

HAINES LAW GROUP, APC

Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
Sean M. Blakely (SBN 264384)
sblakely@haineslawgroup.com
Joel M. Gordon (SBN 280721)
jgordon@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiffs

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

ELENA ORELLANA, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

LIBERTY BUILDING MAINTENANCE &
SERVICES, INC., a California corporation; and
DOES 1 through 100,

Defendants.

Case No. 22STCV19544

*[Assigned for all purposes to Hon. David S.
Cunningham III, Dept. SSC-11]*

**DECLARATION OF SEAN M.
BLAKELY IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: December 18, 2023
Time: 10:00 a.m.
Dept.: SSC-11

Complaint Filed: June 15, 2022
Trial Date: None Set

1 I, SEAN M. BLAKELY, declare as follows:

2 1. I am a Partner at Haines Law Group, APC, and counsel for the named Plaintiffs
3 Elena Orellana and Rocio Navarro ("Plaintiffs") and the proposed Settlement Class in the above-
4 captioned matter. I am a member in good standing of the bar of the State of California and am
5 admitted to practice in this Court. I have personal knowledge of the facts stated in this declaration
6 and could testify competently to them if called upon to do so.

7 2. I am a 2008 graduate of Southwestern Law School. I was admitted to the California
8 State Bar in September 2009. From December 2010 to September 2011, I worked as a Law Clerk
9 for Rose, Klein & Marias, a civil litigation firm in Long Beach, California. At Rose, Klein &
10 Marias I assisted trial attorneys in employment and personal injury cases. From September 2011
11 to May 2016, I worked as an associate at the employment law firm of Mahoney Law Group, APC
12 in Long Beach, California. The vast majority of my work at Mahoney Law Group, APC focused
13 on representing employees in wage and hour class actions. My work at Mahoney Law Group,
14 APC also included representing employees in individual claims for wrongful termination,
15 harassment, discrimination, and retaliation. Although non-exhaustive, the types of work I
16 performed at Mahoney Law Group, APC included: conducting client intakes performing pre-
17 filing research and analysis, drafting complaints, attending court hearings, corresponding with
18 opposing counsel, drafting and responding to written discovery, preparing for and taking and
19 defending depositions, analyzing payroll and timekeeping records and employee handbooks,
20 opposing motions for summary judgment, as well as a variety of other motions such as motions
21 for remand, demurrers and motions to dismiss, motions to strike, motions to compel, motions to
22 quash, and motions for class certification, drafting mediation briefs, attending mediations,
23 drafting long-form settlement agreements, drafting motions for preliminary and final settlement
24 approval, and overseeing the notice process.

25 3. Since November 8, 2016, I have worked at my current firm, Haines Law Group,
26 APC, where, in 2020, I became a Partner. I am currently responsible for managing over forty
27 (40) active wage and hour class and representative actions in both state and federal court.

28 4. The following is a non-exhaustive list of wage and hour class actions in which I

1 have been appointed as class counsel and/or played a significant role in prosecuting the litigation,
2 and which have received final approval: *Santimateo v. Sun Healthcare Group, Inc., et al*, Case
3 No. BC471884, California Superior Court, Los Angeles County, Judge Jane L. Johnson presiding
4 (granted final approval of settlement on behalf of employees at rehabilitation facility involving
5 claims for unpaid wages and meal and rest period violations, and other claims, in which I was
6 approved at an hourly rate of \$325 for work performed in 2012-2013); *Teyuca v. Pacific Alliance*
7 *Medical Center, Inc.*, California Superior Court, Los Angeles County, Judge William F.
8 Highberger presiding (granting final approval of settlement on behalf of healthcare workers for
9 unpaid wages, meal and rest period violations, and other claims, in which I was approved at an
10 hourly rate of \$325 for work performed in 2012-2013); *Arteaga v. Command Center Security,*
11 *Inc.*, Case No. BC480496, California Superior Court, Los Angeles County, Judge John Shepard
12 Wiley, Jr. presiding (granting final approval of settlement on behalf of security guards involving
13 claims for unpaid overtime, meal and rest period violations, and other claims, in which I was
14 approved at an hourly rate of \$425 for work performed in 2012-2015); *Casadine v. Maxim*
15 *Healthcare Services, Inc.*, Case No. CV 12-10078-DMG (CWx), United States District Court,
16 Central District of California, Judge Dolly M. Gee presiding (granting final approval of settlement
17 on behalf of home health care employees involving claims for unpaid wages and other claims, in
18 which I was approved at an hourly rate of \$425 for work performed in 2012-2015); *Guzman v.*
19 *Andrew Lauren Interiors, Inc., et al.*, Case No. BC567757, California Superior Court, Los
20 Angeles County, Judge Elihu M. Berle presiding (granting final approval of settlement on behalf
21 of construction workers involving claims for unpaid wages, meal and rest period violation, and
22 other claims, in which I was approved at an hourly rate of \$425 for work performed in 2014-
23 2016); *Booker v. The Goodyear Tire and Rubber Company*, Case No. BC498399, California
24 Superior Court, Los Angeles County, Judge Amy Hogue presiding (granting final approval of
25 settlement on behalf of tire mechanics involving claims for unpaid wages, meal and rest period
26 violations, and other claims, in which I was approved at an hourly rate of \$425 for work performed
27 in 2013-2015); *Nunez v. CompuCom Systems, Inc.*, Case No. BC618385, California Superior
28 Court, Los Angeles County, Judge John Shepard Wiley, Jr. presiding (granting final approval of

1 settlement on behalf of IT support workers for overtime, meal and period, reimbursement, and
2 related violations, approved at hourly rate of \$475 for work performed in 2016 and 2017); *Galvan*
3 *v. AMVAC Chemical Corporation*, Case No. 30-2014-00716103-CU-OE-CXC, California
4 Superior Court, Orange County, Judge William D. Claster presiding (granting final approval of
5 settlement on behalf of non-exempt employees of a chemical manufacturing company involving
6 claims for unpaid overtime and waiting time penalties); *Razon v. TTM Technologies, Inc., et al.*,
7 Case No. 37-2016-00038326-CU-OE-CTL, California Superior Court, San Diego County, Judge
8 Gregory W. Pollack presiding (granting final approval of settlement involving claims for unpaid
9 overtime wages, wage statement violations, and meal period violations); *Blank v. Coty, Inc., et*
10 *al.*, Case No. BC624850, California Superior Court, Los Angeles County, Judge Williams F.
11 Highberger presiding (granting final approval of settlement involving claims for wage statement
12 violations, meal period violations, and other claims); *Morales v. Caremeridian, LLC, et al.*, Case
13 No. BC593191, California Superior Court, Los Angeles County, Judge William F. Highberger
14 presiding (granting final approval of settlement on behalf of direct support professionals
15 involving claims for unpaid wages, meal and rest period violations, wage statement violations,
16 and other claims); *Aguilar v. Act Fulfillment, Inc.*, Case No. RIC1616643, California Superior
17 Court, Riverside County, Judge Sharon J. Waters presiding (granting final approval of settlement
18 on behalf of non-exempt factory workers involving claims for meal period violations); *Sandoval*
19 *v. AMCOR Flexibles Inc.*, Case No. BC617499, California Superior Court, Los Angeles County,
20 Judge Kenneth R. Freeman presiding (granting final approval of settlement on behalf of
21 manufacturing employees involving claims for unpaid wages, meal period violations, rest period
22 violations, and waiting time penalties); *Le v. GBW Railcar Services, L.L.C.*, Case No.
23 RIC1612209, California Superior Court, Riverside County, Judge Sharon J. Waters presiding
24 (granting final approval of settlement on behalf of non-exempt employees of a freight railcar
25 manufacturer involving claims for unpaid overtime and minimum wages, meal period violations,
26 and rest period violations); *Silva v. ADJ Products, LLC*, Case No. BC618581, California Superior
27 Court, Los Angeles County, Judge William F. Highberger presiding (granting final approval of
28 settlement involving claims for unpaid overtime and minimum wages, rest period violations,

wage statement violations, and waiting time penalties); *Lira v. Discus Dental, LLC, et al.*, Case No. CIVDS1620402, California Superior Court, San Bernardino County, Judge David Cohn presiding (granting final approval of settlement on behalf of non-exempt manufacturing employees involving claims for unpaid minimum and overtime wages, meal and rest period violations, and other claims); *Gonzales v. PathPoint*, Case No. BC657147, California Superior Court, Los Angeles County, Judge Carolyn B. Kuhl presiding (granting final approval of settlement on behalf of non-exempt direct support professionals involving claims for meal and rest period violations and other claims); *Duran v. PRADA USA CORP.*, Case No. BC644319, California Superior Court, Los Angeles County, Judge Maren E. Nelson presiding (granting final approval of settlement on behalf of non-exempt commissioned salespersons involving claims for unpaid overtime wages, meal and rest period violations, failure to reimburse for necessary expenditures, and other claims); *Banegas v. UPM, Inc.*, Case No. BC644438, California Superior Court, Los Angeles County, Judge Carolyn B. Kuhl presiding (granting final approval of settlement on behalf of non-exempt manufacturing employees involving claims for unpaid wages, meal and rest period violations, and other claims); *Palafox v. Pacific Line Clean-Up, Inc.*, Case No. 30-2017-00921632-CU-OE-CXC, California Superior Court, Orange County, Judge William D. Claster presiding (granting final approval of settlement on behalf of non-exempt employees involving claims for unpaid overtime wages, meal and rest period violations, and other claims); *Janet Arroyo v. AST Sportswear, Inc., dba Bayside Apparel Manufacturing, Inc.*, Case No. 30-2017-00909663-CU-OE-CXC, California Superior Court, Orange County, Judge Glenda Sanders presiding (granting final approval of settlement on behalf of non-exempt garment employees involving claims for unpaid minimum wages, meal and rest period violations, and other claims); *Carlos Garcia v. Fabrica International, Inc.*, Case No. 30-2017-00949461-CU-OE-CXC, California Superior Court, Orange County, Judge William D. Claster presiding (granting final approval of settlement on behalf of non-exempt manufacturing employees involving claims for unpaid minimum and overtime wages, meal and rest period violations, and statutory penalties); *Jonathan Leon v. Piercey West, Inc.*, Case No. BC656874, California Superior Court, Los Angeles County, Judge Amy D. Hogue presiding (granting final approval of settlement on behalf

1 of non-exempt commissioned salespersons and other employees involving claims for unpaid
2 wages, meal and rest period violations, unreimbursed business expenses, and other claims); and
3 *Matthew Tovar, et al. v. Rentokil North America, Inc.*, Case No. BC676386, California Superior
4 Court, Los Angeles County, Judge Daniel J. Buckley presiding (granting final approval of
5 settlement on behalf of non-exempt employees involving claims for unpaid overtime, meal and
6 rest break violations, and other claims); *Seungmin Samantha Lee v. Infor (US) Inc.*, Case No.
7 CGC-18-566393, California Superior Court, San Francisco County, Judge Ethan P. Schulman
8 presiding (granting final approval of settlement on behalf of sales development representatives
9 involving claims for unpaid overtime, meal and rest period violations, and penalty claims); *Tracy*
10 *Aguilar, et al. v. Aero Port Services, Inc.*, Case No. BC659234, California Superior Court, Los
11 Angeles County, Judge Carolyn B. Kuhl presiding (granting final approval of settlement on behalf
12 of non-exempt employees involving claims for meal and rest period violations, and other claims);
13 *Carlos Perez, et al. v. Moss Bros. Auto Group, Inc., et al.*, Case No. RIC1709905, California
14 Superior Court, Riverside County, Judge Sunshine S. Sykes presiding (granting final approval of
15 settlement on behalf of non-exempt commissioned salespersons involving claims for unpaid
16 wages, meal and rest period violations, other claims); and *Julio Alfaro v. Orange Automotive*
17 *d/b/a Kia of Orange*, Case No. 30-2017-00945105-CU-OE-CXC, California Superior Court,
18 Orange County, Judge Randall J. Sherman presiding (granting final approval settlement on behalf
19 of non-exempt commissioned employees involving claims for unpaid wages, meal and rest period
20 violations, unreimbursed business expenses, and penalty claims).

21 5. I have also moved to certify and have received an order certifying a class action in
22 *Ontiveros v. Safelite Fulfillment, Inc., et al.*, Case No. CV 15-7118-DMG (RAOx), United States
23 District Court, Central District of California, Honorable Dolly M. Gee presiding (certifying six
24 classes of employees for rest period violations, wage statement violations, meal period violations,
25 and overtime and double-time violations); and *Vazquez v. Kraft Heinz Foods Company*, Case No.
26 16-CV-02749-WQH (BLM), United States District Court, Southern District of California,
27 Honorable William Q. Hayes, presiding (certifying unpaid wages classes, meal period classes,
28 wage statement class, and waiting time penalty class).

1 6. In 2018, 2019, 2020, 2021, and 2022, Thomson Reuters recognized me as a Top
2 Young Attorney in Southern California in the annual Rising Star Edition of Super Lawyers. This
3 is an honor awarded to no more than two-and-a-half percent (2.5%) of attorneys under the age of
4 forty in Southern California each year.

5 7. As counsel for Plaintiffs and the proposed Settlement Class, I have been intimately
6 involved in this case since its inception and I believe that the proposed Settlement is an excellent
7 result for the Settlement Class.

8 8. Defendant Liberty Building Maintenance & Services, Inc. (“Liberty Building”)
9 was a provider of janitorial and building maintenance services for commercial office buildings
10 throughout Los Angeles. On April 1, 2021, Liberty Building was sold to Haynes Building Services,
11 LLC and ceased all operations.

12 9. On June 15, 2022, Plaintiff Orellana filed a Class Action Complaint against
13 Liberty Building in Los Angeles County Superior Court, alleging causes of actions for: (1) failure
14 to pay all overtime wages; (2) failure to pay all minimum wages; (3) meal period violations; (4)
15 rest period violations; (5) wage statement violations; (6) waiting time penalties; and (7) unfair
16 competition in violation of California Business & Professions Code § 17200 *et seq.* On October
17 21, 2022, Plaintiff Orellana sent her PAGA notice letter to the LWDA. Attached hereto as **Exhibit**
18 **B** is a true and correct copy of Plaintiff Orellana’s October 21, 2022 LWDA Letter. On December
19 27, 2022, Plaintiff Orellana filed a First Amended Class and Representative Action Complaint
20 (“FAC”) adding a cause of action for civil penalties under the Private Attorneys’ General Act of
21 2004, Labor Code Section 2698, *et seq.*

22 10. As part of the Settlement, the Parties stipulated to the filing of a Second Amended
23 Class and Representative Action Complaint (“SAC”), which added Plaintiff Navarro as a named
24 Plaintiff and certain factual allegations. Plaintiffs filed the SAC on November 20, 2023.

25 11. Although Plaintiffs brought a cause of action for civil penalties under the PAGA,
26 Plaintiffs learned that Liberty Building ceased all operations as of April 1, 2021 and the company
27 was sold to Haynes Building Service, LLC on or around that date. Plaintiff Orellana served her
28 PAGA letter on October 21, 2022. Because Liberty Building was sold on April 1, 2021 and ceased

all operations as of that date, Liber contends it does not have any potential PAGA liability

12. In connection with mediation, the Parties engaged in extensive informal discovery. Liberty Building produced timekeeping and payroll records for all 308 putative class members. Liberty Building also provided a detailed Class List, which included putative class members' date of hire, date of termination (if applicable), and hourly rate of pay, as well as its written wage and hour policies and employee handbooks. Plaintiffs hired a labor economist with a Ph.D. in economics to assist Plaintiffs in conducting a comprehensive analysis of the payroll and timekeeping data produced by Liberty Building to calculate class-wide damages for each of Plaintiffs' claims. This discovery allowed the Parties to assess the merits and value of Plaintiffs' claims, the chances of certification of Plaintiffs' claims, and Liberty Building's potential defenses.

13. On August 8, 2023, the Parties participated in a full-day mediation with Tripper Ortman, Esq., a highly experienced wage and hour class action mediator. During mediation, the Parties vigorously debated their opposing legal positions, the likelihood of certification of Plaintiff's claims, and the legal basis for the claims and defenses. At the conclusion of mediation, Mr. Ortman issued a mediator's proposal for a class-wide settlement, which was accepted by all Parties. During the months that followed, the Parties finalized the terms of the Settlement and executed the long-form Settlement Agreement now before the court. A true and correct copy of the Stipulation of Settlement is attached hereto as **Exhibit A**. The proposed Class Notice and Notice of Estimated Settlement Award are attached as **Exhibits 1** and **2**, respectively, to the Settlement Agreement.

14. The monetary terms of the Settlement are summarized below:

• Gross Settlement Amount ("GSA"):	\$550,000.00
• Minus Court-approved attorneys' fees:	\$183,333.33
• Minus Court-approved verified costs (up to):	\$35,000.00
• Minus Court-approved Service Award:	\$12,500.00
• <u>Minus estimated settlement administration costs:</u>	<u>\$10,000.00</u>
Net Settlement Amount ("NSA"):	\$309,166.67

15. Based on information from Liberty Building, there are approximately 308

1 Settlement Class members. Therefore, the average Individual Settlement Amount from the NSA
2 is projected to be approximately \$1,003.79.

3 16. Plaintiffs allege that Liberty Building utilized a timekeeping system that
4 systematically underpaid wages to Settlement Class members. Specifically, from the beginning
5 of the Class Period through January 1, 2020, Plaintiffs allege that Liberty Building's supervisors
6 recorded employee's start and end times, and always recorded hours worked in quarter-hour
7 increments, resulting in a failure to compensate for all hours worked. After January 2020,
8 Plaintiffs allege employees were required to download the PayCom application on their cell
9 phones and record their hours worked through the PayCom application. Plaintiffs allege that after
10 January 2020, Liberty Building continued to round time-keeping entries in quarter-hour
11 increments, resulting in a failure to compensate for all hours worked. Based on Plaintiffs' review
12 of employee timekeeping and payroll records, Plaintiffs estimate that Liberty Building's
13 timekeeping policies/practices has resulted in an underpayment of approximately fifteen (15)
14 minutes per shift. Plaintiffs estimate there were approximately 85,450 shifts worked during the
15 Class Period, and that the average hourly rate of pay was \$13.06. Accordingly, Plaintiffs calculate
16 the maximum potential exposure for this claim at approximately \$557,988 (85,450 shifts * 15/60
17 * \$13.06 average hourly rate of pay * 2 for liquidated damages). However, Liberty Building
18 argues that its timekeeping policies/practices complied with California law and that it has always
19 properly compensated Settlement Class members for all hours worked throughout the Class
20 Period. Liberty Building contends that it utilized an even-handed timekeeping system that, on
21 balance, resulted in employees being paid for all hours actually worked. Finally, Liberty Building
22 asserts that Plaintiffs would be unable to certify this claim since its timekeeping policies/practices
23 are facially neutral and individualized inquiries would be necessary as to whether employees were
24 in fact underpaid for each workday in question (including whether they were actually working
25 when they were clocked in), resulting in an unmanageable series of mini-trials. Given these
26 defenses, Plaintiffs discounted this maximum amount by 40% for risk of non-certification and an
27 additional 45% for a risk of being unsuccessful on the merits or of failing to recover the full
28 amount sought, to arrive at an estimated realistic exposure of approximately \$184,136.

1 17. Based on Plaintiffs' review of employee records, Plaintiffs estimate approximately
2 15% of Settlement Class Members were required to travel to multiple work sites in the same day
3 and were not compensated for this required travel time. Rather, Plaintiffs allege, Liberty Building
4 required Settlement Class members to clock out before traveling to another site, where employees
5 were then required to clock back in at this second work site. Plaintiffs calculated the maximum
6 potential exposure for this claim is approximately \$334,793 (15% * 85,450 total shifts in Class
7 Period * 1 hour of travel time * \$13.06 average hourly rate of pay * 2 for liquidated damages).
8 However, Liberty Building counters that no was actually being performed while employees were
9 clocked out, that its timekeeping policies/practices complied with California law and that it has
10 always properly compensated Settlement Class members for all hours worked throughout the
11 Class Period, and that Plaintiffs would be unable to certify this claim since its timekeeping
12 policies/practices are facially neutral and individualized inquiries would be necessary as to
13 whether employees were in fact underpaid for each workday in question (including whether they
14 were actually working when they were clocked in), resulting in an unmanageable series of mini-
15 trials. Given these defenses, Plaintiffs discounted this maximum amount by 40% for risk of non-
16 certification and an additional 45% for a risk of being unsuccessful on the merits or of failing to
17 recover the full amount sought, to arrive at an estimated realistic exposure of approximately
18 \$110,482.

19 18. Plaintiffs allege that Liberty Building failed to provide all compliant first meal
20 periods to its non-exempt employees. Plaintiffs allege that first meal periods were regularly
21 provided after the completion of five hours of work and/or less than a full 30-minutes due to work
22 demands imposed by Liberty Building. Based on Plaintiffs' review of Liberty Building's
23 timekeeping records, Plaintiffs estimate that approximately 17,677 shifts over 6.0 hours reflected
24 a non-compliant first meal period. Accordingly, Plaintiffs calculated Liberty Building's
25 maximum meal period exposure as \$230,862 (17,677 non-compliant first meal periods * \$13.06
26 average premium). However, Liberty Building counters it has maintained compliant written meal
27 period policies throughout the Class Period and has always provided compliant meal periods in
28 line with those policies. Liberty Building contends that under *Brinker*, it is only required to

1 “provide” the opportunity to take meal periods, not “ensure” meal periods are taken. *see Brinker*
2 *Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1038 (2012) (rejecting “ensure” standard
3 and holding employers only have to “provide” employees the opportunity to take meal periods).
4 Liberty Building also maintains that any short, missed, or late first meal periods were the result
5 of lawful employee waiver or choice, thereby precluding liability. Lastly, Liberty Building argues
6 Plaintiffs’ meal period claim is not suited for class certification since individual inquiries would
7 be needed to assess which employees, if any, took non-compliant or missed meal periods, how
8 many meal periods were non-compliant or missed, the reasons why a particular employee did not
9 take a meal period on a particular shift, thereby making class certification of this claim unlikely.
10 given Liberty Building’s defenses to liability and its assertion that class certification on this claim
11 is unlikely given the individualized inquiries that would need to be made, Plaintiffs discounted
12 this maximum amount by 45% for risk of non-certification and an additional 50% for a risk of
13 being unsuccessful on the merits or of failing to recover the full amount sought, to arrive at an
14 estimated realistic exposure of approximately \$63,487.

15 19. Plaintiffs allege that Liberty Building failed to authorize and permit all legally-
16 required off-duty rest periods. Plaintiffs allege that due to persistent understaffing, employees
17 were not always provided with all off-duty rest periods. Based on Plaintiffs’ expert’s review of
18 Liberty Building’s timekeeping records, there were approximately 85,450 shifts worked over 3.5
19 hours, entitling employees to at least on off-duty rest period. Plaintiffs estimated that Settlement
20 Class members did not receive complaint off-duty rest periods on approximately 60% of all shifts
21 over 3.5 hours. Accordingly, Plaintiffs calculated Liberty Building’s maximum exposure for rest
22 period violations at approximately \$669,586 (60% * 85,450 shifts * \$13.06 average premium).
23 However, Liberty Building argues that it has always maintained and enforced lawful rest period
24 policies/practices during the Class Period, and has, in fact, authorized and permitted all required
25 rest periods to Settlement Class members. Liberty Building also asserts this claim is not amenable
26 to class treatment as individualized inquiries would be required to determine which employees
27 failed to take a rest period, and the reasons why. These manageability concerns are especially
28 present with respect to rest period claims, Liberty Building argues, given that rest periods are not

1 recorded. In light of Liberty Building's defenses, including its assertion that this claim is not
2 amenable to class treatment, Plaintiffs discounted this maximum amount by 60% for risk of non-
3 certification and an additional 65% for a risk of being unsuccessful on the merits or of failing to
4 recover the full amount sought, to arrive at an estimated realistic exposure of approximately
5 \$93,742.

6 20. Starting in January 2020, Plaintiffs allege that Liberty Building required
7 Settlement Class members to use their personal cellular phones to clock in and out of their works
8 shifts through the PayCom timekeeping application. Settlement Class members worked
9 approximately 8,625 workweeks between January 1, 2020 and April 1, 2021, when Liberty
10 Building required employees to record their hours worked through the PayCom application. Using
11 a conservative estimate of \$5 per week in reasonable work-related personal cell phone use, minus
12 the \$1.50 for which employees were already reimbursed by Liberty Building, Plaintiffs calculate
13 Liberty Building's maximum liability for the remaining unreimbursed business expenses at
14 approximately \$30,188 ($\$3.50/\text{week} \times 8,625 \text{ weeks}$). However, Liberty Building maintains that it
15 did, in fact, provide some reimbursement for each pay period for cellular data usage. Liberty
16 Building further argues that any expenses incurred by Settlement Class members were extremely
17 minimal, given the wide availability of low-cost cellular phone plans. Liberty Building further
18 contends that this claim would require individual inquiries into whether Settlement Class
19 members actually used their personal cellular phones for work purposes, how much expense they
20 incurred, whether they submitted a request for reimbursement, and the reasonableness of that
21 expense, thus precluding class certification. Based on these defenses, Plaintiffs discounted this
22 maximum amount by 60% for risk of non-certification and an additional 65% for a risk of being
23 unsuccessful on the merits or of failing to recover the full amount sought, to arrive at an estimated
24 realistic exposure of approximately \$4,226.

25 21. Plaintiffs allege that Liberty Building faces derivative wage statement liability as
26 a result of its failure to pay all wages as well as its failure to pay all meal and rest period premium
27 wages. The maximum possible exposure for all Settlement Class members is calculated as
28 \$1,232,000 ($308 \text{ employees} \times \$4,000 \text{ maximum penalty per Labor Code } \S 226(e)$). However,

Liberty Building claims that any alleged wage statement violations were not “knowing and intentional,” and Plaintiffs cannot show they or other employees “suffer[ed] injury” due to the alleged wage statement violations, as required by Labor Code § 226(e) for the imposition of penalties. Finally, Liberty Building contends its wage statements always accurately reflected hours worked and amounts paid as well as all other required information, precluding liability for wage statement penalties. In light of these defenses, Plaintiffs discounted this maximum amount by 65% for risk of non-certification and an additional 75% for a risk of being unsuccessful on the merits or of failing to recover the full amount sought, to arrive at an estimated realistic exposure of approximately \$107,800.

22. Liberty Building’s records reflected approximately 205 former Settlement Class members who worked for the company on or after June 15, 2019, and are therefore eligible for waiting time penalties. Assuming an average waiting time penalty of \$3,134 (\$13.06 average hourly rate * 8 hours * 30 days), Plaintiffs calculate Liberty Building’s maximum waiting time exposure at approximately \$642,470 (205 former employees * \$3,134 average waiting time penalty). Liberty Building argues that it possesses strong, good faith defenses to Plaintiffs’ underlying claims, thus precluding recovery of waiting time penalties, which are only available for the “willful” failure to pay wages. Liberty Building further asserts that Plaintiff’s waiting time penalty exposure was grossly inflated as not every former employee experienced the alleged Labor Code violations. To account for these defenses, Plaintiffs discounted the maximum exposure by 65% for the risk of non-certification, and an additional 65% for risk of losing on the merits, and/or not receiving the maximum penalties sought, to arrive at an estimated exposure of approximately \$78,702.

23. Using these estimated figures for each of the claims described above, Plaintiffs predicted that the potential recovery for the Settlement Class would be approximately \$642,575. The proposed Settlement of \$550,000.00 therefore represents approximately 85.6% of the reasonably forecasted recovery for the Settlement Class.

24. Although the Parties engaged in significant informal discovery prior to mediation, the Parties still had significant formal discovery to complete had the matter not been settled. This

1 would have required the expenditure of substantial time and resources by both Parties that would
2 have very likely spanned several years. Even if Plaintiffs were to certify the classes, the Parties
3 would incur considerably more attorneys' fees and costs through a possible decertification
4 motion, trial, and possible appeal. This Settlement avoids those risks and the accompanying
5 expense.

6 25. Class Counsel will also apply for an attorneys' fees award of one-third of the Gross
7 Settlement Amount, which is currently estimated to be \$183,333.33, and up to \$35,000.00 in
8 verified costs reimbursement. Plaintiffs submit the requested fee is fair compensation for
9 undertaking complex, risky, expensive, and time-consuming litigation on a purely contingent fee
10 basis. Class Counsel has incurred substantial attorneys' fees conducting pre-filing investigation,
11 analyzing Plaintiffs' claims, conducting legal research, conducting extensive informal discovery,
12 analyzing Settlement Class members' timekeeping and payroll records with the help of a retained
13 expert, creating a comprehensive damages model, preparing for and attending mediation,
14 negotiating and preparing the long-form Settlement Agreement, preparing this Motion, and
15 otherwise litigating the case. Class Counsel expects to expend additional attorney time in
16 attending the hearing on this Motion, overseeing the Notice process and fielding questions from
17 Settlement Class members, preparing the Final Approval papers, and attending the Final Approval
18 hearing.

19 26. Plaintiffs will apply for Class Representative Enhancement Payments at the time
20 of seeking final approval of the proposed class action settlement in the amount of \$7,500.00 for
21 Plaintiff Orellana and \$5,000.00 for Plaintiff Navarro for their service to the Settlement Class. As
22 will be fully briefed at the time of final approval, Plaintiffs' requested Enhancement Payments
23 are intended to recognize the time and effort Plaintiffs expended on behalf of the Settlement Class,
24 including providing substantial factual information and documents to Class Counsel, discussing
25 the claims and theories at issue in the litigation, actively participating in the prosecution of her
26 claims, as well as the significant risks Plaintiffs undertook by agreeing to serve as the named
27 plaintiff in this case.

28 ///

27. Under the proposed Settlement in this case, uncashed funds will be sent to *cy pres* recipient Inner City Law Center. Neither I nor any attorney at my law firm have any personal and/or financial interest and/or connection with Inner City Law Center.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on November 22, 2023, at El Segundo, California.


Sean M. Blakely

EXHIBIT A

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiffs Elena Orellana and Rocio Navarro (“Plaintiffs”), as individuals and on behalf of the Settlement Class (as defined below), on one hand, and Defendant Liberty Building Maintenance & Services, Inc. (hereinafter “Defendant”), on the other hand. Plaintiffs and Defendant are referred to herein collectively as the “Parties.” Plaintiffs and the Settlement Class are represented by Paul K. Haines and Sean M. Blakely of Haines Law Group, APC (“Class Counsel”). Defendant is represented by Lisa K. Garner and Thomas L. McMullen of Gordon Rees Scully Mansukhani, LLP.

On June 15, 2022, Plaintiff Orellana filed a Class Action Complaint against Defendant in Los Angeles Superior Court, in the matter entitled *Elena Orellana v. Liberty Building Maintenance & Services, Inc.*, Case No. 22STCV19544 (“Complaint”). On December 27, 2022, Plaintiff Orellana filed the First Amended Class and Representative Action Complaint (“FAC”) adding claims for civil penalties under the Private Attorneys General Act (“PAGA”). As part of the Settlement, the Parties stipulate to the filing of a Second Amended Class and Representative Action Complaint (“SAC”) adding Plaintiff Navarro as a named representative of the Settlement Class. The SAC alleges the following causes of action: (i) minimum wage violations; (ii) failure to pay all overtime wages; (iii) meal period violations; (iv) rest period violations; (v) wage statement violations; (vi) waiting time penalties; (vii) failure to reimburse necessary business expenses; (viii) unfair competition; and (ix) civil penalties under the Private Attorneys General Act (“PAGA”). The Complaint, the FAC, the SAC, and all claims alleged therein are referred to as the “Action.”

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

1. **Settlement Class.** For the purposes of this Settlement Agreement only, Plaintiffs and Defendant stipulate to the certification of the following Settlement Class:

All current and former non-exempt employees who worked for Defendant Liberty Building Maintenance & Services, Inc. in California from June 15, 2018 through April 1, 2021 (the “Class Period”).

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

2. **Release by Settlement Class Members and Plaintiffs.** Plaintiffs and every member of the Settlement Class (except those who opt out and except as to the PAGA claims specified below) will fully release and discharge Defendant, and all of its past and present officers, directors, shareholders, direct and/or indirect owners, members, parents, trustees, fiduciaries, beneficiaries, subrogees, executors, partners, joint employers, employees, predecessors, successors, assigns,

affiliates, brother and sister corporations, agents, principals, heirs, representatives, attorneys, insurers, accountants, administrators, auditors, consultants, divisions, related companies, related entities, and all of their respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys (the “Released Parties”), as follows:

- A. Upon the Effective Date and the complete funding of the Gross Settlement Amount, Settlement Class members will release all claims, demands, rights, liabilities and causes of action that were pled in the SAC that arose during the Class Period, including claims for: (a) minimum wage violations, including but not limited to claims relating to travel time; (b) failure to pay all overtime wages, including but not limited to claims relating to travel time; (c) failure to provide all meal periods in accordance with California law; (d) failure to authorize and permit all rest periods in accordance with California law; (e) failure to reimburse for necessary business expenses (including but not limited to claims for travel time and mileage); (f) failure to furnish accurate and itemized wage statements; (g) failure to pay all wages owed upon separation of employment; (h) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories of relief pled in the SAC; and (i) all damages, penalties, interest, costs (including attorney’s fees), and other amounts recoverable under said claims or causes of action as to the facts and/or legal theories alleged or which could have been alleged in the SAC (collectively, the “Class Released Claims”). The period of the Class Released Claims shall extend to the limits of the Class Period.
- B. **Release of PAGA Claims.** In addition, all Settlement Class members (regardless of whether they opt out) are “Aggrieved Employees” and shall release the Released Parties from all claims for civil penalties under PAGA as disclosed in Plaintiff’s October 21, 2022 Notification Letter to the Labor and Workforce Development Agency (“LWDA”) (“the PAGA Released Claims”)
- C. **Release by Plaintiffs.** As a condition of receiving the Class Representative Enhancement Payment, and upon Defendant’s complete funding of the Gross Settlement Amount, Plaintiffs have agreed to release, individually and in addition to the Class Released Claims described above, all claims, whether known or unknown, without exception, against the Released Parties. The Parties understand and agree that Plaintiffs are not, by way of this release, releasing any workers’ compensation claims, unemployment insurance claims, nor any other claims which cannot be released as a matter of law. Notwithstanding the foregoing, Plaintiffs understand that this release includes known claims relating to or arising from their employment with Defendant, and unknown claims and that Plaintiffs are, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, 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.

Specifically excluded from Plaintiffs' Released Claims are any claims that cannot be released as a matter of law, such as claims for workers' compensation benefits or unemployment benefits. No workers' compensation claims are being resolved under this Settlement.

3. **Gross Settlement Amount.** As consideration, Defendant agrees to pay a non-reversionary "Gross Settlement Amount" of Five Hundred Fifty Thousand Dollars and Zero Cents (\$550,000.00) in full and complete settlement of the Action, as follows:

- A. The Parties have agreed to engage Phoenix Settlement Administrators as the "Settlement Administrator" to administer this Settlement.
- B. The Gross Settlement Amount shall be deposited with the Settlement Administrator within thirty (30) calendar days of the Effective Date (which, for this purpose, shall be defined as the later of (1) date on which the Court enters an Order granting Final Approval of the Settlement Agreement or, (2) solely in the event that there are any objections to the Settlement Agreement (the filing of an objection being a prerequisite to the filing of an appeal), the later of: (i) the last date on which any appeal might be filed or (ii) the successful resolution of any appeal(s) – including expiration of any time to seek reconsideration or further review.
- C. This is a non-reversionary settlement. The Gross Settlement Amount includes:
 - (1) All payments (including interest) to the Settlement Class;
 - (2) All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater than Ten Thousand Dollars and Zero Cents (\$10,000.00);
 - (3) Up to Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) for Plaintiff Orellana's Class Representative Enhancement Payment, and up to Five Thousand Dollars and Zero Cents (\$5,000.00) for Plaintiff Navarro's Class Representative Enhancement Payment, in recognition of their contributions to the Action and their service to the Settlement Class. In the event that the Court reduces or does not approve the requested Class Representative Enhancement Payments, Plaintiffs shall not have the right to revoke this Settlement Agreement, and it will remain binding;
 - (4) Up to one-third of the Gross Settlement Amount as Class Counsel's attorneys' fees, plus actual costs and expenses incurred by Class Counsel in relation to the Action as supported by declaration, which are currently estimated to be no greater than Thirty-Five Thousand Dollars and Zero Cents (\$35,000.00). In the event that the Court reduces or does not approve the requested Class Counsel attorneys' fees or costs, Class Counsel shall not have the right to revoke this settlement, and it will remain binding;

- (5) Any difference between these requested amounts and the amounts approved by the Court will revert to the Net Settlement Amount for the benefit of the Settlement Class members who do not opt out.

- D. **Escalator Clause.** The Gross Settlement Amount is based on Defendant's representations that there are approximately 18,140 workweeks during the Class Period. If, at the time of preliminary approval, the number of workweeks has increased by 10% or more (i.e., if there are 19,954 or more workweeks), Defendant shall increase the Gross Settlement Amount on a proportional basis equal to the percentage increase in number of workweeks worked by Settlement Class members during the Class Period (i.e., if there was a 12% increase in the number of workweeks over 18,140, Defendant shall increase the Gross Settlement Amount by 2%).
- E. Defendant's share of the payroll taxes attributable to wage portion of the payments to the Settlement Class shall be paid by Defendant separately from, and in addition to, the Gross Settlement Amount.

4. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment ("Individual Settlement Award") from the Settlement. Individual Settlement Awards will be determined and paid as follows:

- A. The Settlement Administrator shall first deduct from the Gross Settlement Amount the amounts approved by the Court for Class Counsel's attorneys' fees, Class Counsel's costs and expenses, Plaintiffs' Class Representative Enhancement Payments, and the Settlement Administrator's fees and expenses for administration. The remaining amount shall be known as the "Net Settlement Amount."
- B. Payments to all participating Settlement Class members: The Settlement Administrator will calculate payments from the NSA based on each participating Settlement Class member's proportionate Workweeks worked during the Class Period. Specifically, each participating Settlement Class member's payment from the NSA will be calculated by multiplying the NSA by a fraction, the numerator of which is the participating Settlement Class member's number of Workweeks worked during the Class Period, and the denominator of which is the total Workweeks worked by all participating Settlement Class members during the Class Period.
- C. Within ten (10) calendar days following Defendant's deposit of the Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator will calculate Individual Settlement Award amounts and provide the same to the Parties' counsel for review and approval. Within seven (7) calendar days of approval by the Parties' counsel, the Settlement Administrator will prepare and mail Individual Settlement Awards, less applicable taxes and withholdings, to participating Settlement Class members. The Settlement Administrator shall simultaneously pay the withholdings to the applicable authorities with the necessary reports, submitting copies to Defendant's counsel. After the Settlement

Administrator mails Individual Settlement Awards to Settlement Class members, the Settlement Administrator shall make the Court-approved payment for Class Counsel's attorneys fees and costs, Class Representative Enhancement Payments, and settlement administration costs.

- D. For purposes of calculating applicable taxes and withholdings, each Settlement Award shall be allocated as follows: Any payment from the NSA shall be allocated 40% as interest, 40% as penalties, and 20% as wages. The Settlement Administrator will be responsible for issuing to participating Settlement Class members IRS Forms W-2 for amounts deemed "wages" and IRS Forms 1099 for the amounts allocated as penalties and interest. Notwithstanding the treatment of the payments to each Settlement Class member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.
- E. Each member of the Settlement Class who receives a Settlement Award must cash that check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class members whose checks are not cashed within 180 days after mailing shall be distributed to Inner City Law Center as a *cy pres* beneficiary.
- F. Neither Plaintiffs nor Defendant shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

5. **Attorneys' Fees and Costs.** Defendant will not object to Class Counsel's request for a total award of attorneys' fees of up to one-third of the Gross Settlement Amount, which is currently estimated to be One Hundred Eighty-Three Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$183,333.33). Additionally, Class Counsel will request an award of actual costs and expenses as supported by declaration, in an amount not to exceed Thirty-Five Thousand Dollars and Zero Cents (\$35,000.00), from the Gross Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when the Settlement Administrator pays the fee award allowed by the Court.

6. **Class Representative Enhancement Payments.** Defendant will not object to a request for a Class Representative Enhancement Payment of up to Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) to Plaintiff Orellana and Five Thousand Dollars and Zero Cents (\$5,000.00) to Plaintiff Navarro for their time and risk in prosecuting this case, and their service to the Settlement Class. These awards will be in addition to Plaintiffs' Settlement Awards as Settlement Class members and shall be reported on an IRS Form 1099 issued by the Settlement

Administrator. In the event that the Court reduces or does not approve the requested Enhancement Payments, Plaintiffs shall not have the right to revoke this Settlement, and it will remain binding.

7. **Settlement Administrator.** Defendant will not object to the appointment of Phoenix Settlement Administrators as Settlement Administrator. Defendant will not object to Plaintiffs' request to the Court to pay up to Ten Thousand Dollars and Zero Cents (\$10,000.00) for the Settlement Administrator's services from the Gross Settlement Amount. The Settlement Administrator shall be responsible for sending notices and for calculating Individual Settlement Awards and preparing all checks and mailings, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay itself from the Gross Settlement Amount by Class Counsel only after Individual Settlement Awards have been mailed to all participating Settlement Class members. The Settlement Administrator shall also be responsible for posting the Final Judgment to its website.

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

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
- B. Appointing Paul K. Haines and Sean M. Blakely of Haines Law Group, APC as Class Counsel;
- C. Appointing Plaintiffs Elena Orellana and Rocio Navarro as Class Representatives for the Settlement Class;
- D. Approving Phoenix Settlement Administrators as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Notice Packet (which is comprised of the Class Notice and Notice of Estimated Settlement Award, drafts of which are attached hereto as **Exhibits A** and **B**, respectively), and directing the mailing of the same in English and Spanish; and
- G. Scheduling a Final Approval hearing.

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

- A. Within ten (10) business days after entry of an order preliminarily approving this Settlement, Defendant will provide the Settlement Administrator with the names, last known addresses, phone numbers, social security numbers, the dates of employment, and the number of workweeks worked by each Settlement Class member while employed during the Class Period (the "Class Data"). The Class Data shall be provided to the Settlement Administrator in an electronic format satisfactory to the Settlement Administrator.

- B. Within ten (10) business days from receipt of this information, the Settlement Administrator shall (i) run the names of all Settlement Class members through the National Change of Address (“NCOA”) database to determine any updated addresses for Settlement Class members; (ii) update the address of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Individual Settlement Award for each Settlement Class member; and (iv) mail a Notice Packet to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Requests for Exclusion. Any Settlement Class member who wishes to opt out of the Settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator within sixty (60) calendar days of the date of the initial mailing of the Notice Packets (the “Response Deadline”).
- i. The Notice Packet shall state that Settlement Class members who wish to exclude themselves from the Settlement must submit a Request for Exclusion by the Response Deadline. The Request for Exclusion must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the Settlement, except a Request for Exclusion not containing a Settlement Class member’s telephone number and/or last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the Settlement or have any right to object, appeal or comment thereon.
- D. Objections. Members of the Settlement Class who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by filing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant’s counsel, as well as file all such objections with the Court). Defendant’s counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval, unless the objections are filed within ten (10) days of the Motion for Final Approval filing deadline, in which case Defendant’s counsel and Class Counsel shall have ten (10) days to file a response to the objections. To be valid, any written objection should: (1) contain the objecting Settlement Class member’s full name and current address, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any

and all supporting papers, briefs, written evidence, declarations, and/or other evidence; and (4) be postmarked no later than the Response Deadline. Members of the Settlement Class who do not request exclusion may also object to the Settlement by appearing at the Final Approval Hearing. Members of the Settlement class who request exclusion *may not* object to the Settlement.

- E. Opt-Out. If more than 10% of the Class Members opt-out of this Settlement, Defendant has the sole right to void it, within 15 days of notice from the Settlement Administrator that it has received opt-outs from 10% or more of the Class Members. If the option to void is exercised, Defendant shall pay the Settlement Administration Costs incurred through the date of nullification.
- F. Notice of Estimated Settlement Award / Disputes. Each Notice Packet mailed to a Settlement Class member shall disclose the amount of the Settlement Class member's estimated Individual Settlement Award as well as all of the information that was used from Defendant's records in order to calculate the Settlement Award. Settlement Class members will have the opportunity, should they disagree with Defendant's records regarding the information stated in the Notice of Estimated Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Awards under the terms of this Settlement Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Individual Settlement Award shall be binding upon the Settlement Class member and the Parties.
- G. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member immediately, and in any event within five (5) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. It will be conclusively presumed that, if an envelope so mailed has not been returned within thirty (30) days of the mailing, the Settlement Class member received the Notice Packet. Settlement Class members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have fourteen (14) calendar days from the date of re-mailing, or until the Response Deadline has expired, whichever is later, to submit a Request for Exclusion, Objection, or dispute. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline. If a Settlement Class member's

Notice Packet is returned to the Settlement Administrator more than once as non-deliverable, then an additional Notice Packet shall not be mailed. Nothing else shall be required of, or done by, the Parties, Class Counsel, or Defendant's Counsel to provide notice of the proposed settlement.

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

- A. Granting final approval of the Settlement, adjudging the terms thereof to be fair, adequate, and reasonable, and directing consummation of its terms and provisions;
- B. Approving Plaintiffs' and Class Counsel's request for attorneys' fees and reimbursement of costs, Class Representative Enhancement Payments, and settlement administration costs; and
- C. Entering Final Judgment pursuant to California Rule of Court 3.769. Said Judgment shall be posted on the Settlement Administrator's website.

11. **Non-Admission of Liability.** Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this Settlement. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected California Evidence Code Section 1152.

12. **Non-disclosure and Non-publication.** Plaintiffs and Class Counsel agree that they have not and will not publish the Settlement Agreement, except to Settlement Class members and as shall be contractually required to effectuate the terms of the Settlement Agreement as set forth herein. Class Counsel shall not report the Settlement Agreement in any medium or in any publication, shall not post or report anything regarding the claims of Plaintiffs, the Settlement Class, or the settlement on their website, and shall not contact any reporters or media regarding the settlement. However, for the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class Counsel may disclose the names of the Parties in this Action, the venue/case number of this Action, and a general description of the Action, to a court in a declaration by Class Counsel.

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

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

if to Defendant: Lisa K. Garner, Gordon Rees Scully Mansukhani, LLP; 633 West Fifth Street, 52nd Floor, Los Angeles, California 90071; lgarner@grsm.com.

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

15. **Cooperation.** The Parties agree to work cooperatively, diligently and in good faith to ensure that all documents necessary to effectuate this Settlement are properly and timely filed.

16. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the Lawsuit contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof. Further, all terms of this Agreement and the exhibits hereto shall be governed by and interpreted according to the laws of the State of California.

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

18. **Enforcement Action.** Consistent with the class action procedure, the Parties agree that the Los Angeles County Superior Court shall have jurisdiction to enforce this Settlement pursuant to California Code of Civil Procedure section 664.6, and California Rule of Court 3.769. In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

DATED: November 17, 2023 | 1:42 PM PST DEFENDANT LIBERTY BUILDING
MAINTENANCE & SERVICES, INC.

DocuSigned by:
By: Marcia Pryslie
9F4843AD3FE0475...
Title: President

DATED: PLAINTIFF ELENA ORELLANA

By: _____
Plaintiff and Settlement Class Representative

if to Defendant: Lisa K. Garner, Gordon Rees Scully Mansukhani, LLP; 633 West Fifth Street, 52nd Floor, Los Angeles, California 90071; lgarner@grsm.com.

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

15. **Cooperation.** The Parties agree to work cooperatively, diligently and in good faith to ensure that all documents necessary to effectuate this Settlement are properly and timely filed.

16. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the Lawsuit contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof. Further, all terms of this Agreement and the exhibits hereto shall be governed by and interpreted according to the laws of the State of California.

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

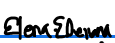
18. **Enforcement Action.** Consistent with the class action procedure, the Parties agree that the Los Angeles County Superior Court shall have jurisdiction to enforce this Settlement pursuant to California Code of Civil Procedure section 664.6, and California Rule of Court 3.769. In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

DATED: DEFENDANT LIBERTY BUILDING
MAINTENANCE & SERVICES, INC.

By: _____
Title:

DATED: Nov 16, 2023

PLAINTIFF ELENA ORELLANA

By:  /
Elena Orellana (Nov 16, 2023 17:29 PST)
Plaintiff and Settlement Class Representative

DATED: Nov 16, 2023

PLAINTIFF ROCIO NAVARRO

By: *Rocio Navarro*
Rocio Navarro (Nov 16, 2023 16:20 PST)
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: _____, 2023

GORDON REES SCULLY MANSUKHANI, LLP

By: _____
Lisa K. Garner
Thomas L. McMullen
Attorney for Defendant

DATED: November 16, 2023:

HAINES LAW GROUP, APC

By: *Sean Blakely*
Paul K. Haines
Sean M. Blakely
Attorneys for Plaintiffs

DATED:

PLAINTIFF ROCIO NAVARRO

By: _____
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: November 17, 2023

GORDON REES SCULLY MANSUKHANI, LLP

By:  _____
Lisa K. Garner
Thomas L. McMullen
Attorney for Defendant

DATED: _____, 2023:

HAINES LAW GROUP, APC

By: _____
Paul K. Haines
Sean M. Blakely
Attorneys for Plaintiffs

EXHIBIT 1

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

ELENA ORELLANA, as an individual and on behalf
of all others similarly situated,

Plaintiff,

vs.

LIBERTY BUILDING MAINTENANCE &
SERVICES, INC., a California Corporation; and
DOES 1 through 100,

Defendants.

Case No. 22STCV19544

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

To: All current and former non-exempt employees who worked for Defendant Liberty Building Maintenance & Services, Inc. in California from June 15, 2018 through April 1, 2021. Collectively, these employees will be referred to as “Settlement Class members.”

**PLEASE READ THIS NOTICE CAREFULLY
THIS NOTICE IS BEING SENT IN ENGLISH AND SPANISH
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT**

Why should you read this notice?

The Los Angeles County Superior Court has granted preliminary approval of a proposed class action settlement (the “Settlement”) in the case of *Elena Orellana, et al. v. Liberty Building Maintenance & Services, Inc.*, Los Angeles Superior Court Case No. 22STCV19544 (the “Action”). Because your rights may be affected by the Settlement, it is important that you read this notice carefully.

You may be entitled to money from this Settlement. Defendant Liberty Building Maintenance & Services, Inc.’s (“Liberty Building”) records show that you were employed at Liberty Building as a non-exempt employee in California between June 15, 2018 and April 1, 2021 (the “Class Period”). The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

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

What is this case about?

Plaintiffs Elena Orellana and Rocio Navarro (“Plaintiffs”) brought this Action against Liberty Building, seeking to assert claims on behalf of a class of current and former non-exempt employees who worked for Liberty Building in California at any time during the Class Period. Plaintiffs are known as the “Class Representatives,” and their attorneys, who also represent the interests of all Settlement Class members, are known as “Class Counsel.”

Plaintiffs allege that Liberty Building failed to provide Settlement Class members with all required meal and rest periods and failed to pay all minimum and overtime wages due to its timekeeping policies and practices. The Action also alleges that Liberty Building failed to reimburse Settlement Class members for all necessary business expenditures, failed to provide Settlement Class members with accurate and complete wage

statements, and failed to timely pay all final wages at the time of separation of employment. As a result of the alleged violations, Plaintiffs allege that Liberty Building engaged in unfair business practices and is liable for civil penalties under the Labor Code Private Attorneys General Act (“PAGA”).

Liberty Building denies all liability to Settlement Class members, denies the factual and legal allegations in the Action, and believes that it has valid defenses to Plaintiffs’ claims. Liberty Building has entered into the Settlement solely for the purposes of resolving this dispute. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Liberty Building, which expressly denies all liability.

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

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

Who are the Attorneys?

Attorneys for the Plaintiffs/Settlement Class members: HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com Sean M. Blakely sblakely@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 haineslawgroup.com	Attorneys for Defendant Liberty Building Maintenance & Services, Inc.: GORDON REES SCULLY MANSUKHANI, LLP Lisa K. Garner Thomas L. McMullen 633 W. Fifth Street, 52nd Floor Los Angeles, California 90071 Tel: (213) 576-5000
--	--

What are the terms of the Settlement?

On **<<PRELIM APPROVAL DATE>>**, the Court preliminarily certified a class, for settlement purposes only, of all current and former non-exempt employees who worked for Liberty Building in California during the Class Period. Settlement Class members who do not opt out of the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Liberty Building as described below.

Liberty Building has agreed to pay \$550,000.00 (the “Gross Settlement Amount”) to fully resolve all claims in the Action, including payments to Settlement Class members, requested attorneys’ fees and expenses, settlement administration costs, and the Class Representatives’ Enhancement Payments.

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

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the “Settlement Administrator,” who is sending this Notice to you and will perform many other duties relating to the Settlement. The Court has approved setting aside up to \$10,000.00 from the Gross Settlement Amount to pay the settlement administration costs.

Attorneys’ Fees and Expenses. Class Counsel have been prosecuting the Action on behalf of the Settlement Class members on a contingency fee basis (that is, without being paid any money to date)

and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys' fees, which will be paid from the Gross Settlement Amount. Settlement Class members are not personally responsible for any of Class Counsel's attorneys' fees or expenses. Class Counsel will ask for fees of up to one-third of the Gross Settlement Amount, which is currently estimated to be \$183,333.33, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Action through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$35,000.00 for verified costs Class Counsel incurred in connection with the Action.

Enhancement Payments to Class Representatives. Class Counsel will ask the Court to award enhancement payments in the amount of \$7,500.00 to Plaintiff Orellana and \$5,000.00 to Plaintiff Navarro, for a total of \$12,500.00, to compensate them for their service and extra work provided on behalf of the Settlement Class members.

Calculation of Settlement Class Members' Individual Settlement Awards. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Amount ("NSA"), which will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion (described below). The NSA is estimated at approximately \$309,166.67 and will be divided as follows:

- (i) Payments to All Participating Settlement Class Members: The Settlement Administrator will calculate payments from the NSA based on each participating Settlement Class member's proportionate Workweeks worked during the Class Period. Specifically, each participating Settlement Class member's payment from the NSA will be calculated by multiplying the NSA by a fraction, the numerator of which is the participating Settlement Class member's number of Workweeks worked during the Class Period, and the denominator of which is the total Workweeks worked by all participating Settlement Class members during the Class Period.

Payments to Settlement Class Members. If the Court grants final approval of the Settlement, Individual Settlement Awards will be mailed to all Settlement Class members who did not submit a valid and timely Request for Exclusion. Settlement checks will be valid for 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class members whose checks were not cashed within 180 days after mailing shall be distributed to Inner City Law Center as a *cy pres* beneficiary pursuant to Cal. Code Civ. Proc. § 384.

Allocation and Taxes. For tax purposes, each Individual Settlement Award will be treated as follows: twenty percent (20%) as "wages," for which an IRS form W-2 will be issued; forty percent (40%) as penalties and forty percent (40%) as interest, for which an IRS form 1099 will be issued. Settlement Class members are responsible for the proper income tax treatment of the Individual Settlement Awards. The Settlement Administrator, Liberty Building and its counsel, and Class Counsel cannot provide tax advice. Accordingly, Settlement Class members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. If the Court approves the Settlement, upon the Effective date and the complete funding of the Gross Settlement Amount, all Settlement Class members who did not submit a timely and valid Request for Exclusion, will fully release and discharge Liberty Building, and all of its past and present officers, directors, shareholders, direct and/or indirect owners, members, parents, trustees, fiduciaries, beneficiaries, subrogees, executors, partners, joint employers, employees, predecessors, successors, assigns, affiliates, brother and sister corporations, agents, principals, heirs, representatives, attorneys, insurers, accountants, administrators, auditors, consultants, divisions, related companies, related entities, and all of their respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys (the "Released Parties"), as follows: Settlement Class members will release all claims, demands, rights, liabilities and causes of action that were pled in the Second Amended Class and Representative Action Complaint ("SAC") that arose during the Class Period, including claims for: (a) minimum wage violations, including but not limited to claims relating to travel time; (b) failure to pay all overtime wages, including but not limited to claims relating to travel time; (c) failure to provide all meal periods in accordance with California law; (d) failure to authorize and permit

all rest periods in accordance with California law; (e) failure to reimburse for necessary business expenses (including but not limited to claims for travel time and mileage); (f) failure to furnish accurate and itemized wage statements; (g) failure to pay all wages owed upon separation of employment; (h) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories of relief pled in the SAC; and (i) all damages, penalties, interest, costs (including attorney's fees), and other amounts recoverable under said claims or causes of action as to the facts and/or legal theories alleged or which could have been alleged in the SAC (collectively, the "Class Released Claims"). The period of the Class Released Claims shall extend to the limits of the Class Period.

In addition, all Settlement Class members (regardless of whether they opt out) are "Aggrieved Employees" and shall release the Released Parties from all claims for civil penalties under PAGA as disclosed in Plaintiff's October 21, 2022 Notification Letter to the Labor and Workforce Development Agency ("LWDA") ("the PAGA Released Claims").

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

How can I claim money from the Settlement?

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

What other options do I have?

Dispute Information in Notice of Estimated Settlement Award. Your Individual Settlement Award is based on the number of workweeks you worked during the Class Period. The information contained in Liberty Building's records regarding the number of workweeks you worked during the Class Period, along with your estimated Individual Settlement Award, is listed on the accompanying Notice of Estimated Settlement Award. If you disagree with the information in your Notice of Estimated Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Estimated Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class members. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement. The Settlement Administrator's determination of the eligibility for and amount of any Settlement Award will be binding on the Settlement Class member and the Parties.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator a written "Request for Exclusion" letter or card postmarked no later than <<RESPONSE DEADLINE>>, with your name, address, telephone number, last four digits of your social security number, and your signature.

Send the Request for Exclusion directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Any person who submits a timely Request for Exclusion from the Settlement shall, upon receipt by the Settlement Administrator, no longer be a Settlement Class member, shall be barred from participating in any portion of the class action Settlement, and shall receive no benefits from the class action Settlement. **Do not submit both a Dispute and a Request for Exclusion.** If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you should mail a written objection to the Settlement Administrator. Your written objection should include your name, address, as well as contact information for any attorney representing you regarding your objection, the case name and number, each specific reason in support of your objection, and any legal or factual support for each objection together with any evidence in support of your objection. Objections should be in writing and must be postmarked on or before <<RESPONSE DEADLINE>>.

You may also appear at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department SSC-11 of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, California 90012. You have the right to appear either in person or through your own attorney at this hearing. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before <<RESPONSE DEADLINE>>. All objections or other correspondence must state the name and number of the case, which is *Elena Orellana, et al. v. Liberty Building Maintenance & Services, Inc.*, Los Angeles Superior Court Case No. 22STCV19544. You do not need to object in writing to be heard at the Final Approval Hearing.

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

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department SSC-11 of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, California 90012. The Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses and the Enhancement Payments to the Class Representatives. The Final Approval Hearing may be postponed without further notice to the Settlement Class. You may contact Class Counsel using the contact information provided above to confirm the address and time of the hearing. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing.**

How can I get additional information?

This Notice is only a summary of the Action and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, California 90012, during regular court hours. You may also contact Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE THE COURT, LIBERTY BUILDING, OR ITS ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS

REMINDER AS TO TIME LIMITS

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

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

EXHIBIT 2

NOTICE OF ESTIMATED SETTLEMENT AWARD

ELENA ORELLANA v. LIBERTY BUILDING MAINTENANCE & SERVICES, INC.
LOS ANGELES COUNTY SUPERIOR COURT CASE NO. 22STCV19544

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

(I) Please type or print your name:

(First, Middle, Last)

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

Former Names (if any)

New Street Address

City

State

Zip Code

(III) Information Used to Calculate Your Settlement Award:

According to Liberty Building Maintenance & Services, Inc.'s ("Liberty Building") records:

- (a) you worked [REDACTED] workweeks as a non-exempt employee for Liberty Building in California from June 15, 2018 through April 1, 2021.

Based on the above, your Settlement Award is estimated at \$ [REDACTED].

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

If you dispute the above information from Liberty Building's records, Liberty Building's records will control unless you are able to provide documentation that establishes otherwise and that Liberty Building's records are mistaken. If there is a dispute about whether Liberty Building's information or yours is accurate, and the dispute cannot be resolved informally, the dispute will be resolved by the Parties and the Settlement Administrator as described in the "Notice of Pendency of Class Action and Proposed Settlement" that accompanies this Form.

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

Signature: _____

Date: _____

EXHIBIT B

HAINES LAW GROUP
EMPLOYMENT ATTORNEYS

October 21, 2022

VIA LWDA WEBSITE

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

Re: *Elena Orellana v. Liberty Building Maintenance & Services, Inc., et al.*

To Whom It May Concern:

Please be advised that this law firm represents Elena Orellana in claims arising from her employment with Liberty Building Maintenance & Services, Inc., a California Corporation; and DOES 1 through 100, (collectively “Defendants”). Ms. Orellana is an “aggrieved employee” as defined by Labor Code § 2698, *et seq.* due to Defendants’ numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code § 2699.3, which requires aggrieved employees to notify their employer and the Labor & Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated.

Ms. Orellana worked for Defendants as a non-exempt employee from approximately August 2016 until approximately January 2022, in the position of “Janitor.” The “aggrieved employees” whom Ms. Orellana seeks to represent include all non-exempt employees who have worked for Defendants in California at any time from one year prior to the date of this letter through the present.

During Ms. Orellana’s employment with Defendants, Defendants utilized a timekeeping system which resulted in Ms. Orellana and other aggrieved employees not being compensated for all hours actually worked, whether by rounding, time-shaving, or otherwise. Defendants’ timekeeping policies/practices were not even handed and have resulted in Ms. Orellana and other aggrieved employees not being compensated for all hours worked. Further, on occasions when Ms. Orellana worked over eight hours in a workday and/or forty hours in a workweek, Defendants’ timekeeping policies/practices deprived her of additional overtime wages earned. Due to Defendants’ timekeeping policies/practices that fail to compensate for all hours worked, Ms. Orellana and other aggrieved employees were not compensated for all required minimum and overtime wages.

Defendants also failed to provide Ms. Orellana and other aggrieved employees with all legally compliant meal periods due to Defendants’ meal period policies/practices, which have resulted in late (commencing after the fifth hour of work), short (less than 30 minutes), and missed meal periods. In addition, Defendants maintained a practice of occasionally requiring Ms. Orellana and other aggrieved employees to clock out for meal periods while not allowing Ms. Orellana and other aggrieved employees to actually take their meal

breaks. On those occasions when Ms. Orellana was not provided with all legally required meal periods to which she was entitled, Defendants failed to compensate Ms. Orellana with the required meal period premium for each workday in which she experienced a meal period violation as mandated by Labor Code § 226.7. Upon information and belief, during at least a portion of the relevant time period, Defendants maintained no payroll code or other mechanism for paying meal period premiums under Labor Code § 226.7 in the event a legally compliant meal period was not provided to their aggrieved employees.

Defendants have also failed to authorize and permit all required rest periods for Ms. Orellana and other aggrieved employees. Specifically, Defendants have often failed to authorize and permit a net 10-minute rest period for every four hours worked, or major fraction thereof, due to work demands imposed by Defendants. Despite failing to authorize and permit Ms. Orellana and other aggrieved employees to take all rest periods to which they are entitled, upon information and belief, during at least a portion of the relevant time period, Defendants maintained no mechanism for the payment of rest period premium payments as required by Labor Code § 226.7 and did not pay Ms. Orellana and other aggrieved employees any rest period premiums.

Defendants also failed to adequately reimburse Ms. Orellana and other aggrieved employees for all reasonable and necessary work expenditures, including, but not limited to, use of personal cellular phones to clock in and out through the Paycom application. Despite requiring Ms. Orellana and other aggrieved employees to download the Paycom application on their cell phones to clock in and out of their work shift, Defendants did not adequately reimburse Ms. Orellana and other aggrieved employees for their cellular phone expenses, even though they used their personal cellular phones for business purposes.

As a result of Defendants' failure to compensate Ms. Orellana and other aggrieved employees for all minimum wages, overtime wages, and all meal and rest period premium wages, Defendants maintained inaccurate payroll records and failed to issue accurate, compliant, itemized wage statements. As a further result of Defendants' failure to compensate Ms. Orellana and other aggrieved employees for all minimum wages, overtime wages, and all meal and rest period premium wages, Defendants failed to pay Ms. Orellana and other aggrieved employees all wages owed at the time of their separation of employment with Defendants.

Minimum Wage Violations

Defendants were, and are, required to pay Ms. Orellana and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour worked, including. *See* Labor Code §§ 1194(a), 1194.2, 1197, 1198, and Wage Order 5, § 4. As alleged above, Defendants maintained, and continue to maintain, timekeeping policies/practices and pay policies/practices that regularly, systematically, and impermissibly fail to compensate Ms. Orellana and other aggrieved employees at least the minimum wage for all hours worked. As a result of these policies/practices, Ms. Orellana and other aggrieved employees have been, and continue to be, deprived of all required minimum wages.

Overtime Violations

Defendants were, and are, required to pay Ms. Orellana and other aggrieved employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 204, 210, 216, 510, 1194 and 1198; Wage Order 5. Wage Order 5, § 3 requires an employer to pay an employee “one and one-half (1½) times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours” per workday and/or in excess of 40 hours of work in the workweek, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and “[d]ouble the employee’s regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.” As described herein, Defendants caused Ms. Orellana and other aggrieved employees to work overtime and/or double-time hours but did not compensate Ms. Orellana and other aggrieved employees at one and one-half times (or two times) their “regular rate” of pay for such hours.

Meal Period Violations

As alleged above, Defendants failed in their affirmative obligation to provide Ms. Orellana and other aggrieved employees with all required and compliant meal periods, due to Defendants’ meal period policies/practices that failed to provide legally compliant meal periods, to Ms. Orellana and other aggrieved employees. *See* Labor Code §§ 204, 210, 226.7 and 512; Wage Order 5 § 11. As a result, Ms. Orellana and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal or rest or recovery period in accordance with...[an] order of the Industrial Welfare Commission...the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest period is not provided.”). As alleged above, Defendants have also failed to pay them the premium wages to which aggrieved employees are legally entitled.

Rest Period Violations

Due to its unlawful rest period policies and/or practices, Defendants have failed to authorize and permit Ms. Orellana and other aggrieved employees to take all required rest periods to which they are legally entitled. *See* Wage Order 5, § 12 and California Labor Code §§ 226.7, 516, and Civil Code §§ 3287(b) and 3289. Despite Defendants’ violations, Defendants have not paid an additional hour of premium pay to Ms. Orellana and other aggrieved employees at their respective regular rates of compensation for each violation in accordance with Labor Code section 226.7. *See* Labor Code § 226.7.

Wage Statement Violations

Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Ms. Orellana and other aggrieved employees with complete and accurate wage statements with respect to, among other things, their total gross wages earned, total net wages earned, total hours worked, and amount of paid sick leave time available, in violation of Labor Code §§ 226 *et seq.*, and 246; Wage Order 5, § 7. As a result of Defendants' failure to pay all minimum and overtime wages and failure to pay all required meal and rest period premium wages, Defendants maintained inaccurate payroll records and issued inaccurate wage statements to Ms. Orellana and other aggrieved employees in violation of Labor Code § 226. Defendants' failure to comply with its wage statement obligations was knowing and intentional, and Ms. Orellana and other aggrieved employees have suffered injury as a result.

Failure to Timely Pay Final Wages

Defendants were, and are, also required to pay all wages earned immediately at the time of separation of employment in the event the employer discharges the employee, or if the employee provides at least 72 hours of notice of his/her intent to quit. In the event the employee provides less than 72 hours of notice of his/her intent to quit, said employee's wages become due and payable not later than 72 hours upon said employee's last date of employment, pursuant to Labor Code sections 201-203. Defendants failed to timely pay Ms. Orellana and other aggrieved employees all final wages due to them at the time of their separation including, among other things, underpaid minimum and overtime wages, and meal and rest period premium wages. Further, Ms. Orellana is informed and believes, and based thereon alleges, that as a matter of uniform policy and practice, Defendants continue to fail to pay aggrieved employees all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203.

Defendants' willful failure to timely pay Ms. Orellana and other aggrieved employees' wages upon separation from employment results in a continued payment of wages up to thirty (30) days from the time the wages were due. Therefore, Ms. Orellana and other aggrieved employees are entitled to compensation pursuant to Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

Failure to Reimburse Necessary Business Expenses

As alleged herein, Defendants have failed to reimburse Ms. Orellana and other aggrieved employees for expenses incurred in connection with their employment. At all relevant times, Defendants have also been subject to Labor Code § 2804, which states that "any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State." Due to Defendants' unlawful reimbursement practices, Defendants failed to indemnify Ms. Orellana and other aggrieved employees for all

necessary business expenses incurred, including, among other things, the cost of using their personal cellular phones to clock in and out through the Paycom application.

As a proximate result of Defendants' policies and/or practices in violation of Labor Code sections 2802 and 2804, and Wage Order 5, § 9, Ms. Orellana and other aggrieved employees are entitled to damages, attorneys' fees and costs of suit, and interest thereon, in sums to be shown according to proof at trial, pursuant to Labor Code § 2802(c). Further, any action brought for the reimbursement of necessary expenditures carries interest at the same rate as judgments in civil actions. Thus, Ms. Orellana and other aggrieved employees are entitled to interest, which shall accrue from the date on which they incurred the necessary expenditure, pursuant to Labor Code § 2802(b),

Ms. Orellana is informed and believes, and based thereon alleges, that the violations alleged herein are continuing to the present. As an "aggrieved employee," Ms. Orellana will initiate a civil action on behalf of herself, the State of California, and other aggrieved employees to recover civil penalties resulting from the wage and hour violations alleged herein. As alleged herein, and based on Ms. Orellana's own investigation and on information and belief, Defendants have committed the following Labor Code violations:

- a. Defendants have violated Labor Code §§ 1182.12, 1194, 1194.2, 1197, and 1198 by failing to pay Ms. Orellana and other aggrieved employees at least the statutory minimum wage for all hours worked;
- b. Defendants have violated Labor Code §§ 204, 210, 216, 510, 1194, and 1198 by failing to pay Ms. Orellana and other aggrieved employees all overtime and/or double-time compensation earned;
- c. Defendants have violated Labor Code §§ 204, 210, 226.7, 512, and 558 by failing to provide all legally required meal periods and by failing to pay meal period premiums to Ms. Orellana and other aggrieved employees;
- d. Defendants have violated Labor Code §§ 226.7, 516, 558, and Civil Code §§ 3287(b) and 3289, by failing to authorize and permit all legally required rest periods and by failing to pay rest period premiums to Ms. Orellana and other aggrieved employees;
- e. Defendants have violated Labor Code §§ 226 and 246 by failing to furnish Ms. Orellana and other aggrieved employees with accurate and complete itemized wage statements;
- f. Defendants have violated Labor Code §§ 201-203 by failing to pay Ms. Orellana and other aggrieved former employees all wages due at the end of their employment;

- g. Defendants have violated Labor Code §§ 2802 and 2804 by failing to reimburse Ms. Orellana and other aggrieved employees for all necessary expenditures incurred;
- h. Defendants violated Labor Code § 204 by failing to pay Ms. Orellana and other aggrieved employees all wages earned at least twice during each calendar month; and
- i. Defendants violated Labor Code §§ 1174 and 1198 by failing to maintain accurate records on behalf of Ms. Orellana and other aggrieved employees.

Pursuant to Labor Code Section 2699.3, please notify us and Defendants if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
HAINES LAW GROUP, APC


Paul K. Haines

cc: Liberty Building Maintenance & Services, Inc., c/o Gordon Rees Scully Mansukhani
Thomas McMullen (Counsel of Record for Defendants) and Marcia A. Fryslie (individual
- agent for service of process) (via certified mail)

PROOF OF ACCEPTANCE (ELECTRONIC)

PRODUCED DATE: 10/22/2022

HAINES LAW GROUP:

The following is information for Certified Mail™/RRE item number:
9214 8901 9403 8393 6360 93

Our records indicate that this item was accepted by the USPS at:
ORIGIN ACCEPTANCE EL SEGUNDO,CA 90245 10/21/2022

ORIGINAL INTENDED RECIPIENT:

LIBERTY BUILDING MAINTENANCE & SERVICES INC A CALIFORNIA CORPORATION
C/O: MARCIA A FRYSLIE
26376 RUETHER AVE
SANTA CLARITA CA 91350-2990

PROOF OF ACCEPTANCE (ELECTRONIC)

PRODUCED DATE: 10/24/2022

HAINES LAW GROUP:

The following is information for Certified Mail™/RRE item number:
9214 8901 9403 8393 6349 90

Our records indicate that this item was accepted by the USPS at:
ORIGIN ACCEPTANCE EL SEGUNDO,CA 90245 10/23/2022

ORIGINAL INTENDED RECIPIENT:
THOMAS L MCMULLEN ESQ
GORDON REES SCULLY MANSUKHANI LLP
633 W 5TH ST FL 52
LOS ANGELES CA 90071-2005