why you object to the Settlement. Your written objection must provide your name, address, the last four digits of your Social Security Number, signature, and a statement of the reason(s) why you believe that the Court should not approve the Settlement. Your written objection must be mailed the Administrator and postmarked no later than **[RESPONSE DEADLINE]**. Please note that you cannot both object to the Settlement and opt out of the Settlement. If you exclude yourself, then your objection will be overruled. If the Court overrules your objection, you will be bound by the Settlement and will receive your Settlement Share.

Final Approval Hearing

You may, if you wish, also appear at the Final Approval Hearing set for [REDACTED] at [REDACTED] .m. in the Los Angeles County Superior Court, Spring Street Courthouse located at 312 North Spring Street, Los Angeles, CA 90012, in Department S11, and orally object to the Settlement, discuss your written objections with the Court and the Parties, or otherwise comment on the Settlement at your own expense. You may attend this hearing virtually by audio or video at <https://my.lacourt.org/laccwelcome>. You may also retain an attorney to represent you at the Hearing at your own expense.

Additional Information

This Notice of Class Action Settlement is only a summary of this case and the Settlement. For a more detailed statement of the matters involved in this case and the Settlement, you may call the Settlement Administrator at **[PHONE NUMBER]**. You may also choose to contact Class Counsel or Defendants' Counsel, whose information appears below:

CLASS COUNSEL

JAMES HAWKINS APLC
James R. Hawkins, Esq. SBN 192925
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5440 Morehouse Drive, Suite 3500
San Diego, CA 92121

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

DEFENDANTS' COUNSEL

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Sarah Y. Oh, Esq.

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1800 Century Park East, 8th Floor

Los Angeles, CA 90067

Tel: (310) 315-8200 / Fax: (310) 315-8210

You may also visit the Settlement Administrator's website at [WEBSITE] to gain access to key documents in this case, including the Settlement Agreement, the Order Granting Preliminary Approval of this Settlement, the Order Granting Final Approval of this Settlement, and the Final Judgment.

You may also refer to the pleadings, the Settlement Agreement, and other papers filed in this case, which may be inspected at the Los Angeles County Superior Court, Spring Street Courthouse located at 312 North Spring Street, Los Angeles, CA 90012, during regular business hours of each court day. You may also obtain these documents through the Court's website at <https://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>.

All inquiries by Class Members regarding this Notice of Class Action Settlement and/or the Settlement should be directed to the Settlement Administrator.

PLEASE DO NOT CONTACT THE CLERK OF THE COURT OR THE JUDGE WITH INQUIRIES.

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Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]