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7 Attorneys for Plaintiff Diane Gil, on behalf of herself and all “aggrieved employees” pursuant to  
Labor Code § 2698 *et seq.*

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9  
10 **FOR THE COUNTY OF FRESNO**

11 DIANE GIL, on behalf of herself and all  
12 “aggrieved employees” pursuant to Labor  
Code § 2698 *et seq.*,

13 Plaintiff,

14 v.

15 ELECTRONIC RECYCLERS OF  
16 AMERICA, LLC, a California limited  
liability company, and DOES 1 through 10,  
17 inclusive,

18 Defendants.  
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CASE NO: 22CEGC03745

*Assigned to the Hon. Kristi Culver Kapetan,  
Dept. 502*

**DECLARATION OF DANIEL F. GAINES  
IN SUPPORT OF UNOPPOSED MOTION  
FOR AN ORDER APPROVING  
SETTLEMENT OF CLAIMS BROUGHT  
PURSUANT TO THE PRIVATE  
ATTORNEYS GENERAL ACT OF 2004,  
AWARDING ATTORNEYS’ FEES, COSTS,  
SERVICE AWARD PAYMENT, AND  
REIMBURSEMENT OF SETTLEMENT  
ADMINISTRATION EXPENSES, AND  
ENTERING JUDGMENT THEREON**

**Date: December 20, 2023**

**Time: 3:30 P.M.**

**Dept.: 502**

*Complaint Filed: November 22, 2022  
Trial Date: None*

1 I, DANIEL F. GAINES, hereby declare and state as follows:

2 1. I am an attorney duly admitted to the practice of law in the State of California. I am  
3 the managing shareholder of Gaines & Gaines, APLC, counsel for Plaintiff Diane Gil ("Plaintiff")  
4 in this action. I have personal knowledge of the facts set forth herein and if called as a witness to  
5 testify to them, I could and would do so competently.

6 **Counsel's Experience and Recommendation:**

7 2. I obtained my BS degree from the University California at Berkeley in 2003. I  
8 majored in Business Administration at the Haas School of Business.

9 3. Thereafter, I attended the University of Virginia School of Law. At Virginia, I was  
10 a member of the editorial board of the Virginia Tax Review. I was also the recipient of the Lacy  
11 Armour Scholarship, awarded to recognize academic excellence. At Virginia, I focused my studies  
12 on tax and real estate. I earned my JD and became a member of the California Bar in 2007.

13 4. Until his retirement, I practiced law with my partner/father, Kenneth, at Gaines &  
14 Gaines, APLC. Our practice specializes in litigation, with an emphasis in employment disputes  
15 like this one. Over 95% of my practice is devoted to complex employment litigation similar to the  
16 instant action.

17 5. As this Court knows, my firm regularly represents employees in complex  
18 employment matters such as this one, with an emphasis in wage and hour issues. I have participated  
19 in and have been certified as Court-approved class and representative counsel in hundreds of class  
20 and representative action matters since my admission to the Bar. Attached hereto as **Exhibit A** is  
21 a true and correct list of some of the cases in which I have represented employees in wage and hour  
22 matters and been appointed as class and representative counsel.

23 **Background and Procedural History**

24 6. On September 15, 2022, pursuant to Labor Code section 2699.3, Plaintiff gave  
25 written notice by online filing with the LWDA and by certified mail, return receipt requested, to  
26 Defendant Electronic Recyclers Of America, LLC ("Defendant") of the specific provisions of the  
27 Labor Code alleged to have been violated, including the facts and theories to support the alleged  
28

1 violation. On November, 2022, and after the LWDA declined to take action within the statutorily  
2 permissible time with respect to Plaintiff's September 15, 2022 letter, Plaintiff filed her  
3 representative action complaint in this Court.

4 7. A true and correct copy of the notice letter to the LWDA is attached hereto as  
5 **Exhibit B.**

6 8. Defendant operates electronic device recycling centers throughout the nation,  
7 including in Fresno County, California, where Plaintiff worked.

8 9. Defendant employed Plaintiff as a non-exempt employee from February 2016  
9 through March 2022. The PAGA Members are all individuals who were employed by Defendant  
10 in a non-exempt position for at least one pay period in California between September 15, 2021 and  
11 the date that the Court approves the Settlement.

12 10. Plaintiff asserts claims that Defendant failed to pay her and PAGA Members all  
13 minimum and overtime wages earned; failed to properly compute bonuses, commissions, and other  
14 non-base hourly wages earned by her and PAGA Members into their regular rate for purposes of  
15 paying them meal period premiums, sick pay, overtime, and double-time wages at the correct rates;  
16 failed to provide her and PAGA Members with legally compliant meal periods, or compensation in  
17 lieu thereof; required her and PAGA Members to agree to employment contract terms that are  
18 prohibited by law; failed to issue accurately itemized wage statements to her and PAGA Members;  
19 and failed to timely pay her and PAGA Members all wages due at the separation of their  
20 employment. Plaintiff asserts these claims under PAGA, on behalf of herself, individually, and on  
21 behalf of the State of California and other PAGA Members, seeking civil penalties for the alleged  
22 Labor Code violations.

23 **Compliance with Procedural Requirements of PAGA:**

24 11. My office, on behalf of Plaintiff, submitted the PAGA Settlement Agreement (the  
25 "Settlement Agreement"), together with this Motion and all supporting documents, to the LWDA  
26 via online upload on November 28, 2023, concurrently with the filing of this Motion.

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**Counsel's Diligence In Advance of, and In Connection With, Settlement Negotiations:**

12. My office engaged in targeted, informal discovery of Defendant's alleged Labor Code violations, which specifically targeted evaluating the strength and value of the PAGA claims in preparation for a resolution of this Action.

13. We obtained and reviewed multiple documents, including (i) Plaintiff's employee file and wage statements, (ii) policy documents relating to the employment of Plaintiff and PAGA Members, and (iii) data relating to the number of alleged violations and the value of the recoverable penalties, including time and payroll data.

14. Based on the information received, as well as through discussions with Defendant's Counsel, my office was able to (i) determine the total number of distinct individuals falling within the definition of "PAGA Member" for the relevant statutory period, (ii) the number of affected pay periods at issue among them, and (iii) construct a damage model that calculated the maximum realistic amount of PAGA penalties that could be levied against Defendant within the PAGA Release Period based on employee timekeeping and payroll data produced by Defendant. At all relevant times, Defendant has disputed Plaintiff's claims and contested both the existence of and extent of liability as alleged by Plaintiff. Below is Plaintiff's PAGA damage model, which includes stacked penalties.

| PAGA Penalties                                                              |             |             |
|-----------------------------------------------------------------------------|-------------|-------------|
| Number of PAGA Pay Periods (Non-Exempt)                                     | 7,989       |             |
| Number of PAGA Pay Periods - Unpaid Wages                                   | 7,989       | 100.0%      |
| Number of PAGA Pay Periods - Overtime (Regular Rate)                        | 2,313       | 29.0%       |
| Number of PAGA Pay Periods - Meal Breaks                                    | 2,853       | 35.7%       |
| Number of PAGA Pay Periods - Wage Statements                                | 7,989       | 100.0%      |
| Number of PAGA Pay Periods - Sick Pay (Regular Rate)                        | 325         | 4.1%        |
| Number of PAGA Pay Periods - Meal Premiums (Regular Rate)                   | 163         | 2.0%        |
| PAGA for Waiting Time (71 former employees in PAGA Period)                  | \$7,100     | \$100/\$0   |
| PAGA for Unpaid Wages (275 employees and all pay periods)                   | \$798,900   | \$100/\$100 |
| PAGA for Overtime (172 employees from 9/15/21 to 6/12/23)                   | \$231,300   | \$100/\$100 |
| PAGA for Meal Breaks (153 employees from 9/15/21 to 6/12/23)                | \$285,300   | \$100/\$100 |
| PAGA for Wage Statements (275 employees and all pay periods)                | \$798,900   | \$100/\$100 |
| PAGA for Sick Pay (109 employees from 9/15/21 to 6/12/23)                   | \$32,500    | \$100/\$100 |
| PAGA for Meal Premiums (80 employees from 9/15/21 to 6/12/23)               | \$16,300    | \$100/\$100 |
| LC432.5 (307 employees (275 non-exempt, 32 exempt) from 9/15/21 to 6/12/23) | \$920,900   | \$100/\$100 |
| TOTAL EXPOSURE                                                              |             |             |
| Total PAGA Penalties                                                        | \$3,091,200 |             |

1           15.     Prior to settlement, my office, with the assistance of an expert statistician, Bennett  
2 Berger of Berger Consulting Group, created the above comprehensive damage analysis using  
3 sampling information obtained through informal discovery. This damage analysis reveals that the  
4 negotiated settlement falls within a realistic range of recovery on PAGA Members' claims.

5           16.     Plaintiff alleges that Defendant failed to pay PAGA Members all wages due in two  
6 ways. Plaintiff contends that (1) Defendant allegedly required PAGA Members to work off-the-  
7 clock, before their shifts, without compensation, in violation of Labor Code §§ 510, 558, and 1194;  
8 and (2) Defendant allegedly failed to properly compute bonuses, commissions, and other non-base  
9 hourly wages earned by PAGA Members into their regular rate of pay for purposes of paying them  
10 meal period premiums, sick pay, overtime, and double-time wages at the correct rates, in violation  
11 of Labor Code §§ 226.7, 510, 512, 558, and 1194 and IWC Wage Order 4-2001.

12           17.     Based on 7,989 pay periods, Defendant's liability for the off-the-clock claim is up  
13 to \$798,900 in theoretical civil PAGA penalties. But Defendant maintained numerous defenses to  
14 Plaintiff's off-the-clock claim: among them, Defendant contends that it paid all employees for all  
15 hours worked and that Defendant maintained written policies that stated that employees must  
16 accurately record all hours worked and expressly forbode employees from working off-the-clock.

17           18.     As to Plaintiff's failure to blend claim, Defendant's liability was up to \$280,100 in  
18 theoretical civil PAGA penalties, based on allegedly underpaid overtime wages, meal period  
19 premiums, and sick pay. Defendant also maintained numerous defenses to this claim, including that  
20 the payments were discretionary and that PAGA Members rarely earned any bonuses,  
21 commissions, or other non-base hourly wages, so liability, if any, would be minimal. Defendant  
22 further noted that the alleged underpaid overtime only affected 29% of pay periods during the  
23 PAGA Period, the alleged underpaid sick pay only affected 4.1% of pay periods during the PAGA  
24 Period, and the alleged underpaid meal period premiums only affected 2% of pay periods during  
25 the PAGA Period. However, because Defendant did concede that there may be some blending  
26 issues, this claim was Plaintiff's strongest claim and a driving force in reaching the resolution of  
27 all claims.  
28

1           19. Plaintiff also alleges that PAGA Members were routinely denied, and not authorized  
2 to take, a proper, timely, uninterrupted, 30-minute meal period for every shift worked that exceeded  
3 five hours, or a second proper, timely, uninterrupted, 30-minute meal period for every shift worked  
4 that exceeded ten hours, but were not paid premium wages of one hour's pay for each missed first  
5 or second meal period. Based on an analysis prepared by Plaintiff's expert based on a sampling of  
6 wage and time data provided by Defendant, only 35.7% of the 7,989 pay periods during the PAGA  
7 Period exhibited at least one unique meal break violation, exposing Defendant to up to \$285,300 in  
8 civil PAGA penalties. Defendant maintained various defenses to this claim: that employees always  
9 took their meal periods; that any employee who did not take a meal period voluntarily waived it;  
10 that Defendant did not know or have any reasonable reason to know that any employee was working  
11 through authorized meal periods; that Defendant maintained legally compliant written meal period  
12 policies; and that this claim had significant manageability issues.

13           20. Plaintiff further alleges that Defendant required PAGA Members to agree to  
14 employment contract terms that are prohibited by law, including non-competition agreements, in  
15 violation of Labor Code § 432.5. Defendant maintained defenses to this claim, including, but not  
16 limited to, that its employment contract terms were lawful, that this claim has manageability issues,  
17 and perhaps most significantly, only one penalty could be accessed per employee. Defendant's  
18 maximum civil penalties for this claim was \$920,900 based on one violation per PAGA Member  
19 per pay period.<sup>1</sup>

20           21. Plaintiff sought up to \$798,900 under PAGA for wage statement violations pursuant  
21 to Labor Code § 226, premised on "derivative" violations for failing to pay all wages due, as  
22 discussed above. Defendant argued that Plaintiff would not prevail on her underlying unpaid wages  
23 and meal period claims at all, so there would be no wage statement penalties awarded. Defendant  
24

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25  
26 <sup>1</sup> Plaintiff's Complaint alleged this claim on behalf of all of Defendant's California employees, and  
27 therefore, the analysis included pay periods for both exempt and non-exempt California employees  
28 during the PAGA Period. However, the release contemplated in the settlement only applies to  
Defendant's non-exempt California employees employed during the PAGA Period.

1 argued that employees were always appropriately compensated and suffered no injury, such that a  
2 condition to recovery of penalties under Labor Code § 226, was not satisfied.

3 22. Finally, Plaintiff asserted a claim for waiting time penalties under Labor Code § 203  
4 which was valued at up to \$7,100 for approximately 71 former employees (one violation per  
5 separated employee). This claim also faced substantial risk because of the good faith defense  
6 proffered by Defendant.

7 23. If Plaintiff stacked penalties, the value of the PAGA claims would be approximately  
8 \$3,091,200. However, recovery on these claims was not certain. PAGA claims are discretionary,  
9 such that the Court could (and almost certainly would) decline to award their full value. The Court  
10 may award far less than the maximum value on these penalty claims, particularly where, as here,  
11 they greatly exceed the value of the underlying wage claims. Considering the numerous claims  
12 asserted by Plaintiff and the obstacles to prevailing on many of them, it is possible that she would  
13 not prevail on one or more of them, such that her PAGA claims as to some or all of her claims  
14 would also fail. The compromised settlement amount takes these risks into account. A discount  
15 on the maximum value of PAGA Members' claims was required (and warranted) to resolve the  
16 matter at this stage of the litigation.

17 24. On June 12, 2023, the Parties participated in a mediation session with a respected  
18 mediator, Gig Kyriacou, Esq. During the mediation, the Parties engaged in arm's-length  
19 negotiations and reached a resolution of the PAGA claims asserted in this Action. The Parties  
20 jointly prepared and executed the Settlement Agreement and Release of Private Attorneys General  
21 Act Claim (the "Settlement" or "Settlement Agreement"). A true and correct copy of the Settlement  
22 Agreement is attached hereto as **Exhibit C**.

23 **Settlement Terms:**

24 25. Defendant represents there are approximately 300 PAGA Members who worked up  
25 to 7,989 aggregate pay periods during the PAGA Period.

26 26. All PAGA Members will receive a pro rata share of the \$52,126.25 allocated to  
27 PAGA Members, which shall be distributed based on the number of pay periods each PAGA  
28

1 Member worked for Defendant in California during the PAGA Period. Although these calculations  
2 will not be made until after approval, a rough estimation of the value to the 300 individuals falling  
3 within the definition of “PAGA Member” may be gleaned from the fact that an equal division  
4 would provide about \$173.75 to each PAGA Member, net of payments to the LWDA, the  
5 Settlement Administrator, attorney’s fees and costs, and a modest service award to Plaintiff. The  
6 highest-paid PAGA Member would be paid approximately \$384.68 and the lowest-paid PAGA  
7 Member would be paid approximately \$6.52. The LWDA will be paid a substantial \$156,378.75.

8 27. Phoenix Settlement Administrators, a reputable settlement administration company,  
9 has agreed to administer the settlement for no more than \$3,995, submitting a competitive bid.

10 28. Finally, under the terms of the Settlement Agreement, the value of checks uncashed  
11 more than 180 days after issuance shall be remitted to the Unclaimed Property Fund of the  
12 California State Controller’s Office to be held in the name of the PAGA Member. The Parties  
13 agree that it is in the best interest of the PAGA Members for the value of checks uncashed more  
14 than 180 days after issuance to be remitted to the Unclaimed Property Fund of the California State  
15 Controller’s Office to be held in the name of the PAGA Member. My office regularly receives calls  
16 from class members or aggrieved employees years after a case has settled to inquire about obtaining  
17 their settlement share because they did not cash their check in time, lost their check, or never  
18 received their check. By remitting the unclaimed checks to the State Controller, the PAGA  
19 Members have a chance to receive their individual settlement payment after the check cashing  
20 deadline.

21 29. This case addresses violations of important employee protections embodied in the  
22 California Labor Code – namely, that Defendant failed to pay Plaintiff and PAGA Members all  
23 minimum and overtime wages earned, in violation of Labor Code §§ 510, 558, and 1194; failed to  
24 properly compute bonuses, commissions, and other non-base hourly wages earned by Plaintiff and  
25 PAGA Members into their regular rate for purposes of paying them meal period premiums, sick  
26 pay, overtime, and double-time wages at the correct rates, in violation of Labor Code §§ 226.7,  
27 246, 510, 512, 558, and 1194; failed to provide Plaintiff and PAGA Members with legally  
28

1 compliant meal periods, or compensation in lieu thereof, in violation of Labor Code §§ 226.7, 512,  
2 and 558; required Plaintiff and PAGA Members to agree to employment contract terms that are  
3 prohibited by law, in violation of Labor Code § 432.5; failed to issue accurately itemized wage  
4 statements to Plaintiff and PAGA Members, in violation of Labor Code §§ 226(a) and 226.3; and  
5 failed to timely pay Plaintiff and PAGA Members all wages due at the separation of their  
6 employment, in violation of Labor Code §§ 201-202. Defendant's maximum theoretical exposure  
7 in this Action, without stacking penalties, totals approximately \$798,900 computed by multiplying  
8 7,989 aggregate pay periods by \$100 each.

9         30. As discussed throughout the Motion, this Settlement achieves a great value for  
10 Plaintiff, PAGA Members, and the State of California. While Defendant's potential liability could  
11 be up to \$3,091,200, if penalties were stacked [*see* Motion at § II(D)], my office is not aware of  
12 any California authority that expressly permits the practice of stacking penalties [*see* Motion at §  
13 III(B)(2)]. Additionally, Courts have held that a defendant may not be subject to heightened  
14 penalties if it was not notified by the Labor Commissioner or any court in California that it was  
15 subject to the California Labor Code [*see id.*]. Therefore, the more accurate measure of Defendant's  
16 potential liability is to multiply the 7,989 aggregate pay periods by \$100 each, which totals  
17 approximately \$798,900 in theoretical exposure.

18         31. Defendant contends it acted within the requirements of California law at all times  
19 as to all PAGA Members. In particular, Defendant contends that it paid all employees all minimum  
20 and overtime wages due. Defendant also contends that it has compliant meal break practices.  
21 Defendant further contends that not every pay period at issue involved an alleged Labor Code  
22 violation subject to civil penalties. Moreover, Defendant maintained that even if the Court did  
23 award penalties, the Court could and would substantially reduce the penalties awarded based on the  
24 discretionary factors contained in Labor Code § 2699(e)(2).

25         32. Based on these disputes, which had the potential to completely eliminate Plaintiff's  
26 recovery, the range of realistic "litigation outcomes" on the Plaintiff's PAGA claim was defined  
27 by a "maximum possible liability" amount of approximately \$798,900, and a net-zero recovery  
28

1 based on the defenses asserted by Defendant. Notwithstanding the existence of such issues, the  
2 Settlement achieves a significant benefit – approximately 41% recovery of the maximum possible  
3 liability. As such, this factor weighs very heavily in favor of resolution by way of the compromise  
4 set forth in the Settlement Agreement.

5 **Attorneys' Fees:**

6 33. My office is submitting an attorney fee request of \$110,000. Based on a projected  
7 final lodestar of \$74,025, this yields a “multiplier” of approximately 1.48 over the \$110,000 fee  
8 request. The billing rates used to compute the lodestar are reasonable in view of the evidence  
9 submitted herewith. A true and correct copy of my firm’s time-task chart is attached hereto as

10 **Exhibit D.**

11 34. As detailed in the first few paragraphs of this declaration, I have practiced law in  
12 California since 2007 and most of that time has been dedicated exclusively to representing  
13 employees in wage and hour matters, many of which have been litigated and resolved in the PAGA  
14 and class action contexts. My reasonable hourly rate is \$700; this rate has been approved by judges  
15 throughout California over the past year.

16 35. Mr. Katofsky is a highly skilled and experienced litigator with 23 years of  
17 experience. He earned his J.D. in 1999 from the University of the Pacific McGeorge School of  
18 Law. His hourly rate of \$750 reflects his extensive experience and education and comports to the  
19 market rate. This rate has been approved by judges throughout California over the past year.

20 36. Mr. Evan S. Gaines is a 2012 graduate of Michigan State University College of Law.  
21 He graduated from the University of California, Santa Barbara in 2005. Evan has substantial  
22 experience litigating wage and hour cases in California. His proffered hourly rate of \$625 has been  
23 approved by judges throughout California over the past year.

24 37. This case was taken on a contingency basis with the real risk that my office would  
25 receive no compensation whatsoever for our efforts. The potential costs which we can be required  
26 to advance in wage and hour representative actions like this one are substantial. Furthermore, as  
27 described above, my firm has extensive experience in representative action litigation, particularly  
28

1 in the employment context, and as detailed herein, the PAGA Members and the State of California  
2 reaped significant benefits. The success achieved by the Settlement supports my firm's fee request.

3 38. This Court can undoubtedly appreciate that litigating a representative action case in  
4 dynamic, ever-changing areas of law is not appealing to most lawyers, particularly when the  
5 plaintiff's lawyer undertakes the obligation to finance the litigation and effectively bears the risk in  
6 the event of an unsuccessful outcome, at trial or otherwise. This case was taken on a contingency  
7 basis with the real risk that my office would receive no compensation whatsoever for our efforts.  
8 The potential costs which we can be required to advance in wage and hour actions like this one are  
9 substantial.

10 39. Notwithstanding the existence of issues having the potential to eliminate recovery  
11 on the PAGA claim, the Settlement Agreement not only achieves a recovery that exceeds typical  
12 PAGA awards routinely approved by the courts, but it also recovers monies for PAGA Members  
13 which they otherwise would not receive.

14 40. Representative action work also requires specialized learning and the willingness to  
15 take large risks. My office has extensive experience in wage and hour representative action  
16 litigation, particularly in the employment context, as detailed herein.

17 41. Furthermore, as described above, the PAGA Members and the State of California  
18 reaped significant benefits. The success achieved by the Settlement supports my firm's fee request.

19 42. A small firm like ours can only properly litigate a limited number of cases at one  
20 time. The requirements of this case were significant. Had we not reached a settlement with  
21 Defendant, the demands of this case would have required a significant portion of our resources.  
22 We were precluded from taking other employment cases due to the demands of litigating this case.

23 **Counsel's Costs:**

24 43. My firm's total costs are \$5,696.98 and include, among other expenses, filing fees  
25 and expert analysis fees.<sup>2</sup> A true and correct copy of an itemized list of costs incurred by my firm  
26

27 \_\_\_\_\_  
28 <sup>2</sup> My office incurred out-of-pocket costs higher than what is allotted for in the Settlement Agreement. Accordingly, my office is only seeking reimbursement of litigation costs of \$5,000.

1 in this action is attached hereto as **Exhibit E**. These costs were reasonably incurred in litigating  
2 this matter.

3 **Plaintiff's Service Award Payment:**

4 44. The Parties have agreed that Plaintiff will be paid a service award in the amount of  
5 \$2,500. This payment is intended to recognize the time and effort that Plaintiff spent on behalf of  
6 other PAGA Members and the State.

7 45. Without Plaintiff's efforts, there would be no recovery at all. The requested award  
8 is appropriate to compensate Plaintiff for the risk and expense she incurred in conferring a benefit  
9 on the PAGA Members and the State of California. As a result of the named Plaintiff's efforts, the  
10 PAGA Members will receive monetary settlement payments, and the State of California will  
11 receive \$156,378.75 to be put toward education about and enforcement of California's labor laws.

12 46. By a separate agreement, the Parties have resolved all of Plaintiff's individual claims  
13 through a comprehensive general release in favor of Defendant. In connection with her general  
14 release of all claims, Plaintiff will be paid \$7,500. My office is not recovering any attorney's fees  
15 from Plaintiff's individual settlement. Attached as **Exhibit F** is a true and correct copy of Plaintiff's  
16 individual settlement agreement. No other PAGA Member is subject to this broad form of release.

17 47. The value of Plaintiff's individual wage and hour claims is substantial. Attached  
18 hereto as **Exhibit G** is a true and correct copy of Plaintiff's individual damage analysis prepared  
19 by my office.

20 48. This broad release by Plaintiff was negotiated (and necessary) to resolve the Action.  
21 Plaintiff threatened to assert her very valuable individual claims (valued at over \$30,000) which  
22 accrued during her six years of employment by Defendant. To resolve the Action, Defendant sought  
23 a full general release of Plaintiff's claims.

24 49. The Parties first negotiated a resolution of the PAGA claim and then negotiated a  
25 resolution of Plaintiff's individual claims. The separate individual settlement agreement provides  
26 an amount, separate from the Gross Settlement Amount, to resolve Plaintiff's individual claims  
27  
28

1 against Defendant. Plaintiff is only disclosing this individual settlement to the Court in the spirit of  
2 full transparency. It is not an amount that is part of the Gross Settlement Amount to be approved.

3 50. Without the resolution and release of Plaintiff's individual claims, litigation would  
4 continue in a piecemeal fashion. The Parties wished to avoid further litigation, and agreed that a  
5 global resolution of Plaintiff's individual claims and the PAGA claims asserted in the Complaint  
6 was in the best interest of all parties involved, and thus, a general release by Plaintiff was  
7 appropriate.

8 I declare, under penalty of perjury, under the laws of the State of California, that the  
9 foregoing is true and correct. Executed on November 28, 2023, at Westlake Village, California.

10  
11   
12 DANIEL F. GAINES

# **EXHIBIT A**

*Adams v. Newell Rubbermaid*, USDC – Central District of California (Los Angeles), Case No. EDCV 08-1499 JTM (CTx)

*Adams v. Sam's West, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1403987

*Agredano v. GS Brothers, Inc.*, Los Angeles County Superior Court, Case No. BC445561

*Allen v. Toms Sierra Company*, Nevada County Superior Court, Case No. CU18-082823

*Allen v. Valley Inventory Service, Inc.*, Solano County Superior Court, Case No. FCS034682

*Alvarez v. Pilot Travel Centers, LLC*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-4605

*Alonzo v. Camblin Steel Service, Inc.*, Placer County Superior Court, Case No. SCV0034165

*Amenhotep v. Google, Inc.*, Santa Clara County Superior Court, Case No. 17CV311528

*Anaya v. Progressive Logistics Services, LLC*, Riverside County Superior Court, Case No. RIC1308270

*Andre v. Newell Rubbermaid, Inc.*, San Bernardino County Superior Court, Case No. CIVVS1200282

*Anduha v. ABC Phones of North Carolina, Inc.*, Stanislaus County Superior Court, Case No. 2022729

*Anslow v. Wellington Energy, Inc.*, USDC – Northern District of California (San Francisco), Case No. CV11-1596-JCS

*Aranda, et al. v. Universal Lumpers of California, Inc.*, San Joaquin County Superior Court, Case No. STK-UOE-2017-7826

*Armendariz v. Integrated Pain Management Medical Group, Inc.*, Kern County Superior Court, Case No. BCV-19-100267-SDS

*Barrow, et al. v. Desmond Foods, L.P.*, Sacramento County Superior Court, Case No. 34-2015-00187227

*Batmanghelich v. Sirius XM Radio Inc.*, USDC – Central District of California (Los Angeles), Case No. CV 09-9190 VBF (JCx)

*Bosser v. Hooked on Solar*, Yolo County Superior Court, Case No. CVCV-2016-876

*Bourland v. Horizon Personnel Services, Inc.*, Sacramento County Superior Court, Case No. 34-2014-00161365-CU-OE-GDS

*Bowen v. IMI Material Handling Logistics, Inc.*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2016-0000192

*Branson v. Mladen Buntich Construction*, San Bernardino County Superior Court, Case No. CIVDS1609129

*Brandt v. Sacramento Auto Insurance Center, Inc.*, San Joaquin County Superior Court, Case No. 39-2009-00202938-CU-OE-STK

*Brown v. 22nd District Agricultural Association*, United States District Court, Southern District of California, Case No. 15-cv-2578-DHB

*Brown v. Sierra Central Credit Union*, Sutter County Superior Court, Case No. CVCS18-0002161

*Burgess v. Blue Cross and Blue Shield of South Carolina*, San Joaquin County Superior Court, Case No. 39-2012-00277449-CU-BT-STK

*Burgess v. Strategic Retail Solutions, LLC*, Los Angeles County Superior Court, Case No. BC413791

*Calhoun v. Celadon Trucking Services, Inc.*, USDC – Central District of California (Los Angeles), Case No. 5:16-cv-01351-PSG-FFM

*Caporicci v. Owens & Minor Distribution, Inc.*, San Joaquin County Superior Court, Case No. 39-2013-00295662-CU-OE-STK

*Carl v. Advanced Call Center Technologies, LLC*, Sacramento County Superior Court, Case No. 34-2013-00148310

*Carlisle, et al. v. Professional Technical Security Services, Inc.*, Case No. CGC18569791

*Carrete v. Gamestop, Inc.*, Imperial County Superior Court, Case No. ECU08501

*Carrillo v. Bimbo Bakeries, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1606813

*Caudillo v. Aegis Treatment Centers, LLC*, Merced County Superior Court, Case No. 18CV-0744

*Cerami v. Metlife, Inc.*, USDC – Central District of California (Orange County), Case No. 11-CV-00681-CJC (MLGx)

*Charles v. Aaron's Inc.*, Los Angeles County Superior Court, Case No. BC431468

*Charles v. Nursefinders, LLC*, Imperial County Superior Court, Case No. ECU07422

*Cheifer v. JetBlue Airways Corporation*, Los Angeles County Superior Court, Case No. BC451887

*Cheifer, et al. v. WHGM, Inc.*, Los Angeles County Superior Court, Case No. LC104900

*Chong, et al. v. Crescent Northwoods Inn, Inc.*, Del Norte County Superior Court, Case No. CVUJ-2018-1133

*Church v. GameStop, Inc., et. al.*, USDC – Central District of California (Los Angeles), Case No. 11-CV-00132-VAP-RZ

*Clothier v. Spar Marketing Services, Inc.*, Alameda County Superior Court, Case No: RG12-639317

*Coleman v. Wireless Lifestyle, Inc.*, USDC – Western District of Missouri, Case No. 4:12-cv-00855-ODS

*Colombo-Beyeler, et al. v. Viking River Cruises, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1611608

*Conlee v. Clark Pacific Corporation*, Yolo County Superior Court, Case No. CV14-1409

*Contreras v. Osmose Utilities Services, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1513998

*Contreras v. West American Service Corporation*, Kings County Superior Court, Case No. 14C0280

*Corona v. Yosemite Meat & Locker Service, Inc.*, Stanislaus County Superior Court, Case No. 2006828

*Cortellessa v. Dotnext, Inc.*, Alameda County Superior Court, Case No. RG09429971

*County v. Ingram Mirco, Inc.*, San Bernardino Superior Court, Case No. CIVRS 1304445

*Covarrubias, et al. v. Petersendean Builder Group, Inc.*, Kern County Superior Court, Case No. BCV-16-101122

*Cowen, et al. v. Evergreen Alliance Golf Limited, L.P., d/b/a Arcis Golf*, San Bernardino County Superior Court, Case No. CIVDS1719283

*Cruz-Garcia v. Lemonade Restaurant Group, LLC*, Los Angeles County Superior Court, Case No. BC478205

*Cunningham v. Performance Contracting, Inc.*, Contra Costa County Superior Court, Case No. C16-02157

*Dabney v. Coneybeare, LLC, et al.*, Orange County Superior Court, Case No. 30-2018-00999989-CU-OE-CXC

*Dabney, et al. v. Panera, LLC.*, San Bernardino County Superior Court, Case No. CIVDS1516030

*Diaz, et al. v. Seaworld Entertainment, Inc.*, Imperial County Superior Court, Case No. ECU10046

*Diggs v. Western Waterproofing Company, Inc.*, San Francisco County Superior Court, Case No. CGC-14-539281

*Dismuke v. Rhodes Retail Services, Inc.*, Sacramento County Superior Court, Case No. 34-2011-00105001

*Dorsette v. TA Operating, LLC*, USDC – Central District of California (Los Angeles), Case No. EDCV 09-1350 PA (RZx)

*Duran v. The Image of California, Inc.*, Kern County Superior Court, Case No. S-1500-CV-284056 DRL

*Edwards v. Trans World Entertainment Corp.*, San Diego County Superior Court, Case No. 37-2010-00095123-CU-OE CTL

*Esakhani v. Central Valley Gaming*, Stanislaus County Superior Court, Case No. 2020667

*Escobar v. SMSSI of California, Inc.*, San Francisco Superior Court, JCCP No. 4776

*Espinosa v. Taltech Construction, et al.*, Los Angeles County Superior Court, Case No. BC590176

*Espinosa v. Bodycote Thermal Processing, Inc.*, Los Angeles County Superior Court, Case No. BC501617

*Espinoza v. Pabco Building Products, LLC*, Los Angeles County Superior Court, Case No. VC065660

*Estrada v. Net Source Communications, Inc.*, Los Angeles County Superior Court, Case No. BC431169

*Estrada v. OS Restaurant Services, LLC*, Santa Clara County Superior Court, Case No. 16CV293249

*Estupinan v. Global Development Strategies, Inc.*, Santa Clara County Superior Court, Case No. 110CV178898

*Fadhl. v. Siemens Healthcare Diagnostics Inc.*, Sacramento County Superior Court, Case No. 34-2017-00209518

*Fernandez v. The Regents of the University of California*, Los Angeles County Superior Court, Case No. BC656256

*Ferrer v. Dish Network Corporation*, Los Angeles County Superior Court, Case No. BC441354

*Findora v. Barry Callebaut USA LLC*, Napa County Superior Court, Case No. 19CV000219

*Flores v. Cintas Corporation*, Los Angeles County Superior Court, Case No. BC400422

*Friel v. Midwest Construction Services, Inc.*, San Joaquin County Superior Court, Case No. 39-2015-00329204-CU-OE-STK

*Gagnon v. Banc of California*, Contra Costa County Superior Court, Case No. C 15-00196

*Galarza v. Bayou Well Services, LLC*, Kern County Superior Court, Case No. S-1500-CV-279372 DRL

*Galarza v. C & H Testing Service LLC*, Kern County Superior Court, Case No. BCV-15-100008 SPC

*Garcia v. Old Dominion Freight Line, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1404636

*Geer v. Applied Aerospace Structures Corp.*, San Joaquin County Superior Court, Case No. 39-2014-00313702-CU-OE-STK

*Getz v. California Cinema Investments, Inc.*, Ventura County Superior Court, Case No. 56-2013-00437706-CU-MC-VTA

*Gibbs v. M. Lehmann Enterprises*, Orange County Superior Court, Case No. 30-2013-00678538-CU-OE-CXC

*Gilles v. Schaefer Ambulance Service Inc.*, Imperial County Superior Court, Case No. ECU07970

*Goldman, et al. v. Defender's, Inc.*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-0009973

*Gomez v. Low Desert Empire Pizza, Inc.*, San Bernardino County Superior Court, Case No. CIVVS900392

*Gomez v. Pizza Hut of Southeast Kansas, Inc.*, San Bernardino County Superior Court, Case No. CIVVS900679

*Gonzalez v. Harris Farms, Inc.*, USDC – Eastern District of California (Fresno), Case No. 1:14-cv-00038-LJO-SAB

*Guerrero v. Main Electric Supply Company LLC*, Ventura County Superior Court, Case No. 56-2019-00525427-CU-OE-VTA

*Gutierrez v. Asset Management Specialists, Inc.*, Fresno County Superior Court, Case No. 12CECG03577

*Gutierrez v. Linkus Enterprises, Inc.*, Madera County Superior Court, Case No. MCV065774

*Gutierrez v. Shiekh, LLC*, San Bernardino County Superior Court, Case Nos. CIVRS1206525, CIVRS1303408

*Hairston v. Stanislaus Surgical Hospital*, Stanislaus County Superior Court, Case No. CV-19-000651

*Hindman v. Service Quick, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1724229

*Hogan v. iMobile of CA LLC*, San Bernardino County Superior Court, Case No. CIVDS1409263

*Hogan v. Wireless Evolution Inc.*, Riverside County Superior Court, Case No. MCC1300669

*Hogan v. Wireless That's It! LLC*, Riverside County Superior Court, Case No. RIC1201997

*Holmes v. Bottling Group, LLC*, Stanislaus County Superior Court, Case No. 2022584

*Hooper, et al. v. URS Midwest, Inc., et al.*, San Bernardino Superior Court, Case No. CIVDS1607489

*Humphrey v. Freedomroads, LLC*, Shasta County Superior Court, Case No. 178228

*Hurtado v. Rush Truck Centers of California, Inc.*, Los Angeles County Superior Court, Case No. BC427672

*Hyde v. Dent Wizard International Corporation*, Sacramento County Superior Court, Case No. 34-2015-00173882

*Ibrihim v. Imperfect Foods, Inc.*, San Joaquin County Superior Court, Case No. STK-VI-UOE-2019-0000846

*Id-deen v. Educational Services of America*, Solano County Superior Court, Case No. FCS040803

*Isherwood v. Mason Dixon Intermodal, Inc.*, San Joaquin County Superior Court, Case No. 39-2012-00279891-CU-OC-STK

*Jahanbin v. Pacific Mercantile Bank*, Orange County Superior Court, Case No. 30-2011-00480705CU-OE-CXC

*Jenkins v. Sedgwick Claims Management Services, Inc.*, Los Angeles Superior Court, Case No. LC101648

*Job v. California Security Services*, Yuba County Superior Court, Case No. 14-0000820

*Johnson v. The Goodyear Tire & Rubber Company*, USDC – Northern District of California (San Francisco), Case No. 3:13-cv-01069-MMC

*Jolin v. Bay Cities Recovery, Inc.*, El Dorado County Superior Court, Case No. PC20100458

*Jordan v. Sutter Memorial Hospital*, Stanislaus County Superior Court, Case No. 2023344

*Keebaugh v. Mike Thompson Recreational Vehicles*, San Bernardino County Superior Court, Case No. CIV-DS-1500718

*Kelly v. Robin's Enviro Vac, Inc.*, Kern County Superior Court, Case No. S-1500-CV-282277  
DRL

*King v. Levy Premium Foodservice Limited Partnership*, Alameda County Superior Court, Case No. HG15786353

*Kunsman v. Punch Bowl Sacramento, LLC, et al.*, Sacramento County Superior Court, Case No. 34-2018-00243175

*LaFear v. Encore Education Corporation*, San Bernardino County Superior Court, Case No. CIVDS1802251

*Lanzarin v. AWI Management Corporation*, Solano County Superior Court, Case No. FCS041809

*Lee, et al. v. Foster Dairy Farms*, Stanislaus County Superior Court, Case Nos. 2006542, 2015679

*Lemus, et al. v. Eastridge Workforce Technology, Inc.*, San Bernardino County Superior Court, Case No. CIV-DS-1611470

*Lewis v. American Casino & Entertainment Properties LLC*, San Bernardino County Superior Court, Case No. CIVDS1719094

*Lemus v. On Assignment Staffing Services*, San Bernardino County Superior Court, Case No. CIV-DS-1600497

*Leon v. Piercey West Inc.*, Los Angeles County Superior Court, Case No. BC656874

*Lopez v. Creative Communication Technologies, Inc.*, Imperial County Superior Court, Case No. ECU07851

*Lopez v. Go Green Auto Spa Franchise, Inc., et al.*, Los Angeles County Superior Court, Case No. BC 562212

*Lopez v. Truck Accessories Group, LLC*, Yolo County Superior Court, Case No. CV13798

*Ludlow v. Prince Telecom, LLC*, Stanislaus County Superior Court, Case No. 684239

*Luna v. Express Locations, LLC*, Imperial County Superior Court, Case No. ECU09779

*Macias v. American Tire Distributors, Inc.*, Kern County Superior Court, Case No. BCV-18-101586

*Maldonado v. Hardwood Flooring Liquidators, Inc.*, Los Angeles County Superior Court, Case No. BC642170

*Mansfield v. Cambridge Real Estate Services, Inc.*, Butte County Superior Court, Case No. 160175

*Martinez v. DPI Specialty Foods West*, San Joaquin County Superior Court, Case No. 39-2015-00327311-CU-OE-STK

*Martinez v. Styles For Less, Inc.*, San Bernardino County Superior Court, Case No. CIVVS1203057

*Mayne v. John Muir Behavioral Health*, Contra Costa County Superior Court, Case No. C17-00998

*Maze v. Bulldog Freightway, Inc.*, Imperial County Superior Court, Case No. ECU08716

*McCormick v. G & O Body Shop, Inc.*, El Dorado Superior Court, Case No. PC20130291

*McCrary v. Campbell Soup Supply Company*, San Joaquin County Superior Court, Case No. 39-2013-00297698-CU-OE-STK

*McDaniel v. Vancary, Inc.*, Tulare County Superior Court, Case No. 268036

*Melgar-Farela v. Guardian Compliance, Inc.*, Los Angeles County Superior Court, Case No. BC481865

*Mendiola v. Tyco Electronics Corporation*, Riverside County Superior Court, Case No. RIC1400721

*Mettler v. Les Schwab Tire Centers of California, Inc.*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-476

*Miller v. California Subshine, Inc.*, Los Angeles County Superior Court, Case No. BC637754

*Miller v. Southwest Airlines Co.*, USDC – Northern District of California (San Francisco), Case No. 3:12-cv-05978-CRB

*Mitchell v. Crossmark, Inc.*, USDC – Central District of California (Los Angeles), Case No. CV 11-2818-JAK (FMOx)

*Moghrabi v. Vitaligent, Inc.*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-1650

*Molina v. Berkshire Hathaway Energy Company, et al.*, Imperial County Superior Court, Case No. ECU000522

*Moore v. Horizon Solar Power, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1410001

*Murray v. Select Media Services, LLC*, Los Angeles County Superior Court, Case No. BC424506

*Myles v. Central Transport LLC*, San Bernardino County Superior Court, Case No. CIVDS1401434

*Navarro v. Mariana Packing Co., Inc.*, Solano County Superior Court, Case No. FCS045935

*Nehrlich, et al. v. RPM Mortgage, Inc.*, Orange County Superior Court, Case No. 30-2013-00666783-CU-OE-CXC

*Overton v. Hat World, Inc.*, USDC – Eastern District of California (Sacramento), Case No. 2:11-CV-01645-LKK-KJN

*Perez v. Alcatel-Lucent USA Inc.*, Imperial County Superior Court, Case No. ECU07977

*Perez v. Major Gloves and Safety, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1710445

*Perry v. Cardinal Health 200, LLC*, Solano County Superior Court, Case No. FCS035303

*Phraxayavong-Briones v. RSM, Inc.*, Sacramento County Superior Court, Case No. 34-2012-00117524

*Pugh v. Wi Spa, LLC*, Imperial County Superior Court, Case No. ECU07932

*Quist v. Knight Transportation, Inc.*, San Bernardino Superior Court, Case No. CIVDS 1615414

*Quitco v. Aviation Fuel Systems Repair, Inc.*, San Bernardino Superior Court, Case No. CIVRS1302311

*Rambeau v. C.C.M. Corporation, et al.*, Sacramento County Court, Case No. 34-2018-00244842

*Rankins v. Roman Empire Living Skills, Inc.*, Los Angeles County Superior Court, Case No. BC713399

*Rees v. Advantel, Incorporated*, Santa Clara County Superior Court, Case No. 16-CV-292219

*Renfrow v. Janra Enterprises, Inc.*, Sacramento County Superior Court, Case No. 3402010-00080471

*Reynolds v. Diamond Pet Food Processors of Ripon*, San Joaquin County Superior Court, Case No. 39-2014-00310818

*Richard v. A-Para Transit Corp.*, Alameda County Superior Court, Case No. HG17870373

*Richardson v. TEC Equipment, Inc., et al.*, Los Angeles County Superior Court, Case No. VC065536

*Robles v. North County Health Project Incorporated*, San Diego Superior Court, Case No. 37-2014-00001751-CU-OE-NC

*Rodas v. Monetary Management of California, Inc.*, USDC – Eastern District of California (Sacramento), Case No. 2:14 cv 01389 TLN AC

*Rodriguez v. 20/20 Plumbing & Heating, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1705362

*Rodriguez v. Commerce Distribution Company*, Los Angeles County Superior Court, Case No. BC656259

*Rodriguez v. Valley Oak*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2016-7980

*Roden v. Service Champions*, San Bernardino County Superior Court, Case No. CIVDS1613183

*Russell v. Bradshaw International*, Imperial County Superior Court, Case No. ECU00853

*Rutledge, et al. v. Healthport Technologies, LLC*, Alameda County Superior Court, Case No. RG16835813

*Sabala v. Econtactlive, Inc.*, Stanislaus County Superior Court, Case No. 684981

*Sabatier v. Picture Perfect Installation, Inc.*, Riverside County Superior Court, Case No. RIC10004953

*Salameh v. Sonomaidence OPCO, LLC*, Sonoma County Superior Court, Case No. SVC264228

*Salazar v. Tag-3 Medical Investment Group, LLC*, Los Angeles County Superior Court, Case No. BC527698

*Salbeck v. Ingredion Incorporated*, San Joaquin County Superior Court, Case No. STK-UOE-2017-0012622

*Sampson v. Healthnet of California Inc.*, Sacramento County Superior Court, Case No. 34-2015-00183785-CU-OE-GDS

*Sanchez v. Don Roberto Jewelers, Inc.*, Imperial County Superior Court, Case No. ECU06819

*Sanders v. Lionakis*, Sacramento County Superior Court, Case No. 34-2017-00223601

*Santana v. United Staffing Associates, LLC*, Tulare County Superior Court, Case No. 249338

*Schrader v. Adidas Promotional Retail Operations, Inc.*, Los Angeles County Superior Court, Case No. BC414168

*Sebrell v. Pomeroy IT Solutions*, San Bernardino County Superior Court, Case No. CIVDS1721560

*Seymour v. Quest Service Group, LLC*, Sacramento County Superior Court, Case No. 34-2017-00206917

*Silva v. Trical*, San Benito County Superior Court, Case No. CU-16-00218

*Simler v. Polly's Inc.*, Riverside County Superior Court, Case No. RIC 1117862

*Sipin, Scott v. Salesforce.com, Inc.*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2019-0004629

*Skuro v. BMW of North America, LLC*, USDC – Central District of California (Los Angeles), Case No.: CV 10-8672-GW (FFMx)

*Smith v. Steelcase, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1725850

*Sohal v. Foster Poultry Farms*, Stanislaus County Superior Court, Case No. 2026605

*Solomon v. City of Los Angeles*, Los Angeles County Superior Court, Case No. BC570345

*Solano v. Vozzcom, Inc.*, Imperial County Superior Court, Case No. ECU09519

*Smith, et al. v. Sente Development, Inc.*, Sacramento County Superior Court, Case No. 34-2016-00196614

*Solorzano v. FDS Manufacturing Corporation*, Los Angeles County Superior Court, Case No. BC542532

*Solowitz v. BakeMark USA LLC*, Los Angeles County Superior Court, Case No. BC467838

*Spampinato v. Wind & Sea Restaurants, Inc.*, San Bernardino County Superior Court, Case No. CIVVS1205154

*Spitzer, et al. v. FRHI Hotels & Resorts (Canada) Inc.*, San Bernardino County Superior Court, Case No. C IVDS1712220

*Stephens v. C.S., Inc.*, Riverside County Superior Court, Case No. PSC1301224

*Stevenson v. Harvest Management Sub LLC*, Ventura County Superior Court, Case No. 56-2011-00397420-CU-OE-SIM

*Thompson v. Continental Labor Resources, Inc. d/b/a Continental Labor & Staffing Resources*, Kern County Superior Court, Case No. S-1500-CV-278751-DRL

*Thompson v. Sidhu Truck Line, Inc.*, Kern County Superior Court, Case No. BCV-15-101308-DRL

*Tigas v. Ajilon Communications*, Los Angeles County Superior Court, Case No. BC409737

*Torres v. Coastal Employment Inc.*, Los Angeles County Superior Court, Case No. BC529207

*Tran v. CSP Fiber Services*, San Bernardino County Superior Court, Case No. CIVDS172758

*Tripp v. California Guest Services, Inc.*, Plumas County Superior Court, Case No. CV16-00036

*Valdez v. Diamond Landscaping, Inc.*, Los Angeles County Superior Court, Case No. BC497097

*Valencia v. American Team Managers, Inc.*, Orange County Superior Court, Case No. 30-2016-00857365-CU-CR-CXC

*Van Son v. Rush Truck Centers of California, Inc.*, Los Angeles County Superior Court, Case No. BC494747

*Vasquez v. Schurman Fine Papers*, San Joaquin County Superior Court, Case No. STK-CV-LMC-2015-10035

*Velasquez v. Modesto Ventures, LLC*, Sacramento County Superior Court, Case No. 32-2012-00126159

*Victoria v. Bali Limousines Inc.*, San Mateo County Superior Court, Case No. CIV507774

*Victorian v. Vision X, Inc.*, Los Angeles County Superior Court, Case No. BC400333

*Wade v. Frito Lay*, Kern County Superior Court, Case No. BCV-17-102014

*Walls v. E. & J. Gallo*, Stanislaus County Superior Court, Case No. 2015874

*Warner v. Waterdrops Express Car Wash, LLC*, Tulare County Superior Court, Case No. 265708

*Waybright v. EAH, Inc.*, Stanislaus County Superior Court, Case No. 2011677

*Weiss v. C.A.R. Enterprises, Inc.*, Riverside County Superior Court, Case No. RIC1113165

*White v. Sally Beauty Supply, LLC*, Imperial County Superior Court, Case No. ECU08177

*Williams v. Dennis Dillon RV, LLC*, San Bernardino County Superior Court, Case No. CIVDS 16006879

*Williams v. Closet World, Inc.*, Los Angeles County Superior Court, Case No. BC400178

*Williams v. Progress Rail Services Corporation*, Kern County Superior Court, Case No. S-1500-CV-280236 DRL

*Wing v. Three Group, Inc.*, Los Angeles County Superior Court, Case No. BC643883

*Wilson v. ALSCO, Inc.*, Imperial County Superior Court, Case No. ECU07406

*Wilson v. Michael C. Stead, Inc.*, Contra Costa Superior Court, Case No. C1400135

*Winningham v. Storer Transportation Service*, San Joaquin County Superior Court, Case No. 39-2015-00324708-CU-STK

*Woody v. WBN Home Design*, San Bernardino County Superior Court, Case No. CIVDS1613367

*Woods, et al. v. F&B Innovations, LLC*, San Bernardino County Superior Court, Case No. CIVDS1717765

*Woodyard v. Bellus ALC Acquisition, LLC*, USDC – Central District of California (Los Angeles), Case No. 2:13-cv-05285 SJO AGRx

*Wright v. Social Vocational Services, Inc.*, Kern County Superior Court, Case No. BCV-15-101264

*Ybarra v. New Legend, Inc.*, Sutter County Superior Court, Case No. CVCS-16-2097

*Zaragoza v. Center Automotive, Inc.*, Los Angeles Superior Court, Case No. BC505194

# **EXHIBIT B**

# GAINES & GAINES

A PROFESSIONAL LAW CORPORATION

WWW.GAINESLAWFIRM.COM

4550 EAST THOUSAND OAKS BOULEVARD, SUITE 100  
WESTLAKE VILLAGE, CALIFORNIA 91362

PHONE (818) 703-8985  
FAX (818) 703-8984

September 15, 2022

***Via Certified Mail***

Labor & Workforce Development Agency  
By online submission

Electronic Recyclers of America LLC  
7815 N. Palm Ave., Suite 140  
Fresno, CA 93711

Defendant mailed certified # 70211970000187801086

Agent for Service of Process for Electronic Recyclers of America LLC  
John S. Shegerian  
7815 N. Palm Ave., Suite 140  
Fresno, CA 93711

Agent mailed certified # 70211970000187801093

Re: ***Labor Code Violations of Electronic Recyclers of America LLC – Compliance  
Letter of California Labor Code § 2698 - Private Attorneys General Act***

Dear LWDA:

This office represents Diane Gil, a former non-exempt California employee of Electronic Recyclers of America LLC ("Defendant"). The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et seq.*

Our client was employed by Defendant in Central California. Herein we set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to our client and other of its non-exempt California employees ("Aggrieved Employees").

Our client alleges that Defendant failed to pay all minimum and overtime wages earned during the course of employment, in violation of Labor Code §§ 510, 558, 1194, and 1194.2. Our client and other Aggrieved Employees worked off-the-clock, without compensation: they were required to undergo mandatory COVID-19 temperature and health screenings before clocking in for their shift, resulting in a significant underpayment of minimum and overtime wages. These failures to pay all minimum and overtime wages due constitute violations of Labor Code §§ 510, 558, 1194, and 1194.2.

Our client alleges that Defendant failed to properly compute bonuses, commissions, and other non-base hourly wages earned by our client and other Aggrieved Employees into their regular rate of pay for purposes of paying them meal period premiums, sick pay, overtime, and double-time wages at the correct rates, in violation of Labor Code §§ 226.7, 510, 512, 558 and 1194 and IWC Wage Order No. 4-2001. Defendant failed to properly blend bonuses, commissions, and other non-base hourly wages and instead paid our client and other Aggrieved Employees meal period premiums,

sick pay wages, overtime wages, and double-time wages based only on the base hourly rate of pay, thus depriving our client and other Aggrieved Employees of all meal period premiums, sick pay wages, overtime, and double-time wages earned. This violates Labor Code §§ 226.7, 246, 510, 512, 558 and 1194 and IWC Wage Order No. 4-2001.

Defendant failed to pay premium wages to our client and other Aggrieved Employees who were denied proper meal periods, in violation of Labor Code §§ 226.7, 512, and 558 and IWC Wage Order 4-2001. Our client and other Aggrieved Employees were routinely denied, and not authorized to take, a timely, uninterrupted, 30-minute meal period for every shift worked that exceeded five hours, or a second timely, uninterrupted, 30-minute meal period for every shift worked that exceeded ten hours, but were not paid premium wages of one hour's pay for each missed first or second meal period. This violates Labor Code §§ 226.7, 512, and 558 and IWC Wage Order 4-2001.

Our client further alleges that Defendant required her and Aggrieved Employees to agree to employment contract terms that are prohibited by law, in violation of Labor Code § 432.5. Defendant improperly required our client and Aggrieved Employees to agree to illegal terms as a condition of their employment including, but not limited to, non-competition and indemnity agreements (relating to confidentiality). Labor Code § 432.5 provides that "No . . . shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer . . . thereof to be prohibited by law."

Our client further alleges that Defendant failed to provide her and other Aggrieved Employees with wage statements that fully and accurately itemized the requirements set forth in Labor Code §§ 226(a) and 226.3. Our client and other Aggrieved Employees were not paid all wages due, as stated above. As such, the wage statements provided by Defendant failed to accurately state all gross wages earned, in violation of Labor Code §§ 226(a)(1) and 226.3, total hours worked, in violation of Labor Code §§ 226(a)(2) and 226.3, net wages earned, in violation of Labor Code §§ 226(a)(5) and 226.3, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked, in violation of Labor Code §§ 226(a)(9) and 226.3.

Our client further alleges that Defendant failed to pay her all wages due at the separation of her employment based on the time frames required by Labor Code §§ 201 and 202. As stated above, our client and other Aggrieved Employees were not paid all wages due during the course of their employment and, as a result of this failure, they were not timely paid all wages due at the separation of their employment. This violates Labor Code §§ 201-202 and is alleged on behalf of our client and certain Aggrieved Employees no longer employed by Defendant.

The \$75 PAGA filing fee has been submitted to the LWDA concurrently with the transmission of this letter.

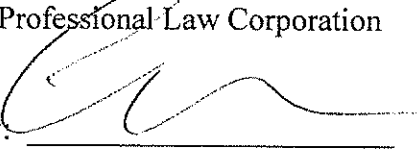
We invite Defendant or its attorneys to contact our office to discuss this matter, including whether an early resolution of the claims can be reached.

Labor & Workforce Development Agency  
Electronic Recyclers of America LLC  
John S. Shegerian  
September 15, 2022  
Page 3

Our office awaits your response.

Very truly yours,

GAINES & GAINES  
A Professional Law Corporation

By: 

EVAN S. GAINES

# **EXHIBIT C**

**SETTLEMENT AGREEMENT AND RELEASE OF PRIVATE ATTORNEYS**  
**GENERAL ACT CLAIM**

This Settlement Agreement and Release of the Private Attorneys General Act Claim (“Settlement Agreement”) is made by and between, on the one hand, Diane Gil (“Plaintiff”), individually, and on behalf of all other similarly situated PAGA Members and the State of California, and on the other hand, Defendant Electronic Recyclers of America, LLC (“Defendant”). Plaintiff and Defendant are collectively referred to herein as the “Parties” and may be individually referred to as a “Party.”

**A. Definitions**

The following terms, when used in this Settlement Agreement, shall have the following meanings:

1. “Action” or “Lawsuit” means and refers to *Diane Gil v. Electronic Recyclers of America, LLC*, Fresno County Superior Court Case No. 22CECG03745. The operative complaint in the Action is the Representative Action Complaint filed on November 22, 2022.
2. “Active Date” means the latest of: (i) the Effective Date, if no objection is made or filed to the Settlement Agreement; (ii) if an objection is made or filed, but no appeal is filed, the expiration of the deadline for any appeals; and (iii) if an objection is made or filed, and an appeal is filed, the date that an appeal is resolved resulting in a court order approving this Settlement Agreement.
3. “Agreement” or “Settlement Agreement,” shall mean this Settlement Agreement and Release of the Private Attorneys General Act Claim, together with all attached Exhibits.
4. “Attorney’s Fees and Costs” means the sum for which Plaintiff’s Counsel shall make application to the Court, that shall not exceed one-third of the Gross Settlement Amount (\$110,000), and actual litigation costs, not to exceed \$5,000, which shall be paid out of the Gross Settlement Amount.
5. “Court” shall mean the Superior Court of the State of California, County of Fresno.
6. “Defendant’s Counsel” means and refers to Fennemore Dowling Aaron.
7. “Effective Date” means the date the Court approves the terms of the Settlement set forth in this Agreement and has entered the Final Order and Judgment.
8. “Eligible Pay Period” means any pay period worked by a PAGA Member in California in a non-exempt position for Defendant at any time during the PAGA Period. For the purposes of settlement discussions, Defendant represented there were 9,209 Eligible Pay Periods worked by PAGA Members during the period of September 15, 2021 to May 30, 2023. If the actual number of Eligible Pay Periods worked between September 15, 2021 and May 30, 2023 exceeds the represented number by more than ten percent (10%) (i.e., if the total number of Eligible Pay Periods worked exceeds 10,130), Defendant will increase the Gross Settlement Amount by \$32.58 for each Eligible Pay Period worked between September 15, 2021 and May 30, 2023 in excess of 10,130 (the “Escalator Payment”). The total number of pay periods in excess of 10,130 shall be referred to as the Excess Pay Periods. Alternatively, at its sole option, Defendant may advance the cutoff date of the PAGA Period

to a date which decreases the total number of Eligible Pay Periods in the PAGA Period by an amount equal to the number of Excess Pay Periods.

9. "Final Order and Judgment" means the Court's Order granting the Motion for Approval of the PAGA Settlement set forth in this Agreement, and entering judgment.
10. "Funding Date" means twenty-one (21) calendar days after the Active Date.
11. "Gross Settlement Amount" or "GSA" means the maximum settlement amount that Defendant will pay in connection with the Settlement of the Action. The GSA is Three Hundred Thirty Thousand Dollars (\$330,000), subject to the Escalator Payment memorialized in Paragraph 8, above. No part of the GSA shall revert to Defendant under any circumstances. Defendant shall pay no more and no less than the GSA to resolve the Action as described herein.
12. "LWDA Payment" means seventy-five percent (75%) of the PAGA Penalty Fund that shall be paid to the California Labor & Workforce Development Agency ("LWDA") pursuant to the PAGA for civil penalties.
13. "Net Settlement Amount" or "PAGA Penalty Fund" is the amount that remains after deduction of Plaintiff's Counsel's Attorney's Fees and Costs, Plaintiff's Service Award Payment, and the Settlement Administrator's fees and costs from the Gross Settlement Amount.
14. "Notice" means the written notice to be mailed to all PAGA Members with their settlement payment checks, once the Court enters its Final Order and Judgment, and the Active Date occurs, in a form substantially similar to **Exhibit A**, and as approved by the Court.
15. "PAGA Member(s)" means any and all individuals who were employed by Defendant in a non-exempt position for at least one Eligible Pay Period in California during the PAGA Period.
16. "PAGA Settlement" or "Settlement" means the settlement of the Action memorialized in this Agreement.
17. "PAGA Period" or "Statutory Period" means the time period from September 15, 2021 through the date the Court approves the settlement, unless shortened pursuant to the terms of paragraph 8 above.
18. "Plaintiff's Counsel" means Daniel F. Gaines of Gaines & Gaines, APLC.
19. "Plaintiff's Service Award Payment" means and refers to the individual settlement payment to Plaintiff in the amount of up to Two Thousand Five Hundred Dollars (\$2,500) as consideration for Plaintiff's execution of this Agreement which is to be paid out of the Gross Settlement Amount.
20. "Released Parties" means Defendant, and each of and all of its respective past, present and future agents, employees, officers, directors, partners, trustees, representatives, shareholders, stockholders, members, attorneys, parents (including Electronic Recyclers International, Inc.), subsidiaries, equity sponsors, related companies/corporations and/or partnerships, divisions, assigns, predecessors, successors, insurers, consultants, joint venturers, joint employers, affiliates, alter-egos, co-employers, dual employers, service

providers, contracting partners, subcontractors, employee benefit plans and fiduciaries thereof, and all other persons and/or entities acting under, by, through or in concert with any of them.

21. “Settlement Administrator” means Phoenix Class Action Administration Solutions, or a different third-party administrator agreed to by the Parties and approved by the Court.

**B. General**

22. On or about September 15, 2022, Plaintiff sent a PAGA Notice to the LWDA, with a copy to Defendant via U.S. Certified Mail, alleging the following claims against Defendant: (1) failure to pay all minimum and overtime wages earned; (2) failure to authorize and provide meal periods or proper compensation in lieu thereof; (3) requiring employees to agree to illegal terms as a condition of their employment; (4) failure to issue complete and accurate itemized wage statements; and (5) failure to timely pay wages upon separation of employment.

23. Without indication from the LWDA it intended to investigate the claims, on November 22, 2022, Plaintiff filed the Action in the Superior Court of California, County of Fresno, which alleged the claims identified in Plaintiff’s PAGA Notice.

24. Defendant denies all of Plaintiff’s claims and allegations, as referenced in the Action and the PAGA Notice, and further denies any liability or wrongdoing of any kind associated with the claims alleged in the Action (or otherwise).

25. The Parties have conducted a thorough investigation into the facts of the Action. This included, among other things, informal discovery and exchanging extensive information and key documents relating to the underlying alleged violations. After engaging in private mediation with Gig Kyriacou, Esq. on June 12, 2023, the Parties reached the proposed Settlement described in this Agreement, and believe it is fair, reasonable, and adequate. The Parties understand, acknowledge, and agree this Agreement constitutes a compromise of claims alleged by Plaintiff on behalf of the State of California and the LWDA, and it is the desire and intention of the Parties to effect a final and complete resolution of the representative claims Plaintiff has alleged against Defendant and/or any of the Released Parties. The Parties further acknowledge that this Agreement is a compromise of disputed claims and that nothing in this Agreement shall be construed as an admission of liability by Defendant.

26. Under California Law, the State may assess and collect civil penalties from employers for violations of certain provisions of the Labor Code. Labor Code §§ 2698, *et seq.* Under PAGA, however, if an “aggrieved employee” “give[s] written notice by certified mail to the [State] and the employer of the specific provision of the [Labor Code] alleged to have been violated,” and the State thereafter decides not to investigate, as is the case here, or does investigate and determines a citation against the employer should not issue, the employee may, “as an alternative” to enforcement by the State, act as a proxy or agent of the state’s labor law enforcement agencies and bring a civil action under PAGA to recover civil penalties “on behalf of himself or herself and other current or former employees.” *Id.* “[C]ivil penalties recovered by aggrieved employees shall be distributed as follows: 75 percent to the state and 25 percent to the aggrieved employees.” *Id.*

27. California Labor Code § 2699(1)(2) provides “[t]he superior court shall review and approve any settlement of any civil action filed pursuant to this part.”

28. In consideration of the promises and agreements contained herein, the Parties agree and covenant as follows:

C. **Terms of Settlement**

29. Subject to the Court's approval of the Settlement pursuant to Labor Code § 2699(1)(2), which counsel and the Parties agree to recommend in good faith to the Court, the Parties agree to the following binding settlement of the Action.

30. Upon the Court entering the Final Order and Judgment and the Active Date occurring, Defendant shall pay the non-reversionary Gross Settlement Amount of Three Hundred Thirty Thousand Dollars (\$330,000), subject to the Escalator Payment memorialized in Paragraph 8, above. The Gross Settlement Amount will be distributed in the following manner:

- a. **Settlement Administration Costs**: The costs associated with settlement administration will be paid from the Gross Settlement Amount, and shall not exceed \$5,000. The Administrator's services will include, but not be limited to the following: updating PAGA Members' mailing addresses through a search of the National Change of Address database maintained by the U.S. Post Office, and skip-tracing bad addresses on the return of the PAGA Members' Notice and settlement payment checks; formatting and printing the Notice to be mailed to the PAGA Member with their settlement payment checks; calculating, issuing and mailing payments to LWDA and PAGA Members; performing tax reporting to the appropriate authorities, among other things called for by this Agreement. Subject to Court approval, the Parties agree to use Phoenix Class Action Administration Solutions as the Settlement Administrator.
- b. **Attorney's Fees and Costs**: The Parties agree that, subject to the Court's review and approval, Plaintiff's Counsel will be paid up to one-third of the GSA (\$110,000) from the GSA, as reasonable attorney's fees, plus actual litigation costs of up to \$5,000, also to be paid from the GSA, incurred to litigate the Action and to obtain Court approval of the Settlement. The Settlement Administrator will issue an IRS Form 1099 to Plaintiff's counsel for the Attorney's Fees and Costs awarded. In no circumstance(s) shall Defendant be liable for any payment(s) of Attorney's Fees and Costs separate from the GSA.
- c. **Plaintiff's Service Award Payment**: The Parties agree that, subject to the Court's review and approval, Plaintiff will be paid up to Two Thousand Five Hundred Dollars (\$2,500) out of the GSA, which is Plaintiff's Service Award Payment. The appropriate tax documents shall be provided to Plaintiff as agreed to by the Parties.
- c. **PAGA Penalty Fund**: After deducting the Attorney's Fees and Costs, Plaintiff's Service Award Payment, and Settlement Administration Costs from the Gross Settlement Amount, the remaining net settlement amount, the PAGA Penalty Fund, will be apportioned as required by the PAGA, Labor Code section 2699(i), with distribution of 75% to the LWDA, (the "LWDA Payment") and 25% to the PAGA Members. The PAGA Penalty Fund shall encompass all payments to the LWDA and to the PAGA Members.
- e. **PAGA Penalty Fund Allocation**: The PAGA Penalty Fund, estimated at \$207,000 shall be allocated \$155,625 (75%) for the LWDA Payment, and \$51,875 (25%) to the PAGA Members, to be distributed on a proportionate basis, using the number of

Eligible Pay Periods each PAGA Member was employed during the PAGA Period, as detailed in Paragraph 38, herein.

- f. **Taxes and Reporting:** Each PAGA Member's individual share will be treated as non-wage income for which the Administrator shall issue an IRS Form 1099 to be mailed together with the PAGA Member's settlement check, and reported to the applicable governmental authorities, if required by law as determined by the Settlement Administrator.

**D. Release as to the PAGA Representative Claims**

31. Upon approval by the Court of this Settlement, and subject to Defendant's payment of the GSA, Plaintiff, individually and in her representative capacity on behalf the State of California and the PAGA Members will fully and finally release and discharge the Released Parties from all claims, rights, demands, liabilities, costs, attorney's fees, and causes of action for civil penalties under the PAGA, arising during employment by Defendant in California in a non-exempt position during the PAGA Period, based on the factual and legal allegations pled in the operative Representative Action Complaint that support or relate to the following alleged violations of law asserted by Plaintiff in the Action pursuant to PAGA: (1) failure to pay all minimum and overtime wages earned under Labor Code §§ 510, 558, and 1194; (2) failure to properly include/compute bonuses, commissions, and other non-base hourly wages earned by employees into their regular rate of pay for purposes of paying them meal period premiums, sick pay, overtime, and double-time wages at the correct rates under Labor Code §§ 226.7, 246, 510, 512, 558, and 1194; (3) failure to provide meal periods and/or pay premium wages to employees who were denied proper meal periods under Labor Code §§ 226.7, 512, and 558; (4) requiring employees to agree to employment contract terms that are prohibited by law under Labor Code § 432.5; (5) failure to issue accurately itemized wage statements under Labor Code §§ 226(a) and 226.3; and (6) failure to timely pay wages upon separation of employment under Labor Code §§ 201-202 (the "Released PAGA Claims").

32. In accordance with *Arias v. Superior Court* (2009) 46 Cal.4th 969, a judgment in "a representative action brought by an aggrieved employee under the Labor Code Private Attorneys General Act of 2004 ... is binding not only on the named employee plaintiff but also on government agencies and any aggrieved employee not a party to the proceeding," which the Final Order and Judgment shall so reflect. The Final Order and Judgment shall not bind or release the PAGA Members' individual wage claims (or other individual claims). However, in accordance with *Arias*, the Final Order and Judgment shall be binding on the PAGA Members as to the Released PAGA Claims. A statement to this effect shall be included in the Notice sent to the PAGA Members mailed together with their Settlement payment checks and IRS 1099 Forms.

**E. Settlement Approval and Implemental Procedures**

33. Plaintiff's Counsel shall prepare a motion for approval of the Settlement pursuant to California Labor Code § 2699(1)(2). Defendant shall not oppose such a motion provided Plaintiff's Counsel sends a draft of the motion for approval to Defendant's Counsel at least seven (7) calendar days before it is filed. Defendant's Counsel will work with Plaintiff's Counsel to provide Plaintiff's Counsel with, and allow Plaintiff's Counsel to submit to the Court, adequate information related to the Released PAGA Claims to obtain approval of the Settlement pursuant to a reasonable request by Plaintiff's Counsel. As required by Labor Code, at the time the motion for approval of the Settlement is filed with the Court, Plaintiff's Counsel shall submit the motion, together with its exhibits, to the LWDA.

34. Within three (3) business days after the Effective Date, the Settlement Administrator shall send Defendant's Counsel electronic wiring instructions to fund the Gross Settlement Amount.

35. No later than the Funding Date, Defendant will send to the Settlement Administrator a list which shall provide for each PAGA Member, the following information: (1) full name; (2) last known address; (3) social security number; and (4) the number of Eligible Pay Periods (the "Data List"). The fact that Defendant may not possess/maintain/know any or all of the PAGA Members' contact information shall not constitute a breach of this Agreement or be grounds for enforcement; however, Defendant will conduct a reasonable search and diligent inquiry to obtain such information and provide to the Settlement Administrator. The Data List shall be treated as and remain confidential and be used solely to manage the notice and payment process described herein, and for no other purpose, and shall not be disclosed to Plaintiff's counsel or anyone other than the Settlement Administrator, except as may be required by applicable taxing authorities, or pursuant to express written authorization of Defendant, the PAGA Members or by order of the Court.

36. No later than the Funding Date, Defendant shall wire the Gross Settlement Amount, i.e., \$330,000 to the Settlement Administrator. Upon receipt of payment from Defendant, the Administrator will distribute the Gross Settlement Amount as ordered by the Court. If additional payments are required to fund the GSA pursuant to the of the Escalator Payment clause memorialized in Paragraph 8, above, Defendant shall fund that payment no later than ten (10) calendar days after the Settlement administrator confirms the additional amount due, unless Defendant exercises its right to advance the cutoff date of the PAGA Period as discussed in Section 8, above. The Gross Settlement Amount must be fully funded prior to any disbursements will be made. Should Defendant fail to fund the Gross Settlement Amount at the time and in the amounts as provided for by this Agreement, and unless otherwise agreed upon by the Parties or ordered by the Court, Plaintiff may elect to enforce this Agreement or, at her option, this Agreement and the settlement described within it, shall be rescinded, and the Parties shall be restored to their respective positions as of June 12, 2023.

37. The Settlement Administrator will perform all settlement administration duties, including (i) a National Change of Address ("NCOA") database search, (ii) skip trace to update PAGA Member addresses on the return of undelivered Notices and checks; , (iii) issuing the Notice and payments to Plaintiff and all PAGA Members, (iv) issuing all required IRS forms, and reporting same to the applicable taxing authorities; and (v) issuing payment to the LWDA, PAGA Members, Plaintiff's Counsel and to itself.

38. The Administrator shall have the authority and obligation to calculate the amounts of the PAGA Members' Settlement payments in accordance with the methodology set forth in this Agreement and orders of the Court. Each PAGA Member will be eligible to receive a Settlement payment based on the total number of his/her Eligible Pay Periods worked during the PAGA Period in relation to the aggregate number of Eligible Pay Periods worked by all PAGA Members during the PAGA Period, e.g.

$$\text{PAGA Member Payment} = \$51,875 \text{ (x) } \frac{\text{PAGA Member's Number of Eligible PAGA Pay Periods}}{\text{All PAGA Members' Eligible PAGA Pay Periods}}$$

39. All disbursements to the PAGA Members, the LWDA, the Settlement Administrator, and Plaintiff's Counsel required under this Settlement Agreement shall be made within ten (10) business days after Defendant fully funds the GSA. Prior to disbursement, the Settlement Administrator will forward its calculations of the PAGA Members' Settlement payments to all counsel, and receive approval from all counsel as to such amounts. Any Party's failure to

respond to the Settlement Administrator's request for approval within five (5) business days shall be deemed approval of the calculations.

40. PAGA Members shall have 180 calendar days after mailing to cash their individual settlement checks. If any PAGA Member's check is not cashed within that period, the check will be voided and a stop-payment will be issued. Any funds in the Settlement Administrator's account as a result of a failure to timely cash a settlement check shall be transmitted to the California State Controller's Unclaimed Property Fund in the name of each respective PAGA Member whose check was uncashed and voided. Neither Defendant, Defendant's Counsel, Plaintiff's Counsel, nor Plaintiff will have any liability for lost or stolen settlement checks, forged signatures on settlement checks, or unauthorized negotiation of settlement checks. The Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code § 384, as the entire Settlement will be paid out to PAGA Members whether or not they all cash their settlement checks. Therefore, Defendant will not be required to pay any interest on said amount. In no circumstance(s) shall Defendant be liable for any interest payment(s).

41. By no later than 240 days after mailing Settlement payment checks to all PAGA Members, the Settlement Administrator shall provide Plaintiff's Counsel and Defendant's Counsel with a declaration setting forth the disbursements made to the PAGA Members, the LWDA, Plaintiff's Attorneys for attorneys' fees and litigation costs, and to itself, and shall include information regarding the number of uncashed checks as of that date, the aggregate sum of uncashed checks, and the timeline for transmittal of sum represented by all uncashed checks to California's Controller, Unclaimed Property Division, (if applicable).

#### **F. Miscellaneous Provisions**

42. **Eligible Pay Periods:** Defendant has represented there are approximately 9,209 Eligible Pay Periods worked by the PAGA Members during the period of September 15, 2021 to May 30, 2023.

43. **Voiding the Agreement:** The Settlement Agreement shall be voidable and unenforceable as to all Parties herein at the option of either Party if (a) the Court should for any reason fail to approve this Settlement in the form agreed to by the Parties, or (b) the Court should for any reason fail to enter a judgment, or (c) the approval of the Settlement and judgment is reversed, modified or declared or rendered void by a court of competent jurisdiction. In that event, then neither the Settlement nor any of the related negotiations or proceedings shall be of any force or effect, and all Parties to the Settlement shall stand in the same position, without prejudice, as if the Settlement had been neither entered into nor filed with the Court. Notwithstanding the foregoing, the Parties may attempt in good faith to cure any perceived defects in the Settlement to facilitate approval.

44. **Waiver:** The waiver by one Party of any breach of this Agreement by another Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

45. **Parties' Authority:** The signatories hereto represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions hereof.

46. **Mutual Full Cooperation:** The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of

this Settlement Agreement. The Parties to this Settlement Agreement shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable after execution of this Settlement Agreement, Plaintiff's Counsel shall, with the assistance and cooperation of Defendant and Defendant's counsel, take all necessary steps to secure the Court's approval of the Settlement, and the Final Order and Judgment.

47. **No Prior Assignments:** The Parties hereto represent, covenant, and warrant that they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights released and discharged by this Settlement Agreement.

48. **No Admission:** Defendant denies any and all liability to Plaintiff and/or the PAGA Members in this Action, as to any and all causes of action that were asserted or that might have been asserted in this Action based on the facts set forth in the First Amended Representative Action Complaint. Nonetheless, Defendant wishes to settle and compromise the matters at issue in the Action to avoid further substantial expense and the inconvenience and distraction of protracted and burdensome litigation. Defendant also has taken into account the uncertainty and risks inherent in litigation, and without conceding any infirmity in the defenses that it has asserted or could assert against Plaintiff, have determined that it is desirable and beneficial that Plaintiff's claims be settled in the manner and upon the terms and conditions set forth in this Agreement.

49. **Binding Settlement:** Nothing contained herein, nor the consummation of this Settlement Agreement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant or any of the other Released Parties. Each of the Parties hereto has entered into this Settlement Agreement with the intention of avoiding further disputes and litigation with the attendant inconvenience and expenses. This Settlement Agreement is a settlement document and shall, pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence 408, be inadmissible in evidence in any proceeding, except an action or proceeding to approve the settlement, and/or interpret or enforce this Settlement Agreement.

50. **Enforcement Actions:** This Agreement is binding and enforceable under California Code of Civil Procedure section 664.6, and the Court shall retain jurisdiction to enforce this Agreement. Except as otherwise provided in this Settlement Agreement, in the event that one or more of the Parties to this Settlement Agreement institutes any action or proceeding in this case under Section 664.6 or otherwise or separate legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement Agreement or to declare rights and/or obligations under this Settlement Agreement, the successful Party or Parties shall be entitled to recover from the unsuccessful Party or Parties reasonable attorney's fees and costs incurred in connection with any enforcement actions.

51. **Notices:** Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed as follows:

To Plaintiff:

Daniel F. Gaines  
Gaines & Gaines, APLC  
4550 E Thousand Oaks Blvd, Suite 100  
Westlake Village, CA 91362

To Defendant:

Mark D. Kruthers  
Fennemore Dowling Aaron  
8080 N. Palm Avenue, Third Floor  
Fresno, CA 93711

52. **Construction:** The Parties hereto agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arm's-length negotiations between the Parties and that this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or her or its counsel participated in the drafting of this Settlement Agreement.

53. **Captions and Interpretations:** Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a recital.

54. **Modification:** This Settlement Agreement may not be materially changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. Non-material changes requested by the Court may be made upon stipulation signed by all counsel. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by all of the Parties hereto.

55. **Choice of Law:** This Settlement Agreement shall be governed by and construed, enforced and administered in accordance with the laws of the State of California, without regard to its conflicts-of-law rules.

56. **Integration Clause:** This Settlement Agreement and the concurrently-executed individual settlement agreement for Plaintiff Jackson contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

57. **Continuing Jurisdiction:** After entry of the Final Order and Judgment, the Court will have continuing jurisdiction under California Code of Civil Procedure § 664.6 and as otherwise allowed by law solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) settlement administration matters; and (iii) such post-Final Order and Judgment matters as may be appropriate under court rules or as set forth in this Settlement.

58. **Waiver of Appeals:** The Parties waive all appeals from the Court's approval of the Agreement, unless the Court materially modifies the Agreement and/or unless a non-Party files an appeal.

59. **Publicity:** With respect to the Settlement, Plaintiff, Defendant, Defendant's Counsel, and Plaintiff's Counsel agree not to publicize, contact the media, or disclose to the public any information about the Settlement or the negotiation process, with the exception of filing this Settlement Agreement and the separate settlement agreement executed by Plaintiff in her individual capacity with the Court, and submitting them to the LWDA, informing the Court of the manner in which the Settlement was obtained, and the reasons in support of the fairness of the Settlement only insofar as necessary to obtain Court approval of the settlement of the Action. Plaintiff's Counsel may also respond to inquiries by PAGA Members and the LWDA. With respect to the terms of this Settlement, Plaintiff's Counsel agree not to post the terms of the Settlement on their website or initiate contact with the media about its terms or the negotiations. If asked by the media, Plaintiff's Counsel and Plaintiff agree to state, "The matter was amicably settled. Any further information about the settlement may be obtained by going to the Court's website." Plaintiff's Counsel agree that they will not circumvent this Agreement by facilitating or encouraging any PAGA Group member or any other individual to do what Plaintiff and her counsel have agreed not to do.

60. **Binding On Assigns:** This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors and assigns.

61. **Counterparts:** This Settlement Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully-signed Settlement Agreement, which shall be binding upon and effective as to all Parties. Electronic delivery shall be deemed an original.

IN WITNESS WHEREOF, the parties knowingly and voluntarily executed this Settlement Agreement and Release of PAGA Claim as of the date set forth below.

Dated: 08 / 01 / 2023

By:   
Plaintiff, Diane Gil

Dated: 8/3/2023

By:   
Defendant, Electronic Recyclers of America,  
LLC  
*Linda Ramos, Corporate Secretary*

AS TO FORM:

**Gaines & Gaines, APLC**

Dated: August 3, 2023

By:   
Daniel F. Gaines, Attorneys for Plaintiff,  
Diane Gil

**Fennemore Dowling Aaron**

Dated: AUG. 4, 2023

By:   
Mark D. Kruthers, Attorneys for Electronic  
Recyclers of America, LLC

# **EXHIBIT A**

«DATE»

«FIRST\_NAME» «LAST\_NAME»

«ADDRESS 1»

«ADDRESS 2»

**Re: Settlement Payment from *Diane Gil v. Electronic Recyclers of America, LLC***

Dear «FIRST\_NAME» «LAST\_NAME»

By order of the Fresno County Superior Court, enclosed is your payment from the settlement of the *Diane Gil v. Electronic Recyclers of America, LLC*, litigation filed in the Fresno County Superior Court, Case No. 22CECG03745 (the “Lawsuit”).

The Lawsuit was filed against Electronic Recyclers of America, LLC (referred to as “Defendant”) under the California Private Attorneys General Act of 2004, Cal. Labor Code §§ 2698, *et seq.* (abbreviated “PAGA”) for alleged violations of the California Labor Code. The claim was brought on behalf of the State of California and all non-exempt individuals employed by Defendant in California at any time from September 15, 2021 through [DATE OF SETTLEMENT APPROVAL] (“PAGA Members”). You have been identified as a PAGA Member, on whose behalf the case was brought.

The plaintiff in the Lawsuit claimed Defendant owed civil penalties under PAGA for violating certain provisions of the California Labor Code. The provisions of the California Labor Code that were alleged to have been violated are: (1) failure to pay all minimum and overtime wages earned; (2) failure to properly compute bonuses, commissions, and other non-base hourly wages earned by employees into their regular rate of pay for purposes of paying them meal period premiums, sick pay, overtime, and double-time wages at the correct rates; (3) failure to authorize and provide meal periods or proper compensation in lieu thereof; (4) requiring employees to agree to employment contract terms that are prohibited by law; (5) failure to issue accurately itemized wage statements; and (6) failure to timely pay wages upon separation of employment. Defendant vigorously denies it did anything wrong or owes any PAGA penalties to the State of California or to PAGA Members.

The Fresno County Superior Court has not ruled on the merits of the Lawsuit but it has approved the settlement between the Parties, including the civil penalties settlement amount to be paid by Defendant. Pursuant to California law, a portion of that settlement amount goes to the State of California’s Labor and Workforce Development Agency, (“LWDA”). Another portion of the settlement amount goes to the PAGA Members. In agreeing to this settlement, Defendant does not admit that it is liable in any way to any individuals for the alleged violations. The settlement of this Lawsuit and Final Approval Order and Judgment does not in any way release a PAGA Member’s individual claims, to the extent a PAGA Member may have any individual claims.

You are receiving this payment as your share of the settlement. You have 180 days to cash the settlement check. If you do not cash your check by this date, the money will be transferred to the State of California Unclaimed Property Fund, from which you may recover the money at a future time. You will receive an IRS Form 1099 form for the amount of your settlement check, if required by law. If you have lost or misplaced your settlement check, you should contact the Administrator at the toll-free number shown at the top of this letter. It is strongly recommended that all checks be cashed immediately upon receipt. Defendant will not in any manner retaliate against any individual who cashes their settlement check.

You are not a party to the Lawsuit, but you and the State of California will be bound by the order in this matter approving the settlement and entering judgment in the Lawsuit, as well

as to the release of claims in this Lawsuit, stated below, only as to civil penalties under PAGA.

The Court-approved settlement contains the following release of claims, to which you are bound:

Upon approval by the Court of this Settlement, and subject to Defendant's payment of the GSA, Plaintiff, individually and in her representative capacity on behalf the State of California and the PAGA Members will fully and finally release and discharge the Released Parties from all claims, rights, demands, liabilities, costs, attorney's fees, and causes of action for civil penalties under the PAGA, arising during employment by Defendant in California in a non-exempt position between September 15, 2021 and June 12, 2023 (the "PAGA Period"), based on the factual and legal allegations pled in the operative Representative Action Complaint that support or relate to the following alleged violations of law asserted by Plaintiff in the Action pursuant to PAGA: (1) failure to pay all minimum and overtime wages earned under Labor Code §§ 510, 558, and 1194; (2) failure to properly include/compute bonuses, commissions, and other non-base hourly wages earned by employees into their regular rate of pay for purposes of paying them meal period premiums, sick pay, overtime, and double-time wages at the correct rates under Labor Code §§ 226.7, 246, 510, 512, 558, and 1194; (3) failure to provide meal periods and/or pay premium wages to employees who were denied proper meal periods under Labor Code §§ 226.7, 512, and 558; (4) requiring employees to agree to employment contract terms that are prohibited by law under Labor Code § 432.5; (5) failure to issue accurately itemized wage statements under Labor Code §§ 226(a) and 226.3; and (6) failure to timely pay wages upon separation of employment under Labor Code §§ 201-202 (the "Released PAGA Claims").

The "Released Parties" means Defendant, and each of and all of its respective past, present and future agents, employees, officers, directors, partners, trustees, representatives, shareholders, stockholders, members, attorneys, parents (including Electronic Recyclers International, Inc.), subsidiaries, equity sponsors, related companies/corporations and/or partnerships, divisions, assigns, predecessors, successors, insurers, consultants, joint venturers, joint employers, affiliates, alter-egos, co-employers, dual employers, service providers, contracting partners, subcontractors, employee benefit plans and fiduciaries thereof, and all other persons and/or entities acting under, by, through or in concert with any of them.

If you have any questions, you can contact the settlement administrator (whose contact information is at the top of this letter) or Plaintiff's Counsel as follows:

**Attorneys for Plaintiff Diane Gil:**

Daniel F. Gaines, Esq.

Alex P. Katofsky, Esq.

Evan S. Gaines, Esq.

**GAINES & GAINES, APLC**

4550 East Thousand Oaks Boulevard, Suite 100

Westlake Village, CA 91362

Telephone: (866) 550-0855

**PLEASE DO NOT CONTACT THE COURT OR THE JUDGE WITH ANY  
QUESTIONS ABOUT THE LAWSUIT OR THE SETTLEMENT**

# **EXHIBIT D**

**Gil v. Electronic Recyclers of America, LLC**

**Attorney Time/Task**

| <b>Task</b>                                                                                                                                                                                                                          | <b>Daniel F. Gaines,<br/>Esq.<br/>\$700/hr</b> | <b>Alex P.<br/>Katofsky, Esq.<br/>\$750/hr</b> | <b>Evan S. Gaines,<br/>Esq.<br/>\$625/hr</b> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|------------------------------------------------|----------------------------------------------|
| Pre-Lawsuit interviewing, investigation and research re Defendant and claims; Research re: defenses to action                                                                                                                        | 1.1                                            | 10.0                                           | 2.5                                          |
| Draft LWDA compliance Letter; Review, revise, mail, and submit LWDA Letter; Communications with Client re same                                                                                                                       | 1.5                                            |                                                | 1.9                                          |
| Draft and file PAGA Complaint and related research; Communications with Client re same                                                                                                                                               | 3.6                                            |                                                | 4.2                                          |
| Prepare case management statement; Attend Hearing re: Settlement                                                                                                                                                                     | 2.2                                            | 1.4                                            | 1.8                                          |
| Communications with Defense Counsel re Stipulation to Stay Action Pending Mediation; Review and revise Stipulation                                                                                                                   | 2.3                                            |                                                | 1.3                                          |
| Prepare mediation informal discovery letter and related communications with Defense Counsel and Client                                                                                                                               | 1.5                                            |                                                | 2.0                                          |
| Review and preparation for mediation; Related legal research; Review Defendant's informal document production, Prepare mediation brief, damage model, and related exhibits; Communications with Client and Expert re damage analysis | 6.1                                            |                                                | 2.5                                          |
| Attend mediation via Zoom with Gig Kyriacou, Esq.; Communications with Client re mediation                                                                                                                                           | 10.1                                           | 9.1                                            | 0.6                                          |
| Research, review, and preparation of PAGA settlement agreement and PAGA notice and other exhibits; Further communications and discussions with Defense Counsel and Client re same                                                    | 3.9                                            | 0.5                                            | 1.1                                          |
| Communications with Client re settlement; Drafting of motion for PAGA approval and related exhibits and documents and related communications with Defense Counsel                                                                    | 8.7                                            | 3.1                                            | 2.5                                          |
| Estimated time required for related administration work and uploading of documents to LWDA; Prepare for and attend PAGA Approval hearing and related communications with Defense and Client                                          | 10.0                                           | 10.0                                           |                                              |

**Gil v. Electronic Recyclers of America, LLC****Attorney Time/Task**

| <b>Task</b>                         | <b>Daniel F. Gaines,<br/>Esq.<br/>\$700/hr</b> | <b>Alex P.<br/>Katofsky, Esq.<br/>\$750/hr</b> | <b>Evan S. Gaines,<br/>Esq.<br/>\$625/hr</b> |
|-------------------------------------|------------------------------------------------|------------------------------------------------|----------------------------------------------|
| <b>Total Hours:</b>                 | <b>51.0</b>                                    | <b>34.1</b>                                    | <b>20.4</b>                                  |
| <b>Total Lodestar Per Attorney:</b> | <b>\$35,700.00</b>                             | <b>\$25,575.00</b>                             | <b>\$12,750.00</b>                           |
| <b>Total All Attorneys:</b>         | <b>105.5</b>                                   | <b>\$74,025.00</b>                             |                                              |

# **EXHIBIT E**

**Diane Gil v. Electronic Recyclers of America, LLC**  
**Gaines Gaines, APLC Counsel's Costs**

| <u><b>EXPENSE CATEGORY</b></u>                                                                                                                                                                                                                                                                                                                                                                                                              | <u><b>EXPENSE</b></u> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| Filing fees                                                                                                                                                                                                                                                                                                                                                                                                                                 | \$ 706.98             |
| Expert analysis fee                                                                                                                                                                                                                                                                                                                                                                                                                         | \$ 4,830.00           |
| Future estimated expenses -                                                                                                                                                                                                                                                                                                                                                                                                                 | \$ 160.00             |
| <ul style="list-style-type: none"> <li>• <i>Filing fees and One Legal Service fees for Motion for PAGA Approval (will be filed via One Legal) - \$80.00</i></li> <li>• <i>Courtesy copy delivery fees to department of Motion for PAGA Approval via One Legal - \$60.00</i></li> <li>• <i>Filing fees and One Legal Service fees for Notice of Entry of Order once PAGA Order signed (will be filed via One Legal) - \$20.00</i></li> </ul> |                       |
| <b>TOTAL EXPENSES</b>                                                                                                                                                                                                                                                                                                                                                                                                                       | <b>\$ 5,696.98</b>    |

# **EXHIBIT F**

## **CONFIDENTIAL SETTLEMENT AGREEMENT AND GENERAL RELEASE OF ALL CLAIMS**

This Confidential Settlement Agreement and General Release of All Claims ("Agreement") is entered into by and between Plaintiff Diane Gil ("Plaintiff"), and Defendant Electronic Recyclers of America, LLC ("Defendant"). Plaintiff and Defendant may be collectively referred to herein as the "Parties" and individually referred to herein as "Party."

### **RECITALS**

- A. Plaintiff, through her attorneys has alleged various claims against Defendant, including without limitation claims for: (1) failure to pay all minimum and overtime wages earned; (2) failure to authorize and provide meal periods or proper compensation in lieu thereof; (3) requiring employees to agree to illegal terms as a condition of their employment; (4) failure to issue complete and accurate itemized wage statements; and (5) failure to timely pay wages upon separation of employment (the "Allegations"). In this Agreement, the Allegations and all claims pertaining to Plaintiff's employment with Defendant, including the termination of the employment, are collectively referred to as the "Dispute."
- B. On or about September 15, 2022, Plaintiff sent a PAGA Notice to the California Labor & Workforce Development Agency ("LWDA"), with a copy to Defendant via U.S. Certified Mail, alleging the following claims against Defendant: (1) failure to pay all minimum and overtime wages earned; (2) failure to authorize and provide meal periods or proper compensation in lieu thereof; (3) requiring employees to agree to illegal terms as a condition of their employment; (4) failure to issue complete and accurate itemized wage statements; and (5) failure to timely pay wages upon separation of employment. Without indication from the LWDA it intended to investigate the claims, on November 22, 2022, Plaintiff filed the lawsuit, entitled, *Diane Gil v. Electronic Recyclers of America, LLC*, Fresno County Superior Court Case No. 22CECG03745 (the "Action"), which alleged the claims identified in Plaintiff's PAGA Notice.
- C. Defendant denies all of Plaintiff's claims and allegations, as referenced in the Action and the PAGA Notice, and further denies any liability or wrongdoing of any kind associated with the claims alleged in the Action (or otherwise).
- D. The Parties desire to fully and completely resolve any and all individual claims and/or disputes Plaintiff has or may have against Defendant, except for any and all representative claims alleged in the Action, which shall be released pursuant to the separate and distinct Settlement Agreement and Release of the Private Attorneys General Act Claim ("PAGA Settlement Agreement"), which is expressly incorporated herein by reference.
- E. This Agreement is subject to the Court approval of the PAGA Settlement Agreement.

NOW, THEREFORE, in consideration for the mutual execution of this Agreement, the recitals set forth above, and the terms, conditions, and promises set forth below, the Parties agree as follows:

## AGREEMENT

1. **No Admission of Liability or Wrongdoing.** Neither Plaintiff nor any other person or entity shall construe this Agreement or any statement in this Agreement as an admission of any wrongdoing or liability by Defendant or the Released Parties, as that latter term is defined below in Section 6(a) of this Agreement. Plaintiff acknowledges that Defendant and the Released Parties deny all claims pertaining to Plaintiff's employment with Defendant, including, but not limited to, the Dispute, and that Defendant and the Released Parties intend, by this Agreement, to avoid the expense, delay, uncertainty, and burden of further litigation.
2. **Consideration by Defendant.** In consideration for the promises made by Plaintiff in this Agreement, and contingent on the fulfillment of the conditions of this Agreement, including but not limited to the Court's approval of the PAGA Settlement Agreement, Defendant agrees to pay Plaintiff the gross sum of Seven Thousand Five Hundred Dollars (\$7,500) (the "General Release Payment") separate from the Gross Settlement Amount of the Parties' PAGA Settlement. The General Release Payment shall be made in the following manner in a check or checks made payable to "Diane Gil" in the total amount of Seven Thousand Five Hundred Dollars (\$7,500). Of that total amount, (a) Two Thousand Five Hundred Dollars (\$2,500) shall be paid to Plaintiff as wages from which the necessary deductions and withholdings will be taken and for which an IRS Form W-2 shall be issued to Plaintiff and (b) Five Thousand Dollars (\$5,000) shall be paid to Plaintiff for non-wage amounts and from which no deductions or withholdings shall be taken and for which an IRS Form 1099 shall be issued to Plaintiff.

Plaintiff understands and agrees that the Court may, in its discretion, reduce the amount of the General Release Payment. In the event that the Court approves the PAGA Settlement Agreement but reduces the amount of Plaintiff's General Release Payment, Plaintiff understands and agrees that this Agreement remains binding and enforceable except the consideration to be paid as discussed in this Section will be reduced accordingly.

3. **Responsibility for Tax Obligations.** Plaintiff has had an opportunity to seek advice from an attorney or tax advisor regarding the tax consequences of the payments and benefits provided for in this Agreement and has not relied on any representations by Defendant or the Released Parties regarding the tax consequences of such payments and benefits. Plaintiff agrees to indemnify Defendant and the Released Parties, and to hold them harmless for all taxes, penalties and interest, withholding or otherwise, for which Defendant may be found liable as a consequence of Plaintiff failing to pay her taxes in the proper amount on payments received pursuant to Section 2 of this Agreement.
4. **Sole Entitlement.** Plaintiff agrees that the General Release Payment shall constitute the entire consideration due to her, and is in full and complete satisfaction of any and all claims, demands and/or causes of action she has or may have against Defendant or the Released Parties. Plaintiff acknowledges and agrees that the Parties have a good faith dispute as to whether she is owed any wages, and/or the amount of wages she is allegedly owed, and thus through this Settlement she acknowledges and agrees she has been paid all wages and compensation she earned or accrued, or became entitled to during her employment with Defendant through the date of this Agreement. Plaintiff further agrees that she will not seek (and is prohibited from accepting) any further

compensation for any other claimed damages, costs, or attorney fees in connection with the matters encompassed in this Agreement, except for her *pro rata* share of any amounts pursuant to the PAGA Settlement Agreement and her Service Award Payment pursuant to the PAGA Settlement Agreement. Plaintiff acknowledges and agrees that she would not be entitled to receive the General Release Payment if she did not make the promises that he is making in this Agreement.

5. **Timing and Delivery of Payment.** Defendant shall cause the General Release Payment to be delivered to Gaines & Gaines, APLC, 4550 E Thousand Oaks Blvd, Suite 100, Westlake Village, CA 91362-3824, Attn: Daniel F. Gaines, no later than the Funding Date of the PAGA Settlement Agreement, provided that Defendant receive an executed copy of this Agreement and an IRS Form W-9 completed by Plaintiff. Defendant's obligation to pay the General Release Payment is expressly conditioned upon its receipt of the foregoing documents.

6. **Releases and Waivers.**

- (a) **Complete and General Release.** In exchange for the consideration, promises and covenants contained in this Agreement, and subject to the occurrence of the Active Date of the PAGA Settlement Agreement and Defendant's full payment of the GSA as provided therein, Plaintiff, on behalf of herself and her agents, representatives, attorneys, spouses, heirs, executors, administrators, successors and assigns, now or hereafter, hereby releases, waives and forever discharges Defendant and each of and all of its respective past, present and future agents, employees, officers, directors, partners, trustees, representatives, shareholders, stockholders, members, attorneys, parents (including Electronic Recyclers International, Inc.), subsidiaries, equity sponsors, related companies/corporations and/or partnerships, divisions, assigns, predecessors, successors, insurers, consultants, joint venturers, joint employers, affiliates, alter-egos, co-employers, dual employers, service providers, contracting partners, subcontractors, employee benefit plans and fiduciaries thereof, and all other persons and/or entities acting under, by, through or in concert with any of them (the "Released Parties"), from any and all claims, liabilities, causes of action, charges, complaints, obligations, costs, losses, damages, injuries, attorneys' fees, and other legal responsibilities, of any form whatsoever, whether known or unknown, unforeseen, unanticipated, unsuspected, or latent, which Plaintiff or his heirs, administrators, executors, successors in interest, and/or assigns have incurred or expect to incur, or now own or hold, or have at any time heretofore owned or held, or may at any time own, hold, or claim to hold by reason of any matter or thing arising from any cause whatsoever prior to the date of Plaintiff's execution of this Agreement related in any way to her employment with Defendant or separation thereof from Defendant (the "Release"). Specifically, and expressly excluded from this Release, are any and all representative claims alleged in the Action, which shall be released pursuant to the separate and distinct PAGA Settlement Agreement.

The scope of this Release extends to claims including, but not limited to, any alleged (a) violation of the National Labor Relations Act, Title VII of the Civil Rights Act, the California Fair Employment and Housing Act, the Americans With Disabilities Act of 1990, the Fair Labor Standards Act, the California Labor Code, any applicable California Wage Order, the California Private

Attorneys General Act (to include but not limited to, acting as a PAGA representative), the Occupational Safety and Health Act, the Consolidated Omnibus Budget Reconciliation Act of 1985, the California Family Rights Act, the Employee Retirement Income Security Act (excluding vested benefits), the California Unfair Business Practices Act/Unfair Competition Law, the Family and Medical Leave Act, the California Family Rights Act, the Worker Adjustment and Retraining Notification Act, and any state law equivalent; (b) harassment, discrimination, and/or retaliation on the basis of age, race, color, ancestry, national origin (including language use restrictions), citizenship, religious creed (including religious dress and grooming practices), sex marital status, domestic partnership status, sexual orientation, gender, gender identity or gender expression, veteran status, military status, political affiliation, family care or medical leave status or the denial of family and medical care leave, physical or mental disability (including HIV and AIDS), medical condition (including cancer and genetic characteristics), genetic information or any other basis protected by applicable federal, state and/or local laws, regulations, rules, ordinances and/or orders, failure to prevent harassment, discrimination, and/or retaliation, failure to accommodate, failure to engage in the interactive process, retaliation; (c) any whistleblower or retaliation claims on the basis of any protected activity or other protected basis; (d) breach of any express or implied promise, contract or agreement (express or implied), or breach of the implied covenant of good faith and fair dealing; (e) any tort or common law claims, including wrongful discharge, intentional or negligent infliction of emotional distress, negligence, fraud, misrepresentation, defamation, interference with prospective economic advantage, or other tort or common law actions; (f) claims for misclassification, wage and hour, or other claims related to hours, conditions, or compensation related to work; and (g) any other violation of local, state, or federal law, constitution, statute, regulation or ordinance, public policy, contract, or tort or common law claim, whether for legal or equitable relief, having any bearing whatsoever on the terms and conditions of employment, or association or working relationship, with any of the Released Parties, including but not limited to any allegations for penalties, interest, costs and fees, including attorneys' fees, incurred in any of these matters, which Plaintiff ever had, now has, or may have prior to the date of Plaintiff's execution of this Agreement. All such claims, liabilities or causes of action (including, without limitation, claims for related attorneys' fees and costs) are forever barred by this Agreement regardless of the forum in which they may be brought. The Parties intend for this Release to be as broad as possible.

To the maximum extent permitted by law, Plaintiff waives any right or ability to be a class, collective action or PAGA representative, or to otherwise knowingly and voluntarily participate in any putative or certified class, collective, representative, or multi-party action or proceedings in which any of the Released Parties is a party.

Plaintiff represents and acknowledges that the consideration contained in the Agreement shall constitute the entire consideration provided to Plaintiff and Plaintiff will not seek any further compensation for any claim, damage, cost, or attorney's fees in connection with the matters encompassed in the Agreement. Plaintiff represents and acknowledges that the consideration contained in the

Agreement constitutes a full satisfaction and accord of any claims Plaintiff has or may have against any of the Released Parties. Plaintiff acknowledges the Payment constitutes ample consideration, the sufficiency of which is hereby acknowledged, for Plaintiff's promises in the Agreement.

- (b) **Section 1542 Waiver.** Plaintiff stipulates and agrees that she expressly waives and relinquishes, to the fullest extent permitted by law, the provisions, rights, and benefits of Section 1542 of the California Civil Code, or any other similar provision under federal or state law, which provides:

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

Plaintiff may hereafter discover facts in addition to or different from those she now knows or believes to be true with respect to the subject matter of the Release, but Plaintiff upon the Effective Date shall fully, finally, and forever settle and release any and all of the claims released pursuant to the Release, whether known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or heretofore have existed upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts.

- (c) **Non-Waivable Rights.** This Release does not apply to any claims that cannot be released as a matter of law. The provisions of this Section 6(c) also do not preclude filing a charge or complaint with or from participating in an investigation or proceeding conducted by the Equal Employment Opportunity Commission ("EEOC"), the National Labor Relations Board ("NLRB"), the Occupational Safety and Health Administration ("OSHA"), or any other federal, state, or local agency charged with the enforcement of any employment laws, although Plaintiff understands that by signing this Agreement, she waives the right to recover any damages or to receive other relief directly from the Released Parties in any claim or suit brought by or through the EEOC, NLRB, OSHA or any other federal, state, or local agency on his behalf.
- (d) **Effect of Non-Approval of PAGA Settlement.** The Parties understand and expressly agree that if the Court in the Action does not approve the PAGA Settlement Agreement, or if its Active Date does not occur, or if Defendant does not fund the GSA therein, this Agreement shall become null and void and no longer have any force or effect.

7. **Medicare Benefits Acknowledgment.** Plaintiff expressly acknowledges Medicare's statutory right to recovery of conditional payments for medical treatment and medical service rendered in connection with any illness or injury suffered by Plaintiff in the course of her services performed for Defendant. In consideration for the monies paid by Defendant, Plaintiff further warrants, represents, and guarantees that she is not a Medicare Beneficiary, and there are no outstanding Medicare or Medicaid claims or

rights of recovery of conditional payments based on her application for, or receipt of, Medicare or Medicaid benefits. This specifically includes benefits arising out of or in any way connected with, directly or indirectly, the facts and/or allegations that form the basis of the Action, the occurrences described herein, and any consequences thereof. Additionally, Plaintiff warrants, represents, and guarantees that she has no medical expenses arising out of or in any way connected with, directly or indirectly, the facts and/or allegations that form the basis of the Action, the occurrences described herein, and any consequences thereof, including any released claims, nor does she anticipate any medical expenses arising out of or in any way connected with, directly or indirectly, the facts and/or allegations that form the basis of the Action, the occurrences described herein, and any consequences thereof, including any released claims. In the event Medicare asserts such a claim or right of reimbursement now, or at any point in the future, all such claims or rights of reimbursement shall be satisfied from among the proceeds of this settlement, and no additional monies shall ever be requested from or paid by the Released Parties. This settlement is based upon a good faith determination of the Parties to resolve disputed claims. The Parties have not shifted responsibility of medical treatment to Medicare in contravention of 42 U.S.C. § 1395y(b). The Parties resolved this matter in compliance with both state and federal law. The Parties made every effort to adequately protect Medicare's interest and incorporate such into the settlement terms.

The Parties acknowledge and understand that any present or future action or decision by the Centers for Medicare & Medicaid Services ("CMS") or Medicare on this Agreement, or Plaintiff's eligibility or entitlement to Medicare or Medicare payments, will not render this Release void or ineffective, or in any way affect the finality of this Agreement. Plaintiff acknowledges and agrees that she will indemnify, defend, and hold Defendant harmless from any and all Medicare claims, liens, damages, conditional payments, and rights to payment, if any, including attorney's fees. Plaintiff further agrees to waive any and all future private causes of action for damages pursuant to 42 U.S.C. § 1395y(b)(3).

8. **Successors.** This Agreement shall be binding upon the Parties, and their heirs, representatives, executors, administrators, successors, insurers, and assigns, and shall inure to the benefit of Defendant and each and all of the Released Parties, and to their heirs, representatives, executors, administrators, successors, and assignees.
9. **Payments.** Plaintiff acknowledges and agrees that other than the amounts due to Plaintiff under this Agreement and the PAGA Settlement Agreement, Defendant has paid Plaintiff all compensation or other payments due to Plaintiff. Plaintiff further acknowledges that after Defendant makes the General Release Payment, the Released Parties will not owe any amounts to Plaintiff whatsoever other than as pursuant to the PAGA Settlement Agreement.
10. **Covenant Not to Sue.** Plaintiff expressly represents, warrants and covenants not to sue the Released Parties for any claim or cause of action released pursuant to this Agreement. A lawsuit to enforce the terms of this Agreement shall be excepted from the terms of this Section 10, and shall not constitute a breach of the covenant not to sue. This covenant not to bring or maintain any action in law or equity shall be specifically enforced and each Party shall have standing to bring any such action for specific enforcement and shall be a real party as defined in Code of Civil Procedure section 367.

11. **Admissibility of Agreement.** The Parties agree this Agreement is admissible for the purposes of proving up and or enforcing the terms of the Parties' Agreement, as set forth in this Agreement and under the PAGA Settlement Agreement, pursuant to California Evidence Code section 1123 and California Code of Civil Procedure section 664.6. The Court in the Action shall retain jurisdiction to enforce this Agreement, as authorized by California Code of Civil Procedure section 664.6 and as otherwise allowed by law.
12. **No Attorney Fees and Costs.** Plaintiff and Defendant agree that except as otherwise stated in this Agreement, they shall bear their own respective costs and fees, including, but not limited to, attorney's fees in connection with the Dispute and the negotiation and execution of this Agreement and the PAGA Settlement Agreement.
13. **No Representations.** The Parties acknowledge that, except as expressly set forth in this Agreement, no representation of any kind or character has been made to induce the execution of this Agreement.
14. **Governing Law.** This Agreement shall be governed by and interpreted under the laws of the State of California applicable to contracts made and to be performed entirely within such State.
15. **Entire Agreement.** This Agreement and the PAGA Settlement Agreement set forth the entire agreement between Plaintiff, on the one hand, and Defendant, on the other hand, and fully supersede any and all prior agreements and understandings between them pertaining to the subject matter of this Agreement. The Parties agree that no change to or modification of this Agreement shall be valid or binding unless it is in writing and signed by Plaintiff and a duly authorized officer(s) of Defendant.
16. **Construing Provisions.** The Parties agree not to challenge this Agreement as illegal, invalid, or unenforceable. If any provision of this Agreement is determined to be invalid or unenforceable, that provision shall be severed from this Agreement and all of the other provisions shall remain valid and enforceable notwithstanding the severing of the unenforceable portion, unless the provision found to be unenforceable is of such material effect that this Agreement cannot be performed in accordance with the intent of the Parties in the absence of that provision.
17. **Jointly Drafted.** This Agreement is deemed to have been drafted jointly by the Parties. Any uncertainty or ambiguity shall not be construed for or against any Party, since all Parties have participated in the negotiations and drafting of this Agreement.
18. **Third Party Beneficiaries.** This Agreement shall inure to the benefit of and be binding upon the heirs, representatives, successors and assigns of Plaintiff and Defendant. Each of the Released Parties who is not a signatory to this Agreement is hereby agreed to be third party beneficiaries of this Agreement and shall be entitled to all rights, benefits and protections of this Agreement, and shall further be entitled to enforce this Agreement and each of its terms.
19. **Execution in Counterparts and by Facsimile or E-mail.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Furthermore,

signatures delivered via facsimile transmission or e-mail shall have the same force, validity and effect as the originals of the signatures.

20. **Attorney Review.** Each Party has had a full and complete opportunity to review this Agreement, and make suggestions or changes and seek legal advice. Accordingly, each Party understands that this Agreement is deemed to have been drafted jointly by the Parties and agrees that the common-law principles of construing ambiguities against the drafter shall have no application hereto. It should be construed fairly and not in favor of or against one Party as the drafter of that provision or this Agreement.
21. **Voluntary Agreement.** Plaintiff understands and agrees that she is waiving significant legal rights by signing this Agreement, and represents that she has entered into this Agreement voluntarily and knowingly, after consulting with legal counsel of her own choosing, with a full understanding of and in agreement with all of its terms.
22. **Severability.** If any term of this Agreement is declared invalid for any reason, such determination shall not affect the validity of the remainder of the Agreement. The remaining parts of this Agreement shall remain in effect as if the Agreement had been executed without the invalid terms.

[Signature Pages Follow]

**The Parties knowingly and voluntarily sign this Confidential Settlement Agreement and General Release of All Claims as of the date(s) set forth below.**

Dated 08 / 01 / 2023

  
\_\_\_\_\_  
Diane Gil

Dated: 8/3/23

Electronic Recyclers of America, LLC

By:   
Its: Corporate Secretary

APPROVED AS TO FORM:

**Gaines & Gaines, APLC**

Dated: August 3, 2023

By:   
\_\_\_\_\_  
Daniel F. Gaines, Attorneys for Plaintiff

**Fennemore Dowling Aaron**

Dated: Aug. 4, 2023

By:   
\_\_\_\_\_  
Mark D. Kruthers, Attorneys for  
Electronic Recyclers of America, LLC

# **EXHIBIT G**

**Gil v. Electronic Recyclers of America, LLC**  
**Gil Individual Damage Model**

**Assumptions**

November 22, 2018 - March 23, 2022 Dates of employment during 4 Year Statute of Limitations ("SOL")  
September 15, 2021 - March 23, 2022 Dates of employment during PAGA period (27 weeks, approx. 6 months, 12 pay periods)  
1,038 Approximate number of shifts worked by Plaintiff during her employment (6 shifts a week for 173 weeks = 1,038)  
\$17.00 Plaintiff's average hourly rate during her employment

**Labor Code 203 - Waiting Time Penalties**

\$142.38 Average daily wage for Plaintiff (\$17 x 8 hours + \$25.5 OT x 0.25 hours)  
30 days x \$142.38/average daily wage  
**\$4,271.40 Total Waiting Time Penalties**

**Labor Code 226.7/512 - Failure to Provide Meal Periods**

1,038 Approximate number of shifts worked by Plaintiff during her employment (6 shifts a week for 173 weeks = 1,038)  
\$17.00 Plaintiff's hourly rate during her employment  
100% Violation rate (estimated)  
**\$17,646.00 Total Meal Period Premium Wages**

**Labor Code 226(e) - Wage Statement Penalties**

12 Approximate number of pay periods Plaintiff worked during PAGA Period  
\$50 per initial violation (1 x \$50) and \$100 per subsequent violation (11 x \$100)  
**\$1,150.00 Total Wage Statement Penalties**

**Labor Code 432.5 - Illegal Contract Terms Penalties**

12 Approximate number of pay periods Plaintiff worked during PAGA Period  
\$100 per violation (12 x \$100)  
**\$1,200.00 Total Illegal Contract Penalties**

**Labor Code 510/1194 - Failure to Pay all Overtime Wages Due (Estimate based on 15 minutes OTC/day)**

1,038 Approximate number of shifts worked by Plaintiff during her employment (6 shifts a week for 173 weeks = 1,038)  
\$6.38 Total estimated unpaid overtime per shift (\$25.5 x 0.25)  
**\$6,617.25 Total Unpaid Wages**

**\$30,884.65 TOTAL PENALTIES AND WAGES, EXCLUDING ATTORNEYS' FEES & COSTS**