

Aaron A. Bartz (SBN 198722)
BARTZ LAW GROUP, APC
5151 California Ave., Suite 100
Irvine, California 92617
Tel: (949) 504-4413 / Fax: (949) 656-7760
Email: aaron@bartzlawgroup.com

Walter L. Haines, Esq. (SBN 71075)
UNITED EMPLOYEES LAW GROUP, PC
8605 Santa Monica Blvd., #63354
West Hollywood, CA 90069
Tel.: (562) 256-1047 / Fax: (562) 256-1006
Email: walter@uelglaw.com

Attorneys for Plaintiffs RANDY LLOYD and EDDIE ALVARADO and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF RIVERSIDE

RANDY LLOYD, an individual; EDDIE
ALVARADO, an individual; on behalf of
themselves and all others similarly situated
and the general public,

Plaintiffs,

v.

BERRY ROOFING, INC., a California
corporation; and DOES 1 to 100, inclusive,

Defendants.

) Case No. CVRI2300461

) [Assigned For All Purposes To the Hon. Harold
W. Hopp, Dept. 1]

) **DECLARATION OF AARON A. BARTZ IN**
) **SUPPORT OF MOTION FOR FINAL**
) **APPROVAL OF CLASS ACTION**
) **SETTLEMENT**

) Date: July 9, 2024

) Time: 8:30 a.m.

) Dept: 1

I, Aaron A. Bartz, declare:

2. I submit this declaration in support of Plaintiffs' Motion for Final Approval of Class Settlement.

3. The parties in this case have reached a proposed \$225,000 non-reversionary Settlement in this class action case. A true and correct copy of the Class Action and PAGA Settlement Agreement, and Amendment to Class Action and PAGA Settlement Agreement, is collectively attached hereto as **Exhibit 1**. On February 21, 2024, this Court granted Preliminary Approval of the parties' Settlement. Attached as **Exhibit 2** is a true and correct copy of the Court's Order Granting Preliminary Approval ("Order").

5. Prior to sending out the Settlement Notice, Objection Form, and Exclusion Form, Phoenix analyzed the class member data provided by Defendant, and calculated the number of class members and workweeks. Defendant further provided Phoenix with the names, last known addresses, and social security numbers for the class members based upon Defendant's employment records. After receiving the relevant contact information, Phoenix accessed the National Change of Address ("NCOA") database and updated the addresses provided by Defendant.

2

SUMMARY OF SETTLEMENT

7. In summary, the settlement fund is allocated as follows:

- (1) Net settlement fund: \$110,542.83;
- (2) Attorney's fees and costs: \$75,000 in attorneys' fees and \$8,414 in costs;
- (3) Settlement administrator expenses of \$6,043.17;
- (4) PAGA payment: \$10,000 (\$7,500 to the LWDA, and \$2,500 to aggrieved employees;
- (5) Class representative enhancements totaling \$15,000 (\$7,500 each) for the named Plaintiffs.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

8. This case arises out of wage and hour violations by Defendant Berry Roofing, Inc. ("Defendant") against its current and former California employees. On November 22, 2022, Plaintiffs Randy Lloyd and Eddie Alvarado ("Plaintiffs"), on behalf of themselves and all other aggrieved employees of Defendant, served a Private Attorneys General Act (PAGA) letter, alleging various Labor Code violations, including: (1) failure to pay all wages; (2) failure to provide meal periods; (3) failure to authorize and permit rest periods or provide compensation in lieu thereof; (4) failure to timely pay all wages owed; (5) failure to reimburse expenses; and (6) failure to properly maintain and submit accurate itemized wage statements. A true and correct copy of Plaintiffs' PAGA letter served on November 22, 2022 is attached hereto as **Exhibit 3**.

9. Thereafter, on January 30, 2023, Plaintiffs filed a class action and PAGA Complaint against Defendant in the Riverside Superior Court, alleging similar claims. A true and correct copy of Plaintiffs' operative Complaint is attached hereto as **Exhibit 4**.

10. After filing this action, the parties discussed informally resolving this case prior to prolonged formal class action discovery. To that end, Defendant produced hundreds of pages of time and payroll records, and an Excel spreadsheet with over 20,000 lines of pay data for the class. Plaintiffs also hired experienced damages expert James Toney, to analyze the payroll and related wage data and create a damages model for the various claims alleged in the case. Based upon the analysis of the time records and payroll data, Mr. Toney and Class Counsel were able to calculate damage estimates on a class-wide basis.

11. The parties did not attend Mediation in this matter until they had sufficient data and documents to evaluate the claims in the case. On September 27, 2023, the parties attended a full-day Mediation before the wage and hour mediator Barry Appell. After an all-day mediation, the parties reached a settlement, memorialized in a Memorandum of Understanding in the evening on September 27, 2023. Thereafter, the parties entered into a Long Form Settlement Agreement entered into in December 2023.

12. The operative Complaint alleges claims for 1) Failure to Pay All Wages; 2) Waiting Time Penalties; 3) Failure to Provide Meal Periods; 4) Failure to Authorize and Permit Proper Rest Periods; 5) Failure to Properly Maintain and Submit Itemized Wage Statements; 6) Failure to Reimburse Expenses; 7) Unfair Business Practices; and 9) Violation of Labor Code § 2699 (PAGA). Plaintiffs further allege that they and the Class are entitled to damages, restitution, wages, attorneys' fees, and interest, among other remedies.

Pursuant to Kullar v. Footlocker Retail Inc., 168 Cal. App 4th 116, 118 and Dunk v. Ford Motor Co., (1996) 48 Cal.App.4th 1794, the following describes the settlement's reasonableness. Plaintiffs recognize the expense and length of continued proceedings necessary to continue the litigation against Defendant through trial and through any possible appeals. Plaintiffs have also taken into account the uncertainty and risk of denial of motion for class certification and the uncertain outcomes resulting from further litigation, and the difficulties and delays inherent in such litigation.

Based on the foregoing, Plaintiffs have determined that the settlement is a fair, adequate and reasonable settlement and is in the best interests of the Class Members. The reasonable exposure and the reasonable settlement value for each of the alleged claims are as follows:

CLAIM	TOTAL EXPOSURE	SETTLEMENT VALUE
Failure to Pay Wages	\$1,100,000	\$110,000
Meal	\$852,000	\$85,200

Rest	\$947,000	\$47,000
Paystub	\$159,000	\$15,900
Waiting time	\$795,000	\$79,500
Reimbursement	\$200,000	\$20,000
PAGA	\$942,000	\$94,000
TOTAL	\$4,995,000	\$451,600

I. Overtime/Minimum Wage Violations

Labor Code § 510 provides that “[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek. . . shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.”

Labor Code § 1194 states any employee receiving less than the legal minimum wage is entitled to recover the unpaid balance of the full amount of this minimum wage, including interest thereon, reasonable attorney’s fees, and costs of suit.

Plaintiffs contend that Defendant failed to pay all wages due in numerous respects. *First*, Plaintiffs contend that Defendant’s agreements require Plaintiffs and other class members to work on weekends, and to respond to calls and emails at all times of the day, oftentimes without payment. *Second*, Plaintiffs contend that Defendant’s agreements and policies authorize Defendant to unlawfully deduct sums from Plaintiffs’ and class members’ compensation.

Defendant contends that its payment policies were lawful, and that it paid for all time worked, including to Defendant’s commission-based employees, who were given the freedom to work on their own schedule. Defendant further claims that its commission employees were exempt from overtime and minimum wage requirements.

Plaintiffs and their expert analyzed payroll and time records for the class members and calculated that the total verdict value for this claim is approximately \$1.1 million. Plaintiffs and

1 their expert assumed 5 hours per week of unpaid hours, Plaintiffs' expert reviewed payroll
2 records for the class, including pay period counts per year, and a weighted average rate of pay.
3 Based on the defenses alleged, as well as fact that the failure to pay wage claim will rest on
4 testimony from Plaintiffs and class members, and documented evidence of such violations is
5 scant, the Plaintiffs placed a reasonable settlement value of the overtime/minimum wage claim at
6 ten percent of the total verdict value, or **\$110,000**. This valuation takes into consideration
7 Plaintiffs' counsels' analysis of the law, and evidence produced by the Defendant.

8 **II. Meal and Rest Period Claims**

9 a. Meal period liability and damages

10 Plaintiffs contend that Defendant failed to provide Plaintiffs and class members with a
11 duty-free 30-minute meal period for every five hours of work as is required by Labor Code § 512
12 and the applicable IWC Wage Order(s) and in violation of *Brinker Restaurant Corp. v. Superior*
13 *Court*, 53 Cal.4th 1004 (2012). Failure to provide a meal in accordance with the applicable Wage
14 Order(s) results in payment by the employer of one additional hour of pay at the employee's
15 regular rate of pay for each workday that the meal period is not provided. (Labor Code § 226.7.)

16 In *Brinker, supra*, the California Supreme Court held that "under ... Labor Code § 512,
17 subdivision (a), an employer must relieve the employee of all duty for the designated period, but
18 need not ensure that the employee does no work" during the meal period. *Id.* at 1034. However,
19 "...an employer may not undermine a formal policy of providing meal breaks by pressuring
20 employees to perform their duties in ways that omit breaks. *Cicairos v. Summit Logistics, Inc.*,
21 133 Cal.App.4th 949, 962–63 (2005); *see also Jaimez v. DAIOHS USA, Inc.*, 181 Cal.App.4th
22 1286, 1304–05 (2010) [proof of common scheduling policy that made taking breaks extremely
23 difficult would show violation]; *Dilts v. Penske Logistics, LLC*, 267 F.R.D. 625, 638
24 (S.D.Cal.2010) [indicating informal anti-meal-break policy "enforced through 'ridicule' or
25 'reprimand'" would be illegal].) Defendant also cannot create "incentives to forego, or otherwise
26 encourage[] the skipping of legally protected breaks." *Brinker, supra*, 53 Cal.4th at 1040.
27
28

1 Moreover, when time records show short, missed, and late meal periods, there is a
2 presumption that an employer violated California’s meal period requirements. *See Donohue v.*
3 *AMN Services, LLC*, 11 Cal.5th 58, 78 (2021) (“If time records show noncompliant meal periods,
4 then a rebuttable presumption of liability arises.”)

5 Plaintiffs contend that Defendant’s meal period practices are unlawful under California
6 law. **First**, Plaintiffs allege that Defendant misclassified certain commission-based employees,
7 so duty-free meal periods were not offered to them, and they were not able to take such meal
8 periods. **Second**, Plaintiffs allege that because Defendant fails to maintain accurate and
9 complete documentation regarding Plaintiffs’ and other class members’ meal periods, there is a
10 prima facie violation of the Wage Orders. As such, it is presumed that Plaintiffs and the class
11 members were not relieved of duty and no meal periods were provided. *See Brinker, supra*, 53
12 Cal.4th at 1053 (conc. opn. of Werdegar, J.) **Third**, Plaintiffs and the class members aver that
13 they were never provided uninterrupted, duty-free meal periods, because of the time constraints
14 Defendant placed upon Plaintiffs’ and class members’ work.

15 Defendant contends that Plaintiffs and class members had the ability and in fact did take
16 meal periods, and that if they did not, it was their own choice, and therefore not actionable.
17 Defendant further contends that it has time records showing such meal periods.
18

19 Class Counsel and their expert calculated the maximum verdict value of the meal break
20 claim to be approximately \$852,000. This calculation is based on the assumption that each late,
21 missed or short meal period was the result of Defendant’s interference with Plaintiffs’ and the
22 class members abilities to take duty-free meal periods. Accordingly, Class Counsel and their
23 expert determined a total violation rate for the class members, and average rate of pay based on
24 the payroll data for the class. Based on discussions with Plaintiffs and interviews of other class
25 members, and the defenses raised, Plaintiffs believe they had a ten percent probability of
26 recovering all of these damages. Accordingly, Plaintiffs contend the reasonable exposure of the
27 meal break claim is approximately **\$85,200**.
28

1 b. Rest period liability and damages

2 Section 12(A) of the IWC Wage Order(s) states: “Every employer shall authorize and
3 permit all employees to take rest periods, which insofar as practicable shall be in the middle of
4 each work period. The authorized rest period time shall be based on the total hours worked daily
5 at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However,
6 a rest period need not be authorized for employees whose total daily work time is less than three
7 and one-half (3½) hours. Authorized rest period time shall be counted as hours worked for which
8 there shall be no deduction from wages.”

9 Section 12(B) of the IWC Wage Order(s) states: “If an employer fails to provide an
10 employee a rest period in accordance with the applicable provisions of this order, the employer
11 shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each
12 workday that the rest period is not provided.” Moreover, during rest periods, “employees must
13 not only be relieved of work duties, but also be freed from employer control over how they spend
14 their time.” *Augustus v. ABM Sec. Servs., Inc.*, 2 Cal.5th 257, 270 (2016). Further, when an
15 employer adopts common policies that prevent employees from taking their rest breaks, it presents
16 a common factual issue by which liability may follow. *See Jaimez v. Daiohs USA, Inc.*, 181
17 Cal.App.4th 1286, 1304 (2010). Indeed, “[t]he wage orders and governing statute do not
18 countenance an employer’s exerting coercion against the taking of, creating incentives to forego,
19 or otherwise encouraging the skipping of legally protected breaks.” *Brinker, supra*, 53 Cal.4th at
20 1040.
21

22 Here, Plaintiffs contend that Defendant’s commission plans do not separately compensate
23 Plaintiffs for their rest periods. As such, Defendant fails to account for such rest periods, which
24 are effectively uncompensated. Thus, Plaintiffs contend that Defendant’s compensation system
25 runs afoul of California law, including but not limited to the holdings in *Bluford v. Safeway, Inc.*,
26 216 Cal.App.4th 864, 871-872 (2013) and *Vaquero v. Stoneledge Furniture LLC*, 9 Cal.App.5th
27 98, 110-111 (2017). Plaintiffs further allege that Defendant restricted other class members from
28

1 going offsite during their rest periods, thus they were not free from Defendant's control. Cf.
2 *Augustus v. ABM Security Services, Inc.*, 2 Cal.5th 257, 270 (2016).

3 Defendant contends that its rest period policies were lawful and appropriate, and that all
4 class members were afforded ample time to take duty-free rest periods throughout their work day.

5 Based on discussions with Plaintiffs and interviews of other class members, Class Counsel
6 assumed a 50% violation rate for all shifts by class members of 3.5 hours or more. Based on that
7 assumption, Plaintiffs' expert calculated total violations across the class, multiplied by an average
8 rate of pay for the class members. As such, Class Counsel and their expert calculated the maximum
9 verdict value of the rest period claims to be approximately \$940,000. Based on the difficulty of
10 proving rest period violations on a classwide basis, and the lack of objective evidence proving such
11 violations, Plaintiffs believe they had a five percent chance of recovering all of the rest period
12 damages. As such, Plaintiffs believe the reasonable exposure of the rest break claim is
13 approximately **\$47,000**.
14

15 **III. Waiting Time Penalty**

16 The waiting time penalty claim is purely derivative. Plaintiffs and their expert analyzed
17 the data to find that there are approximately 78 former employees included in the putative class
18 that would be eligible for the Labor Code §203 penalties. Plaintiffs and their expert calculated
19 the reasonable exposure of this claim at approximately \$795,000. The Plaintiffs further
20 discounted the waiting time penalty claim based on risk and the fact that waiting time penalties
21 are not awarded if a good faith dispute exists as to whether the wages were owing. Further, the
22 class would have the burden of proving a "willful" withholding of wages. Plaintiffs considered
23 that under Labor Code §203 there is only a penalty if "an employer willfully fails to pay" all
24 wages due to an employee upon separation. Willfulness does not exist if there is a "good faith
25 dispute," in fact or law that wages were due, even if the employer's reasoning ultimately proves
26 incorrect. Amaral v. Cintas Corp. No. 2 (2008) 163 Cal.App.4th 1157, 1204; 8 Cal. Code Regs. §
27 13520 ("A 'good faith dispute' that any wages are due occurs when an employer presents a
28

1 defense, based in law or fact which, if successful, would preclude any recover on the part of the
2 employee. The fact that a defense is ultimately unsuccessful will not preclude a finding that a
3 good faith dispute did exist.")

4 Once Plaintiffs determined the maximum reasonable exposure of the claim, Plaintiffs
5 placed a settlement value of **\$79,500** or approximately ten percent of the reasonable exposure
6 value, based upon the above discounts applied to the reasonable value of the claim.

7 **IV. Paystub**

8 As to the paystub penalty, which is derivative of the other claims identified above, the
9 Plaintiffs and their expert arrived at a maximum reasonable exposure of this claim of
10 approximately \$159,000. This figure was arrived at by assuming that each wage statement that
11 was provided to the class members violated LC §226.

12 Defendant argues that, even assuming there are any violations, which they deny, the fact
13 that derivative violations were minor and that the Defendants had presented evidence of a good
14 faith dispute as to any violation. Hurst v. Buczek Enters., LLC (N.D. Cal. 2012) 870 F.Supp.2d
15 810, 829 (no section 226 violation where the employer "makes a good faith claim" in its
16 defense); Harris v. Vector Mktg. Corp. (2009) 656 F.Supp.2d 1 128, 1 146 (2009) (the "employer
17 did not knowingly and intentionally fail to provide itemized wage statements" where there was a
18 "good faith dispute").

19 Based on the raised defenses, as well as the risk of certification and related risks of
20 proving all violations, Plaintiffs have placed a reasonable settlement value of **\$15,900** or ten
21 percent of the reasonable exposure of the pay stub claim.

22 **V. PAGA**

23 Plaintiffs contend that PAGA penalties are owed based on the numerous alleged Labor
24 Code violations identified above. Once a PAGA violation is found, a court must award civil
25 penalties. See Amaral v. Cintas Corp. No. 2 (2008) 163 Cal.App.4th 1157, 1211-1213.
26 Nevertheless, a court has discretion to reduce the award of civil penalties if it finds that "based
27
28

1 on the facts and circumstances of the particular case, to do otherwise would result in an award
2 that is unjust, arbitrary and oppressive, or confiscatory.” Cal. Lab. Code § 2699(e)(2).

3 Significantly, moreover, because the law is unsettled in many areas of the law alleged by
4 Plaintiffs herein, there is a very real possibility that a court would substantially reduce the
5 penalties, even if they are proven. See, e.g., Fleming v. Covidien, Inc., 2011 WL 7563047, *3-4
6 (C.D. Cal. 2011) (reducing penalties from \$2.8 million to \$500,000 based on wage statement
7 violations because to assess full penalties would be unjust and arbitrary); Thurman v. Bayshore
8 Transit Mgmt., Inc., 203 Cal.App.4th 1112, 1134 (2012) (reduction of PAGA penalties by 30%
9 affirmed on appeal).

10 Plaintiffs and their expert calculated the reasonable PAGA penalties to be valued at
11 \$942,000 based on this being an initial violation against Defendants. Plaintiffs believe the few
12 cases that reported a PAGA trial that the discretionary penalties are discounted by approximately
13 75%-85%. Based on the uncertainty of recovery on several of Plaintiffs’ legal theories, Plaintiffs
14 believe the PAGA claim’s reasonable value is ten percent of the total value, or approximately
15 **\$94,000.**
16

17 **VI. Reimbursement Claim**

18 California Labor Code section 2802(a) provides:

19 An employer shall indemnify his or her employee for all necessary expenditures
20 or losses incurred by the employee in direct consequence of the discharge of his
21 or her duties, or of his or her obedience to the directions of the employer, even
22 though unlawful, unless the employee, at the time of obeying the directions,
23 believed them to be unlawful.

24 Plaintiffs contend that Defendants failed to comply with California’s reimbursement
25 requirements by failing to adequately reimburse Plaintiffs and the class members for using their
26 personal cell phones while working for Defendants, along with incurring other expenses and
27
28

1 purchasing other tools for business purposes. See Cochran v. Schwan's Home Serv., Inc., 228
2 Cal. App. 4th 1137 (2014).

3 In Cochran, the court stated: “The threshold question in this case is this: Does an
4 employer always have to reimburse an employee for the reasonable expense of the mandatory
5 use of a personal cell phone, or is the reimbursement obligation limited to the situation in which
6 the employee incurred an extra expense that he or she would not have otherwise incurred absent
7 the job? The answer is that reimbursement is always required. Otherwise, the employer would
8 receive a windfall because it would be passing its operating expenses on to the employee. Thus,
9 to be in compliance with section 2802, the employer must pay some reasonable percentage of the
10 employee's cell phone bill.” Id. at 1144.

11 Defendant contends that it paid for all reasonable and necessary expenses incurred by
12 Plaintiffs and class members, and that the reimbursement claim has little to no value.

13 Plaintiffs contend that this claim is valued at \$200,000.00 based upon average cell phone
14 usage and failure to reimburse class members for their monthly usage while at work, along with
15 an analysis of other expenses incurred by Plaintiffs. Given the fact that there are individualized
16 issues in proving reimbursement violations and damages, Plaintiffs believe this claim’s
17 reasonable value is **\$20,000**, or ten percent of the total value.

18 **VII. Total Damage Exposure**¹

19 Plaintiffs believe that the \$225,000 settlement achieved in this case is very good for the
20 class members. Based upon a reasonable exposure value of \$451,600, the settlement represents
21 approximately 50% of that total value. Given the many defenses raised, the uncertainty of the
22 certifiability of any class, and the risks of going to trial, Class Counsel believe this settlement is
23 an excellent result for all of the class members.

24
25
26 ¹ The Unfair Competition claim is subsumed into the Kullar analysis above. The Unfair
27 Competition claim is based upon the wage and hour violations, and adds an extra year of
28 damages, and is included within the above analysis.

ATTORNEY COMPETENCE IN CLASS ACTIONS

13. I am experienced class action counsel, including specializing in wage and hour and employment claims. Some of the class action litigation on which I have been approved as Class Counsel include:

- a. *Wilkins, et al. v. Equinox Holdings, Inc.*
Los Angeles Superior Court, No.: BC440058
- b. *TBC Retail Group Wage and Hour Cases*
Los Angeles Superior Court, No.: JCCP No. 4701
- c. *Casserly v. Randstad US, L.P., et al.*
U.S.D.C., Central District of California, No. SACV 12-1023-DOC(ANx)
- d. *Crilly v. Micro Electronics, Inc.*
Orange County Superior Court, No.: 30-2013-00662586-CU-OE-CXC
- e. *Concho, et al. v. Pipeline Carriers, Inc. et al.*
Orange County Superior Court, No.: 30:2013-00649600-DU-OE-CXC
- f. *Holsted et al. v. R.J. Noble Company et. al.*
Orange County Superior Court, No.: 30:2010-00379770-CU-OE-CXC
- g. *Piggue v. Chief Protective Services, Inc.*
Orange County Superior Court, No.: 30-2013-00688107-CU-OE-CXC
- h. *Walsh v. Pacific Bell Telephone Company*
Orange County Superior Court, No.: 30-2011-00498062-CU-OE-CXC
- i. *Woods v. JFK Memorial Hospital*
Riverside County Superior Court, No.: INC 1205209
- j. *Ramirez et. al v. Titan Insurance of New Mexico*
Riverside County Superior Court, No.: RIC1211890
- k. *DeSantos v. Jaco Oil Company, et al.*
U.S.D.C. Eastern District of California, No. 1:14-CV-00738-JLT
- l. *Duran v. Big 5 Corp.*
Los Angeles Superior Court, Case No. BC557154
- m. *Sheahan v. Celtic Leasing Corporation, Inc.*
Orange County Superior Court No.: 30-2016-00852151-CU-OE-CXC

- n. *Panasis v. Control4 Corporation*
United States District Court, Central District of California
Case No. SACV-16-1179-DOC
- o. *O&R Construction, LLC v. Dun & Bradstreet, et al.*
United States District Court, Western District of Washington
Case No. C12-2184 TSZ
- p. *Matthews v. Whelan Security of California, Inc.*
Orange County Superior Court, No.: 30-2016-00833250-CU-OE-CXC
- q. *Rodriguez v. R.J. Noble Company (Navarro/Kles),*
Orange County Superior Court, No.: 30-2017-00916018-CU-OE-CXC
- r. *Wang v. Fountain Valley Regional Hospital*
Orange County Superior Court, No. 30-2015-00821329-CU-OE-CXC
- s. *Skerl v. Sutter Bay Hospitals*
San Mateo Superior Court, No. 21-CIV-02057

14. I graduated from Vanderbilt University in 1992 with a Bachelor of Arts in Economics and English, and graduated from Southwestern Law School in 1998. Since becoming a lawyer in 1998, my practice has focused on complex litigation matters, and for more than a decade, complex employment law and wage and hour matters.

15. I am a member of the California State Bar, the Orange County Bar Association, Los Angeles County Bar Association, and California Employment Lawyers Association. I have an AV rating from Martindale-Hubbell, the highest possible rating for a lawyer. During my 25+ year career, I have handled many successful employment law matters both at the trial and appellate levels. I estimate that I have represented plaintiffs in hundreds of employment cases, the vast majority of which have resulted in favorable settlements, awards and/or verdicts for my clients. I have successfully prosecuted and obtained significant recoveries in several class action lawsuits and other lawsuits involving complex legal and factual issues. In 2015, I was co-lead counsel in *Walsh v. Pacific Bell*, which settled for \$16,800,000. Recently, in October 2023, I was also co-lead counsel in *Skerl v. Sutter Bay Hospitals*, in which final approval was granted for a \$12,000,000 settlement for health care workers. I have also been involved in many other million and multi-million dollar verdicts and settlements over the years.

1 16. Nestor Mejia is a paralegal that works for Bartz Law Group, APC. Mr. Mejia has
2 an AA from West Los Angeles College in Business Administration, and has many years of
3 experience working on employment and wage and hour matters, including PAGA and complex
4 class actions, for my firm and others within California.

5
6 **CLASS REPRESENTATIVE ENHANCEMENTS**

7 17. Plaintiffs Randy Lloyd and Eddie Alvarado have been intimately involved in the
8 prosecution of this case from the beginning. Prior to filing this case, I spent numerous hours
9 talking to both Plaintiffs about the wage and hour issues that they experienced while working for
10 Defendant, and worked with them to prepare the PAGA letter and Complaint filed in this case.
11 Both Plaintiffs also were very helpful in connecting Class Counsel to other putative class
12 members who experienced similar wage and hour violations, and assisted with interpreting the
documents produced in informal discovery.

13 18. Plaintiffs also faced a significant risks in being class representatives in this action.
14 Both Plaintiffs had potential wrongful termination and retaliation claims after they complained
15 about the wage practices to Defendant. Pursuing that wrongful termination claim could have
16 been much more lucrative to Plaintiffs personally than filing this class action to address wage
17 and hour practices for not just themselves, but all of the other class members.

18 19. Plaintiffs have been diligent in every aspect of this case, throughout the pre-filing
19 and discovery, attending mediation, and ensuring that the class received the best resolution
20 possible in this case.

21 20. Based on the class administrator's estimates, I understand that Mr. Lloyd is due to
22 receive \$104.68 as a class member, and Mr. Alvarado is due to receive \$3,915.18 as a class
23 member. Based on the work that they have done for the class in this case, the risks of this
24 litigation, I believe Plaintiffs are absolutely entitled to their enhancement awards of \$7,500 each
in this case.

25 **ATTORNEYS FEES, COSTS AND EXPENSES**

26 21. To date, my firm Bartz Law Group APC has spent approximately 117 hours on
27 this case and has incurred approximately \$94,415. My billing rate is \$850 an hour, and my
28

1 paralegal Nestor Mejia bills at a rate of \$250 per hour. Attached as **Exhibit 5** is a true and
2 correct copy of the attorneys' fees incurred by Bartz Law Group APC in this case. My co-
3 counsel at United Employees Law Group (UELG), Walter Haines, has a billable rate of \$725 per
4 hour, and in total has billed approximately \$9,932.50 on this matter. As such, the total fees
5 billed in connection with this matter is more than \$104,347. The fees incurred were reasonable
6 and necessary in order to prosecute this case. These rates are well within reasonable market rates
7 in Southern California, and generally modest when compared to other employment law attorneys
8 with comparable experience.

9 22. My firm and UELG have entered into a fee split arrangement, whereby Bartz Law
10 Group is entitled to receive 75% of the total attorneys fees due in this case, and UELG is entitled
11 to a 25% share. Both clients Mr. Alvarado and Mr. Lloyd have been informed of this fee sharing
12 agreement, and have approved it in writing.

13 23. Bartz Law Group APC has also incurred reasonable and necessary costs to
14 prosecute this action, including filing fees, mediation fees, and expert fees, among others.
15 Attached as **Exhibit 6** are Bartz Law Group APC attorneys' costs incurred in connection with
16 this case.

17 24. Class Counsel is requesting attorneys' fees of \$75,000, or one-third of the gross
18 settlement amount. Class Counsel's lodestar of more than \$100,000 exceeds the amount of
19 attorneys' fees requested. Class Counsel therefore believes that pursuant to *Lealao v. Beneficial*
20 *California, Inc.*, 82 Cal.App.4th 19 (2000), that the fee request in this case is fair and reasonable
21 in view of the typical common fund attorneys' fees awards and similar California class action
22 settlements.

23 25. The settlement administrator Phoenix requests \$6,043.17 in fees and costs to
24 administer the settlement. Based on my experience in prosecuting wage and hour class actions,
25 Phoenix's expenses of \$6,043.17 to administer the settlement is fair and reasonable, and should
26 be approved.
27
28

1 I declare under penalty of perjury under the laws of California that the foregoing is true
2 and correct. Executed on June 12, 2024, at Irvine, California.

3
4 //Aaron A. Bartz//

Aaron A. Bartz
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiffs Randy Lloyd and Edward Alvarado (“Plaintiffs”) and Defendant Berry Roofing, Inc. (“Defendant”). The Agreement refers to Plaintiffs and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiffs’ lawsuit alleging wage and hour violations against Defendant captioned *Randy Lloyd & Eddie Alvarado v. Berry Roofing, Inc.*, Case No. CVRI2300461 and pending in Superior Court of the State of California, County of Riverside.
- 1.2. “Administrator” means Phoenix Class Action Administration Solutions (“Phoenix”), the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means all current and former employees who have worked in California for Defendant at any time from November 22, 2021 through the Class Period End Date whether or not the Aggrieved Employee opts out of the class settlement, and represented by the Plaintiffs and the State of California Labor and Workforce Development Agency.
- 1.5. “Class” means all current and former employees who worked in California for Defendant during the Class Period.
- 1.6. “Class Counsel” means Bartz Law Group, APC and United Employees Law Group, PC.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English with a Spanish translation in the form, without

material variation, attached as Exhibit A and incorporated by reference into this Agreement.

- 1.12. "Class Period" means the period from January 30, 2019 through the Class Period End Date.
- 1.13. "Class Period End Date" is any date between January 30, 2019 and the date of preliminary approval, selected unilaterally by Defendant and communicated in writing to Plaintiffs' counsel not later than November 30, 2023. Defendant certifies that the number of workweeks for all Settlement Class Members from January 30, 2019 to July 9, 2023 is no more than 4,824 ("Certified Workweek Amount"). This Settlement is based on the aforementioned Certified Workweek Amount provided by Defendant. In the event that Defendant, at its sole discretion, selects an end date to the Class Period, such that the workweeks by Class Members included in the settlement of this Action increases by more than 15% (i.e. more than 723.6 additional work weeks such that the final workweeks being released are greater than 5,547.6), the Gross Settlement Amount shall be increased proportionally by the workweeks in excess of 5,547.6 multiplied by the workweek value. The workweek value shall be calculated by dividing the Gross Settlement Amount by 4,824. However, Defendant shall have sole discretion to, alternatively, terminate the Class Period (and hence the date through which the release of Class Members run) on the date the number of workweeks released by Class Members reaches 5,547.6 workweeks.
- 1.14. "Class Representative" means the named Plaintiffs in the operative complaint in the Action seeking Court approval to serve as Class Representatives.
- 1.15. "Class Representative Service Payment" means the payment to the Class Representative for initiating the Action and providing services in support of the Action.
- 1.16. "Court" means the Superior Court of California, County of Riverside.
- 1.17. "Defendant" means named Defendant Berry Roofing, Inc.
- 1.18. "Defense Counsel" means Littler Mendelson, P.C.
- 1.19. "Effective Date" means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.20. "Final Approval" means the Court's order granting final approval of the Settlement.
- 1.21. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of the Settlement.
- 1.22. "Final Judgment" means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.23. "Gross Settlement Amount" means Two Hundred Twenty-Five Thousand Dollars

(\$225,000.00) which is the total amount Defendant agrees to pay under the Settlement, except as provided in Paragraph 1.13, above. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator's Expenses.

- 1.24. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.25. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.
- 1.26. "Judgment" means the judgment entered by the Court based upon the Final Approval.
- 1.27. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.28. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.29. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.30. "Non-Participating Class Member" means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.31. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.32. "PAGA Period" means the period from November 22, 2021 to the Class Period End Date.
- 1.33. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.34. "PAGA Notice" means Plaintiffs' November 22, 2022 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a), asserting claims for civil penalties under, among other things, Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 432.5, 510, 512, 558, 1174, 1194, 1197, 1198, 1198.5, 2802, and 2699.
- 1.35. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount (\$10,000.00), allocated 25% to the Aggrieved Employees (\$2,500.00) and 75% to LWDA (\$7,500.00) in settlement of PAGA claims.
- 1.36. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.37. "Plaintiffs" mean Randy Lloyd and Edward Alvarado, the named plaintiffs in the

Action.

- 1.38. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.39. “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.40. “Released Class Claims” means the claims being released as described in Paragraph 5.3 below.
- 1.41. “Released PAGA Claims” means the claims being released as described in Paragraph 5.4 below.
- 1.42. “Released Parties” means: Defendant and each of its former and present directors, officers, shareholders, agents, predecessors, successors, and assigns.
- 1.43. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.44. “Response Deadline” means 45 days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.45. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.46. “Workweek” means any week during which a Class Member worked for Defendant for at least one day, during the Class Period.

2. RECITALS.

- 2.1. On January 30, 2023, Plaintiffs commenced this Action by filing a Complaint alleging causes of action against Defendant for Violation of Business and Professions Code section 17200, Failure to Pay Wages including Minimum and Overtime Wages, Failure to Maintain Accurate Payroll Records, Waiting Time Penalties, Failure to Provide and Maintain Accurate Wage Statements, Failure to Provide Meal and Rest Periods, Failure to Reimburse Expenses, and Violation of the PAGA. The Complaint is the operative complaint in the Action (the “Operative Complaint.”) Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.
- 2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiffs gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.
- 2.3. On September 27, 2023, the Parties participated in an all-day mediation presided over by experienced wage and hour mediator Barry Appell, which led to this Agreement to settle the Action.
- 2.4. Prior to mediation, Plaintiffs obtained, through informal discovery, time and payroll

records of Defendant, policy documents, and other information and data sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

- 2.5. The Court has not granted class certification.
- 2.6. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. **MONETARY TERMS.**

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 1.13 above, Defendant promises to pay Two Hundred Twenty-Five Thousand Dollars (\$225,000.00) and no more as the Gross Settlement Amount, and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:
 - 3.3. To Plaintiffs: Class Representative Service Payments to the Class Representatives of not more than Seven Thousand Five Hundred Dollars (\$7,500.00) each in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representatives are entitled to receive as Participating Class Members. Defendant will not oppose Plaintiffs’ request for Class Representative Service Payments that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the remainder shall be allocated to the Net Settlement Amount. The Administrator will pay the Class Representative Service Payments using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payment.
 - 3.4. To Class Counsel: A Class Counsel Fees Payment of not more than 33 1/3%, which is currently estimated to be Seventy-Five Thousand Dollars (\$75,000.00) and a Class Counsel Litigation Expenses Payment of not more than Ten Thousand Dollars (\$10,000.00). Defendant will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net

Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiffs' Counsel arising from any claim to any portion any Class Counsel Fees Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

- 3.5. To the Administrator: An Administrator Expenses Payment not to exceed Seven Thousand Five Hundred Dollars (\$7,500.00) except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$7,500, the Administrator will allocate the remainder in the Net Settlement Amount.
- 3.6. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.
 - 3.6.1. Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.
 - 3.6.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.
- 3.7. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of Ten Thousand Dollars (\$10,000.00) to be paid from the Gross Settlement Amount, with 75% (\$7,500.00) allocated to the LWDA PAGA Payment and 25% (\$2,500.00) allocated to the Individual PAGA Payments.
 - 3.7.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties of \$2,500.00 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.
 - 3.7.2. If the Court approves PAGA Penalties of less than the amount requested, the

Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

- 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant estimates there are 125 Class Members who collectively worked a total of 4,824 Workweeks from January 30, 2019 to July 9, 2023, and 68 Aggrieved Employees who worked a total 1,650 of PAGA Pay Periods from November 22, 2021 to July 9, 2023.
- 4.2. Class Data. Not later than 35 days after the Court grants Preliminary Approval of the Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 14 days after the Effective Date.
- 4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representatives' Service Payments. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.
 - 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice

was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

- 4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall redistribute, on a pro rata basis, the funds to those class members who have cashed their checks.
- 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs, Class Members, and Class Counsel will release claims against all Released Parties as follows:

- 5.1. Plaintiffs' Release. Plaintiffs fully release and forever discharge Defendant and the Released Parties from any and all claims, causes of action, damages, wages benefits, expenses, penalties, debts, liabilities, demands, obligations, attorney's fees, costs, and any other form of relief or remedy in law, equity, or whatever kind or nature, whether known or unknown, suspected or unsuspected that arise from or are related to Plaintiffs' employment by Defendants or the Action, including but not limited to: (1) the Action and any claims arising out of related to the Action; (2) any claims under federal, state or local law for or relating to wages, benefits, compensation, vacation or other paid time off, and claims for liquidated damages, penalties, or costs and fees associated therewith, including under the California Labor Code; (3) wrongful termination, discrimination, harassment, and/or retaliation, including under the California Fair Employment and Housing Act, Title VII of the Civil Rights Act of 1964, the Family Medical Leave Act, the California Family rights Act, the Americans with Disabilities Act, the Equal Pay Act, the California Labor Code, the California Government Code, (4) any act, omission, or occurrence or claim arising out of or related to the Action or Plaintiffs' employment or termination thereof with Defendant taking place on or before the Effective Date; and (5) any other form of relief or remedy of any kind, nature, or description whatsoever, whether premised on statute, contract,

tort, or other theory of liability under state, federal, or local law. Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agree, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them.

- 5.2. Plaintiffs' Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiffs' Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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.

- 5.3. Released Class Claims By Participating Class Members Who Are Not Aggrieved Employees: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint and Plaintiffs' PAGA Notice, including claims under the California Labor Code, California Industrial Welfare Commission Wage Orders, regulations, and/or other provisions of law, for misclassification of nonexempt employees as exempt employees including outside salesmen under Labor Code section 1171 or 8 C.C.R. 11010(c) (or comparable provisions under other Wage Orders), failure to pay wages (including minimum wages, regular wages, overtime wages, failure to pay overtime at the regular rate, double time wages, and reporting time wages, failure to provide compliant meal periods and associated premium pay, failure to provide compliant rest periods and associated premium pay, failure to provide compliant wage statements, failure to timely pay wages upon termination of employment, failure to timely pay wages during employment, failure to maintain requisite payroll records, and failure to reimburse business expenses, including Labor Code sections section 201, 202, 203, 204, 218, 218.6, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, 1198, 2802 and 2699, and unfair or unlawful business practices in violation of California Business and Professions Code § 17200, *et seq.* related to the above claims. The Released Class Claims also means any claims, rights, demands, liabilities, damages, wages, benefits, expenses, penalties, debts, obligations, attorneys' fees, costs, any other form of relief or remedy in law, equity, or whatever kind or nature, and causes of action, that could potentially arise from the receipt of any monies as a result of this Settlement by any member of the Class.

- 5.3.1. Except as set forth in Paragraph 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act,

unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.4. Released PAGA Claims by Aggrieved Employees: All Aggrieved Employees, the State of California and Plaintiffs shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged Defendant and all of its officers, directors, shareholders, agents, predecessors, successors, and assigns, from the claims for civil penalties that could have been sought by the Labor Commissioner for the violations of the California Private Attorneys General Act of 2004 identified in the PAGA Notice and those based solely upon the facts alleged in the PAGA Notice during the PAGA Period. However, to the extent the LWDA has released the PAGA claims, no Aggrieved Employee may pursue these same PAGA claims released here in another action. The Aggrieved Employees are collaterally estopped from pursuing the PAGA claims released and compromised by the LWDA. After the Court grants final approval of the settlement, Plaintiffs will provide the LWDA with a copy of the Judgment which will include a list of the Aggrieved Employees during the PAGA Period. Plaintiffs do not release any PAGA Members' claims for wages and damages. This does not preclude the release of wages and damages by the Class Members set forth herein. The Aggrieved Employees will be issued a check for their share of the individual PAGA payment and will not have the opportunity to opt out of, or object to, the individual PAGA payment and release of the PAGA claims set forth herein. The Aggrieved Employees are bound by the release of the PAGA claims regardless of whether they cash or deposit their individual PAGA payment or opt out of being a Class Member.

6. **MOTION FOR PRELIMINARY APPROVAL.** The Parties agree Plaintiffs will prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals.

6.1. Defendant's Declaration in Support of Preliminary Approval. Within 15 days of the full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed Declaration from Defendant and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In their Declarations, Defense Counsel and Defendant shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2. Plaintiffs' Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiffs, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiffs

confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and (vi) all facts relevant to any actual or potential conflict of interest with Class Members. In their Declarations, Plaintiffs and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

- 6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.
- 6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

- 7.1. Selection of Administrator. The Parties have jointly selected Phoenix to serve as the Administrator and verified that, as a condition of appointment, Phoenix agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.
- 7.4. Notice to Class Members.
 - 7.4.1. No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay

Periods in the Class Data.

- 7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice, with Spanish translation, substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- 7.4.3. Not later than 5 business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- 7.4.4. The deadlines for Class Members’ written objections, Challenges to Workweeks and/or Pay Periods and Requests for Exclusion will be extended an additional 14 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- 7.4.5. If the Administrator, Defendant or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.
- 7.5. Requests for Exclusion (Opt-Outs).
 - 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member’s election to be excluded from the Settlement and includes the Class Member’s name, address and email address or telephone number. To be valid,

a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

- 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.
- 7.5.3. Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.3 and 5.4 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.4 of this Agreement and are eligible for an Individual PAGA Payment.
- 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination of the challenges. The Court will have the final authority in the event that challenges from Class Members remain unresolved.
- 7.7. Objections to Settlement.
 - 7.7.1. Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of

the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

- 7.7.2. Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 45 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). Not later than 5 days after the expiration of the deadline for submitting Objections, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Objections; and (b) copies of all Objections submitted (whether valid or invalid).
- 7.7.3. Non-Participating Class Members have no right to object to any of the class action components of the Settlement.
- 7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.
 - 7.8.1. Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.
 - 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).
 - 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received

and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

- 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge, unless the Court determines otherwise.
- 7.8.5. Administrator’s Declaration. Not later than 14 days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- 7.8.6. Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. **DEFENDANT’S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5% of the total of all outstanding Workweeks, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than seven days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.
9. **MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared Final Approval Hearing, Plaintiffs will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment

(collectively “Motion for Final Approval”). Plaintiffs shall provide drafts of these documents to Defense Counsel not later than five days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

- 9.1. Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 9.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final Approval. The Court’s decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.
- 9.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.
- 9.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties’ obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.
- 9.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court’s concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court’s award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the

meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

10. AMENDED JUDGMENT. If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

11. ADDITIONAL PROVISIONS.

- 11.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiffs reserve the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).
- 11.2. Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency.
- 11.3. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 11.4. No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be

construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

- 11.5. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 11.6. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 11.7. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 11.8. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 11.9. No Tax Advice. Neither Plaintiffs, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 11.10. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 11.11. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 11.12. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the State of California, without regard to conflict of law principles.
- 11.13. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 11.14. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

- 11.15. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs shall destroy, all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.
- 11.16. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 11.17. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 11.18. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiffs:

Bartz Law Group APC
5151 California Ave., Suite 100
Irvine, CA 92617
Attn: Aaron A. Bartz
aaron@bartzlawgroup.com

To Defendant:

Littler Mendelson PC
2049 Century Park East, 5th Floor
Los Angeles, CA 90067-3107
Attn: Shiva Davoudian/James Becerra
sdavoudian@littler.com
jbecerra@littler.com

- 11.19. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

11.20. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

IT IS SO AGREED:

Dated: December ¹⁴____, 2023

DocuSigned by:

E9122BAAC3A0428...

Plaintiff Edward Alvarado aka Eddie Alvarado

Dated: December ^{RL}____, 2023

DocuSigned by:

554B700B6E804F5...

Plaintiff Randy Lloyd

Dated: December ____, 2023

Jennifer Berry, o/b/o Berry Roofing, Inc.

APPROVED AS TO FORM

Dated: December 13, 2023

DocuSigned by:

EC5A3FE789D1423...

Aaron Bartz, Class Counsel

Dated: December ____, 2023

Shiva Davoudian, Counsel for Berry Roofing, Inc.

11.20. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

IT IS SO AGREED:

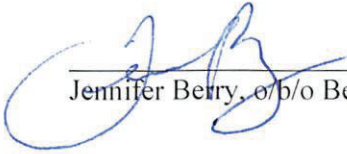
Dated: December __, 2023

Plaintiff Edward Alvarado aka Eddie Alvarado

Dated: December __, 2023

Plaintiff Randy Lloyd

Dated: December 14, 2023

_____
Jennifer Berry, o/b/o Berry Roofing, Inc.

APPROVED AS TO FORM

Dated: December __, 2023

Aaron Bartz, Class Counsel

Dated: December 27, 2023

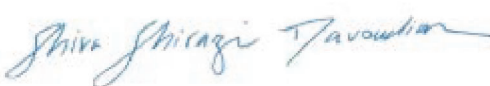
_____
Shiva Davoudian, Counsel for Berry Roofing, Inc.

EXHIBIT A

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

Randy Lloyd and Eddie Alvarado v. Berry Roofing, Inc.

Case No. CVRI2300461

***The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Berry Roofing, Inc. (“Defendant”) for alleged wage and hour violations. The Action was filed by former employees Randy Lloyd and Edward Alvarado (“Plaintiffs”) and seeks payment of (1) past due wages and other relief for a class of all current and former employees (“Class Members”) who worked for Defendant during the Class Period (January 30, 2019 to ____) ; and (2) penalties under the California Private Attorney General Act (“PAGA”) for all current and former employees who worked for Defendant during the PAGA Period (November 22, 2021 to ____) (“Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendant to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Defendant’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$_ (less withholding) and your Individual PAGA Payment is estimated to be \$_____**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendant’s records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on Defendant’s records showing that **you worked ____ workweeks** during the Class Period and **you worked _____ workweeks** during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section D of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiffs and Plaintiffs’ attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the Class Period and/or the PAGA Period, you have

two basic options under the Settlement:

- (1) **Do Nothing.** You don’t have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendant.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendant, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

Defendant will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don’t Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is _____	If you don’t want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section F of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by _____	All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiffs reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiffs if you think they are unreasonable. See Section G of this Notice.

You Can Participate in the _____ Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on _____. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section H of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by _____	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section D of this Notice.

A. WHAT IS THE ACTION ABOUT?

Plaintiffs are former employees of Defendant. The Action accuses Defendant of violating California labor laws by failing to pay overtime wages, minimum wages, wages due upon termination and reimbursable expenses and failing to provide meal periods, rest breaks and accurate itemized wage statements. Based on the same claims, Plaintiffs have also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiffs are represented by attorneys in the Action: Bartz Law Group APC and United Employees Law Group PC ("Class Counsel.") Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

B. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Defendant or Plaintiffs are correct on the merits. In the meantime, Plaintiffs and Defendant hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs and Defendant have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims. Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

C. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Defendant Will Pay Two Hundred Twenty Five Thousand Dollars (\$225,000.00) as the Gross Settlement Amount (Gross Settlement). Defendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement not more than 14 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - a. Up to Seventy-Five Thousand Dollars (\$75,000.00) (one-third of the Gross Settlement) to Class Counsel for attorneys' fees and up to Ten Thousand Dollars (\$10,000.00) for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - b. Up to Fifteen Thousand Dollars (\$15,000.00) total (\$7,500 to each Plaintiff) to Plaintiffs as Class Representative Awards for filing the Action, working with Class Counsel and representing the Class. The Class Representative Awards will be the only monies Plaintiffs will receive other than Plaintiffs' Individual Class Payment and any Individual PAGA Payment.
 - c. Up to Seven Thousand Five Hundred Dollars (\$7,500.00) to the Administrator for services administering the Settlement.
 - d. Up to Ten Thousand Dollars (\$10,000.00) for PAGA Penalties, allocated 75% to the LWDA PAGA Payment (\$7,500) and 25% in Individual PAGA Payments (\$2,500) to the Aggrieved Employees based on their PAGA Period Pay Periods. Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.
3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiffs and Defendant are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages ("Wage Portion") and 80% to interest and penalties ("Non-Wage Portion"). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-

Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiffs and Defendant have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be re-distributed, on a pro rata basis, to those class members who have cashed their checks.
6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than **[DATE]**, that you wish to opt-out. In order to opt-out of the Settlement, you should complete the Request for Exclusion Form included with this Notice, by setting forth your name, present address, telephone number, and returning the form to the Administrator by the date set forth above. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Defendant.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendant based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.
8. Administrator. The Court has appointed a neutral company, **[INSERT]** (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section I of this Notice.
9. Participating Class Members' Release. After the Judgment is final and Defendant has fully funded the Gross Settlement (and separately paid the employer-side payroll taxes), Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or related entities for wages based on the

Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement. The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint and Plaintiffs' PAGA Notice, including claims under the California Labor Code, California Industrial Welfare Commission Wage Orders, regulations, and/or other provisions of law, for misclassification of nonexempt employees as exempt employees including outside salesmen under Labor Code section 1171 or 8 C.C.R. 11010(c) (or comparable provisions under other Wage Orders), failure to pay wages (including minimum wages, regular wages, overtime wages, failure to pay overtime at the regular rate, double time wages, and reporting time wages, failure to provide compliant meal periods and associated premium pay, failure to provide compliant rest periods and associated premium pay, failure to provide compliant wage statements, failure to timely pay wages upon termination of employment, failure to timely pay wages during employment, failure to maintain requisite payroll records, and failure to reimburse business expenses, including Labor Code sections section 201, 202, 203, 204, 218, 218.6, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, 1198, 2802 and 2699, and unfair or unlawful business practices in violation of California Business and Professions Code § 17200, *et seq.* related to the above claims. The Released Class Claims also means any claims, rights, demands, liabilities, damages, wages, benefits, expenses, penalties, debts, obligations, attorneys' fees, costs, any other form of relief or remedy in law, equity, or whatever kind or nature, and causes of action, that could potentially arise from the receipt of any monies as a result of this Settlement by any member of the Class. Except as set forth in Paragraph 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

10. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and Defendant has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Defendant, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendant or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement. The Aggrieved Employees' Releases for Participating and Non-Participating Class

Members are as follows:

All Aggrieved Employees, the State of California and Plaintiffs shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged Defendant and all of its officers, directors, shareholders, agents, predecessors, successors, and assigns, from the claims for civil penalties that could have been sought by the Labor Commissioner for the violations of the California Private Attorneys General Act of 2004 identified in the PAGA Notice and those based solely upon the facts alleged in the PAGA Notice during the PAGA Period. However, to the extent the LWDA has released the PAGA claims, no Aggrieved Employee may pursue these same PAGA claims released here in another action. The Aggrieved Employees are collaterally estopped from pursuing the PAGA claims released and compromised by the LWDA. After the Court grants final approval of the settlement, Plaintiffs will provide the LWDA with a copy of the Judgment which will include a list of the Aggrieved Employees during the PAGA Period. Plaintiffs do not release any PAGA Members' claims for wages and damages. This does not preclude the release of wages and damages by the Class Members set forth herein. The Aggrieved Employees will be issued a check for their share of the individual PAGA payment and will not have the opportunity to opt out of, or object to, the individual PAGA payment and release of the PAGA claims set forth herein. The Aggrieved Employees are bound by the release of the PAGA claims regardless of whether they cash or deposit their individual PAGA payment or opt out of being a Class Member.

D. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$_____ by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have until **DATE** to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. **Section I** of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendant's calculation of Workweeks and/or Pay Periods based on Defendant's records as accurate unless you send copies of records

containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendant's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

E. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section I of this Notice has the Administrator's contact information.

F. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit the Request for Exclusion Form included herein with your name, present address, and telephone number. Be sure to personally sign the Request for Exclusion Form. You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by DATE, or it will be invalid.** Section I of the Notice has the Administrator's contact information.

G. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. If you wish to remain a Class Member, but you object to the proposed settlement (or any of its terms) and wish the Court to consider your objection at the Final Approval Hearing, you may object to the proposed settlement in writing using the attached Objection Form. You may also appear at the Final Approval Hearing, either in person or through an attorney at your own expense. All written objections, supporting papers, and/or notices of intent to appear at the Final Approval Hearing must clearly identify the case name and number and be mailed to the Settlement Administrator, _____, at _____. Objections must be postmarked no later than _____ [45 days after mailing]. You still may appear at the Final Approval Hearing and raise an objection to the settlement even if you did not submit written objections within this 45-day deadline.

H. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on DATE at TIME in Department 1 of the Riverside Superior Court, located at 4050 Main Street, Riverside, California 92501. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiffs, and the Administrator. At the Final Approval Hearing, the Court will hear all objections, as well as arguments for and against the proposed Settlement. You have a right to attend this

hearing, but you are not required to do so. You also have the right to hire an attorney to represent you, at your own expense, or to enter an appearance and represent yourself.

I. HOW CAN I GET MORE INFORMATION?

The above is a summary of the basic terms of the settlement. For the precise terms and conditions of the settlement, you may review the detailed Settlement Agreement, which is attached as Exhibit 1 to the Declaration of Aaron Bartz filed on _____, and is on file with the clerk of the Riverside Superior Court, 4050 Main Street, Riverside, California 92501, and may also be reviewed online at <https://www.riverside.courts.ca.gov/>.

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

Class Counsel:

Aaron A. Bartz, Esq.

BARTZ LAW GROUP, APC

5151 California Ave., Suite 100

Irvine, California 92617

Telephone: (949) 504-4413

Walter Haines, Esq.

UNITED EMPLOYEES LAW GROUP, PC

8605 Santa Monica Blvd., #63354

West Hollywood, CA 90069

Telephone: (562) 256-1047

Settlement Administrator:

Name of Company

Email Address:

Mailing Address:

Telephone:

Fax Number:

J. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, you will have no way to recover the money.

K. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

AMENDMENT TO CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Amendment to the Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiffs Randy Lloyd and Edward Alvarado (“Plaintiffs”) and Defendant Berry Roofing, Inc. (“Defendant”), parties to the original Agreement, as approved by their respective counsel.

It is agreed by all parties to the Agreement the following amendments shall be made to the original Agreement:

1. Section 5.4 of the Agreement is hereby amended as follows:

5.4 Released PAGA Claims by Aggrieved Employees: All Aggrieved Employees, the State of California and Plaintiffs shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged Defendant and all of its officers, directors, shareholders, and agents, from the claims for civil penalties that could have been sought by the Labor Commissioner for the violations of the California Private Attorneys General Act of 2004 identified in the PAGA Notice and those based solely upon the facts alleged in the PAGA Notice during the PAGA Period. However, to the extent the LWDA has released the PAGA claims, no Aggrieved Employee may pursue these same PAGA claims released here in another action. The Aggrieved Employees are collaterally estopped from pursuing the PAGA claims released and compromised by the LWDA. After the Court grants final approval of the settlement, Plaintiffs will provide the LWDA with a copy of the Judgment which will include a list of the Aggrieved Employees during the PAGA Period. Plaintiffs do not release any PAGA Members’ claims for wages and damages. This does not preclude the release of wages and damages by the Class Members set forth herein. The Aggrieved Employees will be issued a check for their share of the individual PAGA payment and will not have the opportunity to opt out of, or object to, the individual PAGA payment and release of the PAGA claims set forth herein. The Aggrieved Employees are bound by the release of the PAGA claims regardless of whether they cash or deposit their individual PAGA payment or opt out of being a Class Member.

2. All other sections, terms, and conditions of the original Agreement shall remain unchanged, and in full force and effect.

IT IS SO AGREED:

Dated: February ¹³ __, 2024

DocuSigned by:
Edward Alvarado
E9122BAAC3A0428...

Plaintiff Edward Alvarado aka Eddie Alvarado

Dated: February 13, 2024

DocuSigned by:

554B700B6E804F5...

Plaintiff Randy Lloyd

Dated: February __, 2024

Jennifer Berry, o/b/o Berry Roofing, Inc.

APPROVED AS TO FORM

Dated: February 12, 2024

DocuSigned by:

EC5A3FE789D1423...

Aaron Bartz, Class Counsel

Dated: February __, 2024

Shiva Davoudian, Counsel for Berry Roofing, Inc.

AMENDMENT TO CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Amendment to the Class Action and PAGA Settlement Agreement ("Agreement") is made by and between Plaintiffs Randy Lloyd and Edward Alvarado ("Plaintiffs") and Defendant Berry Roofing, Inc. ("Defendant"), parties to the original Agreement, as approved by their respective counsel.

It is agreed by all parties to the Agreement the following amendments shall be made to the original Agreement:

1. Section 5.4 of the Agreement is hereby amended as follows:

5.4 Released PAGA Claims by Aggrieved Employees: All Aggrieved Employees, the State of California and Plaintiffs shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged Defendant and all of its officers, directors, shareholders, and agents, from the claims for civil penalties that could have been sought by the Labor Commissioner for the violations of the California Private Attorneys General Act of 2004 identified in the PAGA Notice and those based solely upon the facts alleged in the PAGA Notice during the PAGA Period. However, to the extent the LWDA has released the PAGA claims, no Aggrieved Employee may pursue these same PAGA claims released here in another action. The Aggrieved Employees are collaterally estopped from pursuing the PAGA claims released and compromised by the LWDA. After the Court grants final approval of the settlement, Plaintiffs will provide the LWDA with a copy of the Judgment which will include a list of the Aggrieved Employees during the PAGA Period. Plaintiffs do not release any PAGA Members' claims for wages and damages. This does not preclude the release of wages and damages by the Class Members set forth herein. The Aggrieved Employees will be issued a check for their share of the individual PAGA payment and will not have the opportunity to opt out of, or object to, the individual PAGA payment and release of the PAGA claims set forth herein. The Aggrieved Employees are bound by the release of the PAGA claims regardless of whether they cash or deposit their individual PAGA payment or opt out of being a Class Member.

2. All other sections, terms, and conditions of the original Agreement shall remain unchanged, and in full force and effect.

IT IS SO AGREED:

Dated: February __, 2024

Plaintiff Edward Alvarado aka Eddie Alvarado

Dated: February __, 2024

Plaintiff Randy Lloyd

Dated: February 12, 2024

Jennifer Berry, o/b/o Berry Roofing, Inc.

APPROVED AS TO FORM

Dated: February __, 2024

Aaron Bartz, Class Counsel

Dated: February 13, 2024

Shiva Davoudian, Counsel for Berry Roofing, Inc.

EXHIBIT 2

Aaron A. Bartz (SBN 198722)
BARTZ LAW GROUP, APC
5151 California Ave., Suite 100
Irvine, California 92617
Tel: (949) 504-4413 / Fax: (949) 656-7760
Email: aaron@bartzlawgroup.com

Walter L. Haines, Esq. (SBN 71075)
UNITED EMPLOYEES LAW GROUP, PC
8605 Santa Monica Blvd., #63354
West Hollywood, CA 90069
Tel.: (562) 256-1047 / Fax: (562) 256-1006
Email: walter@uelglaw.com

Attorneys for Plaintiffs RANDY LLOYD and EDDIE ALVARADO and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

RANDY LLOYD, an individual; EDDIE
ALVARADO, an individual; on behalf of
themselves and all others similarly situated and
the general public,

Plaintiffs,

v.

BERRY ROOFING, INC., a California
corporation; and DOES 1 to 100, inclusive,

Defendants.

Case No. CVRI2300461

[Assigned For All Purposes To the Hon.
Harold W. Hopp, Dept. 1]

~~PROPOSED~~ ORDER GRANTING
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT

Date: February 21, 2024
Time: 8:30 a.m.
Dept: 1

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

FEB 21 2024

E. Escobedo

NKR

FEB 26 2024 R

1 This matter came on for hearing on February 21, 2024, at 8:30 a.m. in Department 1 of
2 the above-referenced Court, located at 4050 Main Street, Riverside, California 92501, on the
3 Motion for Preliminary Approval of Class Action Settlement (“Motion”). Plaintiffs RANDY
4 LLOYD and EDDIE ALVARADO (hereinafter “Plaintiffs”) appeared through their attorneys of
5 record. Defendant BERRY ROOFING, INC. (hereinafter “Defendant”) appeared through its
6 counsel of record.

7 Having fully reviewed and considered the Motion and moving papers, and having
8 analyzed the Class Action and PAGA Settlement Agreement (“Settlement Agreement”) attached
9 as Exhibit 1 to the Declaration of Aaron A. Bartz filed with the Motion, and the Amendment to
10 the Settlement Agreement, attached as Exhibit 2 to the Supplemental Declaration of Aaron A.
11 Bartz, THE COURT HEREBY MAKES THE FOLLOWING DETERMINATIONS AND
12 ORDERS:

13 1. The Court preliminarily approves the proposed Settlement Agreement as being
14 fair, reasonable, and adequate; and finds on a preliminary basis that the Settlement Agreement
15 appears to be within the range of reasonableness of a settlement which the Court could ultimately
16 give final approval.

17 2. The initial capitalized terms in this Order shall have the same meanings as those
18 set forth in the Settlement Agreement.

19 3. The Court finds that the elements of numerosity, commonality, typicality and
20 adequacy have been established to support conditional certification of the Settlement Class for
21 settlement purposes. Solely for the purposes of the proposed Settlement, a Class is provisionally
22 certified pursuant to California Code of Civil Procedure section 382 and defined as follows:

23 All current and former employees who worked in California for
24 Defendant during the Class Period.

25 4. Solely for the purposes of the proposed Settlement, the Court preliminarily
26 approves (a) Bartz Law Group, APC and United Employees Law Group, PC as Class Counsel;
27 and (b) Randy Lloyd and Eddie Alvarado as Class Representatives. The Court appoints Phoenix
28 Class Action Administration Solutions as Settlement Administrator.

1 5. The Court shall hold a final approval hearing (the "Final Approval Hearing") on
2 July 9, 2024, at 8:30 A.M., to review the notice process and objections to the Settlement, if any;
3 and to determine whether the proposed Settlement on the terms and conditions set forth in the
4 Settlement Agreement is fair, reasonable, and adequate, and should be finally approved by the
5 Court; to determine whether the Court should enter the Judgment as provided in the Settlement
6 Agreement; and to determine the amount of attorneys' fees and costs to approve for Class
7 Counsel and the amount of the enhancement award to approve for the Class Representatives.

8 6. The Court approves, as to form and content, the Court Approved Notice of Class
9 Action Settlement and Hearing Date for Final Court Approval (the "Settlement Notice"),
10 attached hereto as **Exhibit A**. The Court finds that distribution of the Settlement Notice
11 substantially in the manner set forth in the Settlement Agreement and Settlement Notice meets
12 the requirements of California law and due process, is the best notice practicable under the
13 circumstances, and shall constitute due and sufficient notice to all persons entitled thereto.

14 7. The Settlement Administrator shall supervise and administer the notice procedure
15 as set forth in the Settlement Agreement as follows:

16 a. After entry of the Preliminary Approval Order, Defendant shall provide
17 the Settlement Administrator with the Class Data for purposes of mailing the Settlement
18 Notices to Class Members. Defendant shall have up to thirty-five (35) days to provide the
19 Class Data after entry of the Preliminary Approval Order;

20 b. Upon receipt of the Class Data, the Settlement Administrator shall
21 perform a search based on the National Change of Address Database maintained by the
22 United States Postal Service to update and correct any known or identifiable address
23 changes. Within fourteen (14) calendar days after receiving the Class Data from
24 Defendant as provided herein, the Settlement Administrator shall mail copies of the
25 Settlement Notice, Objection Form (Exhibit B), and Exclusion Form (Exhibit C) to all
26 Class Members via regular First-Class U.S. Mail. The Parties agree that this procedure
27 for notice provides the best notice practicable to Class Members and fully complies with
28 due process;

1 c. Any Settlement Notice returned to the Settlement Administrator as non-
2 deliverable on or before the Response Deadline shall be re-mailed to the forwarding
3 address affixed thereto within five (5) business days of receipt of the returned Settlement
4 Notice by the Settlement Administrator. If no forwarding address is provided, the
5 Settlement Administrator shall attempt to determine a correct address by conducting a
6 Class Member Address Search;

7 d. The Settlement Administrator shall perform all other obligations required
8 under the Settlement Agreement, including those under section 7.8 of the Settlement
9 Agreement.
10

11 8. In order for any Settlement Class member to object to this Settlement, or any term
12 of it, the person making the objection may submit the objection to the Settlement Administrator
13 by no later than the Response Deadline specified in the Settlement Notice setting forth the
14 grounds of objection. A Class Member may submit his or her objection on the Objection Form,
15 attached hereto as **Exhibit B**. Any objection shall be sent to the Settlement Administrator, not to
16 the Court. A Class Member may also appear personally or through an attorney, at his or her own
17 expense, at the Final Approval hearing to present his or her objection directly to the Court.

18 9. In order for any Settlement Class member to validly exclude themselves from the
19 Settlement Class and this Settlement (i.e., to validly opt out), a written request for exclusion must
20 be submitted to the Settlement Administrator postmarked no later than the Response Deadline.
21 A Class Member excluding himself or herself from the Settlement may do so by using the
22 Exclusion Form, attached as **Exhibit C** hereto. Any Request for Exclusion shall be submitted to
23 the Settlement Administrator, not to the Court. A Class Member who timely submits a valid
24 Request for Exclusion shall not participate in, or be bound by, the Settlement or the Final
25 Judgment in any respect. Individuals who submit a Request for Exclusion shall not be permitted
26 to file or pursue objections to the Settlement or appear at the Final Approval Hearing to voice
27 any objections to the Settlement.
28

1 10. At the Final Approval Hearing, the Court shall finally determine whether the
2 proposed Settlement is fair, reasonable, and adequate; and shall also rule on Class Counsel's
3 application for attorneys' fees, the Class Representatives' enhancement awards, reimbursement
4 of Class Counsel's costs, and the Settlement Administrator expenses for administering the
5 Settlement.

6 11. The Court's preliminary approval of the Settlement is not to be deemed an
7 admission of liability or fault by Defendant, or a finding as to the validity of any claims or
8 defenses asserted in the Action.

9 12. The Court reserves the right to adjourn or continue the date of the Final Approval
10 Hearing without further notice to the Class Members, and it will retain jurisdiction to consider all
11 further applications arising out of or connected with the proposed Settlement. In the event that
12 the Final Approval Hearing is continued, Class Counsel or the Settlement Administrator shall
13 give notice of the continuance to any objectors to the Settlement.

14 13. If for any reason the Settlement ultimately does not become final, the parties will
15 return to their respective positions in this Action as those positions existed immediately before
16 the Parties executed the Settlement, and nothing stated in the Settlement or any other papers filed
17 with this Court in connection with the Settlement will be deemed an admission of any kind by
18 any of the parties or used as evidence against, or over the objections of, any of the parties for any
19 purpose in this Action or in any other action.

20
21
22 **IT IS SO ORDERED.**

23
24
25
26 DATED: 2/21/24

27 
28 Hon. Harold W. Hopp
Judge of the Superior Court

EXHIBIT A

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

Randy Lloyd and Eddie Alvarado v. Berry Roofing, Inc.

Case No. CVRI2300461

The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.

You may be eligible to receive money from an employee class action lawsuit ("Action") against Berry Roofing, Inc. ("Defendant") for alleged wage and hour violations. The Action was filed by former employees Randy Lloyd and Edward Alvarado ("Plaintiffs") and seeks payment of (1) past due wages and other relief for a class of all current and former employees ("Class Members") who worked for Defendant during the Class Period (January 30, 2019 to February 1, 2024); and (2) penalties under the California Private Attorney General Act ("PAGA") for all current and former employees who worked for Defendant during the PAGA Period (November 22, 2021 to February 1, 2024) ("Aggrieved Employees").

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendant to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency ("LWDA").

Based on Defendant's records, and the Parties' current assumptions, **your Individual Class Payment is estimated to be \$_ (less withholding) and your Individual PAGA Payment is estimated to be \$_____**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendant's records you are not eligible for an Individual PAGA Payment under the Settlement because you didn't work during the PAGA Period.)

The above estimates are based on Defendant's records showing that **you worked _____ workweeks** during the Class Period and **you worked _____ workweeks** during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section D of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiffs and Plaintiffs' attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement

and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendant.

- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendant, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

Defendant will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is _____	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section F of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by _____	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiffs reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiffs if you think they are unreasonable. See Section G of this Notice.

You Can Participate in the _____ Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on _____. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section H of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by _____	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section D of this Notice.

A. WHAT IS THE ACTION ABOUT?

Plaintiffs are former employees of Defendant. The Action accuses Defendant of violating California labor laws by failing to pay overtime wages, minimum wages, wages due upon termination and reimbursable expenses and failing to provide meal periods, rest breaks and accurate itemized wage statements. Based on the same claims, Plaintiffs have also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiffs are represented by attorneys in the Action: Bartz Law Group APC and United Employees Law Group PC ("Class Counsel.") Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

B. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Defendant or Plaintiffs are correct on the merits. In the meantime, Plaintiffs and Defendant hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs and Defendant have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims. Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

C. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Defendant Will Pay Two Hundred Twenty Five Thousand Dollars (\$225,000.00) as the Gross Settlement Amount (Gross Settlement). Defendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement not more than 14 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - a. Up to Seventy-Five Thousand Dollars (\$75,000.00) (one-third of the Gross Settlement) to Class Counsel for attorneys' fees and up to Ten Thousand Dollars (\$10,000.00) for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - b. Up to Fifteen Thousand Dollars (\$15,000.00) total (\$7,500 to each Plaintiff) to Plaintiffs as Class Representative Awards for filing the Action, working with Class Counsel and representing the Class. The Class Representative Awards will be the only monies Plaintiffs will receive other than Plaintiffs' Individual Class Payment and any Individual PAGA Payment.
 - c. Up to Seven Thousand Five Hundred Dollars (\$7,500.00) to the Administrator for services administering the Settlement.
 - d. Up to Ten Thousand Dollars (\$10,000.00) for PAGA Penalties, allocated 75% to the LWDA PAGA Payment (\$7,500) and 25% in Individual PAGA Payments (\$2,500) to the Aggrieved Employees based on their PAGA Period Pay Periods. Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.
3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiffs and Defendant are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages ("Wage Portion") and 80% to interest and penalties ("Non-Wage Portion"). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-

Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiffs and Defendant have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be re-distributed, on a pro rata basis, to those class members who have cashed their checks.
6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than **[DATE]**, that you wish to opt-out. In order to opt-out of the Settlement, you should complete the Request for Exclusion Form included with this Notice, by setting forth your name, present address, telephone number, and returning the form to the Administrator by the date set forth above. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Defendant.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendant based on the PAGA Period facts alleged in the Action.
7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.
8. Administrator. The Court has appointed a neutral company, **[INSERT]** (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section I of this Notice.
9. Participating Class Members' Release. After the Judgment is final and Defendant has fully funded the Gross Settlement (and separately paid the employer-side payroll taxes), Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or related entities for wages based on the

Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement. The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint and Plaintiffs' PAGA Notice, including claims under the California Labor Code, California Industrial Welfare Commission Wage Orders, regulations, and/or other provisions of law, for misclassification of nonexempt employees as exempt employees including outside salesmen under Labor Code section 1171 or 8 C.C.R. 11010(c) (or comparable provisions under other Wage Orders), failure to pay wages (including minimum wages, regular wages, overtime wages, failure to pay overtime at the regular rate, double time wages, and reporting time wages, failure to provide compliant meal periods and associated premium pay, failure to provide compliant rest periods and associated premium pay, failure to provide compliant wage statements, failure to timely pay wages upon termination of employment, failure to timely pay wages during employment, failure to maintain requisite payroll records, and failure to reimburse business expenses, including Labor Code sections section 201, 202, 203, 204, 218, 218.6, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, 1198, 2802 and 2699, and unfair or unlawful business practices in violation of California Business and Professions Code § 17200, *et seq.* related to the above claims. The Released Class Claims also means any claims, rights, demands, liabilities, damages, wages, benefits, expenses, penalties, debts, obligations, attorneys' fees, costs, any other form of relief or remedy in law, equity, or whatever kind or nature, and causes of action, that could potentially arise from the receipt of any monies as a result of this Settlement by any member of the Class. Except as set forth in Paragraph 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

10. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and Defendant has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Defendant, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendant or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement. The Aggrieved Employees' Releases for Participating and Non-Participating Class

Members are as follows:

All Aggrieved Employees, the State of California and Plaintiffs shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged Defendant and all of its officers, directors, shareholders, and agents, from the claims for civil penalties that could have been sought by the Labor Commissioner for the violations of the California Private Attorneys General Act of 2004 identified in the PAGA Notice and those based solely upon the facts alleged in the PAGA Notice during the PAGA Period. However, to the extent the LWDA has released the PAGA claims, no Aggrieved Employee may pursue these same PAGA claims released here in another action. The Aggrieved Employees are collaterally estopped from pursuing the PAGA claims released and compromised by the LWDA. After the Court grants final approval of the settlement, Plaintiffs will provide the LWDA with a copy of the Judgment which will include a list of the Aggrieved Employees during the PAGA Period. Plaintiffs do not release any PAGA Members' claims for wages and damages. This does not preclude the release of wages and damages by the Class Members set forth herein. The Aggrieved Employees will be issued a check for their share of the individual PAGA payment and will not have the opportunity to opt out of, or object to, the individual PAGA payment and release of the PAGA claims set forth herein. The Aggrieved Employees are bound by the release of the PAGA claims regardless of whether they cash or deposit their individual PAGA payment or opt out of being a Class Member.

D. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$_____ by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have until **DATE** to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. **Section I** of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendant's calculation of Workweeks and/or Pay Periods based on Defendant's records as accurate unless you send copies of records

containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendant's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

E. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section I of this Notice has the Administrator's contact information.

F. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit the Request for Exclusion Form included herein with your name, present address, and telephone number. Be sure to personally sign the Request for Exclusion Form. You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by DATE, or it will be invalid.** Section I of the Notice has the Administrator's contact information.

G. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. If you wish to remain a Class Member, but you object to the proposed settlement (or any of its terms) and wish the Court to consider your objection at the Final Approval Hearing, you may object to the proposed settlement in writing using the attached Objection Form. You may also appear at the Final Approval Hearing, either in person or through an attorney at your own expense. All written objections, supporting papers, and/or notices of intent to appear at the Final Approval Hearing must clearly identify the case name and number and be mailed to the Settlement Administrator, _____, at _____. Objections must be postmarked no later than _____ [45 days after mailing]. You still may appear at the Final Approval Hearing and raise an objection to the settlement even if you did not submit written objections within this 45-day deadline.

H. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on **[DATE]** at **[TIME]** in Department 1 of the Riverside Superior Court, located at 4050 Main Street, Riverside, California 92501. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiffs, and the Administrator. At the Final Approval Hearing, the Court will hear all objections, as well as arguments for and against the proposed Settlement. You have a right to attend this

hearing, but you are not required to do so. You also have the right to hire an attorney to represent you, at your own expense, or to enter an appearance and represent yourself.

I. HOW CAN I GET MORE INFORMATION?

The above is a summary of the basic terms of the settlement. For the precise terms and conditions of the settlement, you may review the detailed Settlement Agreement, which is attached as Exhibit 1 to the Declaration of Aaron Bartz filed on January 10, 2024, and is on file with the clerk of the Riverside Superior Court, 4050 Main Street, Riverside, California 92501, and may also be reviewed online at <https://www.riverside.courts.ca.gov/>.

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

Class Counsel:

Aaron A. Bartz, Esq.
BARTZ LAW GROUP, APC
5151 California Ave., Suite 100
Irvine, California 92617
Telephone: (949) 504-4413

Walter Haines, Esq.
UNITED EMPLOYEES LAW GROUP, PC
8605 Santa Monica Blvd., #63354
West Hollywood, CA 90069
Telephone: (562) 256-1047

Settlement Administrator:

Name of Company
Email Address:
Mailing Address:
Telephone:
Fax Number:

J. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, you will have no way to recover the money.

K. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

EXHIBIT B

Randy Lloyd and Eddie Alvarado v. Berry Roofing, Inc.
Riverside Superior Court, Case No.: CVRI2300461

OBJECTION FORM

MAIL TO:

c/o [Settlement Administrator]
P.O. Box *****
*****, CA *****
Telephone: (***) ***-****

**ONLY SUBMIT THIS FORM WITH YOUR WRITTEN
OBJECTION IF YOU WANT TO OBJECT TO THE
SETTLEMENT.**

Please provide the following information:

Name: _____

Address: _____

Telephone Number: _____

Signature: _____

THE BASIS FOR MY OBJECTION IS AS FOLLOWS:

**IF YOU NEED ADDITIONAL SPACE, ATTACH THIS OBJECTION COVER
SHEET TO YOUR WRITTEN OBJECTION TO THE CLASS SETTLEMENT. IF
YOU DO NOT OBJECT, DO NOT SUBMIT THIS FORM. INCLUDE ANY
PAPERS UPON WHICH YOUR OBJECTION IS BASED.**

PLEASE NOTE YOU CAN ONLY OBJECT TO THE CLASS SETTLEMENT IF YOU
DO NOT REQUEST EXCLUSION FROM THE CLASS SETTLEMENT.

IF YOU WANT TO OBJECT, YOUR OBJECTION SHOULD BE POSTMARKED ON
OR BEFORE _____, 2024, AND MAILED TO THE FOLLOWING
MAILING ADDRESS:

c/o [Settlement Administrator]
P.O. Box *****
*****, CA *****
Telephone: (***) ***-****

EXHIBIT C

REQUEST FOR EXCLUSION FORM

Randy Lloyd and Eddie Alvarado v. Berry Roofing, Inc.
Riverside Superior Court, Case No. CVRI2300461

Enclosed with this form is a Notice describing a class action settlement involving Berry Roofing, Inc.'s ("Berry") current and former employees between January 30, 2019 through February 1, 2024. The case involves alleged violations of the California Labor Code and Business & Professions Code, and related claims.

This settlement is the result of extensive settlement discussions. Both sides agree that, in light of the risks and expenses associated with further litigation, this Settlement is fair and appropriate under the circumstances. However, you have the opportunity to request exclusion from the proposed class settlement, as set out herein. **If you choose to exclude yourself from the class settlement, then you must accurately fill out and sign this Request for Exclusion Form and send it to the Settlement Administrator so that it is postmarked to the Settlement Administrator no later than xxxxx, 2024.**

This form must be addressed to:

Lloyd v. Berry Roofing, Inc.
c/o Settlement Administrator

IT IS MY DECISION TO BE EXCLUDED FROM THE CLASS SETTLEMENT AND NOT TO RECEIVE A CLASS SETTLEMENT PAYMENT. I UNDERSTAND THAT I HAVE THE RIGHT TO SEEK THE ADVICE OF COUNSEL WITH RESPECT TO THIS CHOICE AND HOW IT AFFECTS MY LEGAL RIGHTS, INCLUDING BUT NOT LIMITED TO THE APPLICABLE STATUTE OF LIMITATIONS.

By signing and returning this form, I certify that I have read the Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval in this action and wish to be excluded from the class settlement. I understand that this means that I will not receive any payment under the class settlement, except as follows: The proposed settlement includes the settlement of claims for civil penalties under PAGA. You may not request exclusion from the settlement of a PAGA claim. Thus, if the court approves this settlement, then even if you request exclusion from the class settlement, you still will receive an individual settlement share for the PAGA claims and will be deemed to have released the PAGA claims. A request for exclusion will preserve your right to individually pursue only the remaining class claims.

Dated: _____, 20__

(Signature)

(Type or Print Name)

(Address)

(Telephone No.)

EXHIBIT 3

BARTZ LAW GROUP, APC

5151 California Ave., Suite 100

Irvine, California 92617

(949) 504-4413

November 22, 2022

Notice Via Online Submission

PAGA Administrator
California Labor and Workforce Development Agency

Via Certified Mail (Return Receipt Requested)

Berry Roofing, Inc.
c/o Jennifer Ann Berry
Agent For Service of Process
3226 Kluk Ln
Riverside, California 92501

Re: *PAGA Letter – Randy Lloyd; Eddie Alvarado v. Berry Roofing, Inc.*

Dear PAGA Administrator:

Please be advised that the law firm of Bartz Law Group, APC represents Randy Lloyd and Eddie Alvarado and all other similarly situated aggrieved employees (“Plaintiffs”) with respect to their employment with Berry Roofing, Inc. (“Employer” or “Berry Roofing”).

The Employer has committed numerous violations of the California Labor Code, including, but not limited to, sections 201, 202, 203, 204, 226, 226.7, 432.5, 510, 512, 1174, 1194, 1198, 1198.5, and 2802. The facts and theories to support the alleged violations are set forth herein.

Employer provides roofing and solar repair and replacement services. Plaintiff Lloyd was employed as a field estimator/technician between August and October 2022. Plaintiff Alvarado was employed as a field estimator/technician and other similar positions between 2017 and October 2022. Plaintiffs worked for Berry Roofing in California within the last year, and were subject to the same wage and hour violations as Plaintiffs Lloyd and Alvarado.

A. Failure to Pay All Wages

Employer has regularly failed to pay Plaintiffs Lloyd and Alvarado and all other aggrieved employees all wages that they are owed, including minimum wages and overtime compensation, based upon Employer’s policy and practice of misclassifying employees as exempt, and not paying for all hours worked. For example, the vast majority of work performed by Plaintiffs involves estimating, by taking measurements of roofs and preparing estimates for roofing repairs and

replacements, but Employer wrongfully misclassifies Plaintiffs as exempt to avoid paying minimum wages and overtime wages owed. Plaintiffs regularly work more than 8 hours per day and 40 hours per week, and are required to work on weekends as well, and are not paid overtime for any hours over 8 in a day or 40 in a week.

Employer also commits wage theft by unlawfully clawing back commissions owed to Plaintiffs, requiring that Plaintiffs forfeit their commissions due and owing if they decide to leave Employer. Moreover, Employer requires, among other things, that Plaintiffs use their own equipment for preparing estimates, and as such, Plaintiffs must be paid at least twice the minimum wage. Employer, however, under its written contracts, regularly pays Plaintiffs far less than that amount.

Labor Code § 204(a) provides in pertinent part that “[a]ll wages, other than those mentioned in [Labor Code] Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.”

Pursuant to Labor Code § 204(b)(1), moreover, “all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.” Here, Employer did not pay Plaintiffs’ all wages owed in a timely manner, based on the allegations above, thereby violating Labor Code § 204.

B. Meal Breaks

Employer adopted, implemented and enforced uniform meal period policies that are not lawful under California law. Employer is required to provide a first meal period no later than the end of the 5th hour of work, and a second meal period no later than the end of the 10th hour of work. Based on Employer’s misclassification of Plaintiffs as exempt employees, and because of the nature of jobs assigned to Plaintiffs, their meal periods often were late, missed, or short, because Plaintiffs were required to complete their jobs before taking their required meal period. Moreover, Plaintiffs frequently have to work through their meal periods, and even when getting their meal period, Plaintiffs are often interrupted and/or otherwise meal periods are taken while Plaintiffs are still attending to a job, and as such, the meal periods are not duty-free.

Employer has also failed to pay Plaintiffs one hour of pay at their regular rate of pay for each workday that a compliant meal period was not provided. As such, Employer has violated Labor Code §§ 226.7 and 512.

C. Rest Breaks

Employer failed to adopt, implement, or enforce a rest break policy that complied with California law. Based on Employer’s misclassification of Plaintiffs as exempt employees, they are not authorized or permitted to take rest periods as part of their jobs. Moreover, Plaintiffs are subject to uniform commission plans, but such commission plans do not separately compensate Plaintiffs for their rest periods. As such, Employer fails to account for such rest periods, which are effectively uncompensated. Thus, Employer’s compensation system runs afoul of California law, including but not limited to the holdings in *Bluford v. Safeway, Inc.*, 216 Cal.App.4th 864, 871-872 (2013) and *Vaquero v. Stoneledge Furniture LLC*, 9 Cal.App.5th 98, 110-111 (2017). Employer therefore failed to authorize and permit Plaintiffs to take duty-free rest periods of 10 minutes for every four hours worked or major fraction thereof, failed to provide a second duty-free rest period of 10 minutes for shifts between 6-10 hours and failed to provide a third duty-free rest period of 10 minutes for shifts

in excess of 10 hours. As a result of Employer's lack of a rest break policy that complies with California law, Employer has violated Labor Code section 226.7.

Employer also failed to pay Plaintiffs or the other aggrieved employees' one hour of pay at their regular rate of pay for each workday that a compliant rest period was not authorized or permitted. As such, Employer has violated Labor Code §§ 226.7 and 512.

D. Failure to Reimburse Expenses

Employer also failed to reimburse Plaintiffs for all of their necessary and reasonable expenses incurred on behalf of Employer. For example and without limitation, Employer requires Plaintiffs to use their own equipment to perform their jobs, including cell phones, tablets, laptops, and vehicles, but Employer fails and refuses to reimburse Plaintiffs for the costs to maintain and service such equipment and/or fails to reimburse Plaintiffs for the usage of their personal cell phones while attending to work matters, use of personal tablets/computers, and reimbursement for traveling to customers to perform estimating work. Employer is therefore in violation of Labor Code § 2802.

E. Wage Statement Violations

In conjunction with the above-referenced violations, Employer willfully failed to provide properly itemized wage statements to Plaintiffs pursuant to Labor Code section 226. Violations include, but are not limited to: an inaccurate showing of wages due and owing, failing to include gross wages earned as a result of not showing meal and rest period premium payments on Plaintiffs' paystubs, failing to show all hourly rates in effect and the corresponding number of hours at each hourly rate, and failing to maintain accurate payroll and itemized wage statements. The failure to provide accurate itemized wage statements violates Labor Code § 226 and 1174.

F. Waiting Time Penalties

Employer willfully failed and refused to timely pay all compensation due and owing to Plaintiffs whose employment was terminated during the relevant time period, by failing to pay overtime, straight time and minimum wages for all hours worked, failing to pay Plaintiffs for time worked during meal and rest periods, and failing to pay Plaintiffs for an extra hour at the regular rate of pay because Employer failed to provide compliant meal and rest periods. As such, Employer is liable for accrued wages due, and waiting time penalties owed, in accordance with Labor Code §§ 201, 202, and 203.

G. Illegal Agreements

Employer required Plaintiffs and all other aggrieved employees to sign illegal contracts whereby Employer makes Plaintiffs sureties for the Employer including, without exception, making Plaintiffs responsible for underbidding roofing repairs or replacements, and from damages resulting from their customer visits. Employer further requires that Plaintiffs purchase items to perform their jobs and deducts such purchases from Plaintiffs' earned pay. Employer knew such agreements were prohibited under California law, yet required Plaintiffs to sign them anyway, in violation of California law, including but not limited to Labor Code section 432.5.

CONCLUSION

Pursuant to Labor Code Section 2699.3, the undersigned, on behalf of Plaintiffs Randy Lloyd and Eddie Alvarado and other aggrieved employees, is providing written notice of the alleged Labor Code violations. Please advise the undersigned if the agency intends to investigate the alleged violations. If not, Plaintiffs intend to pursue their claims under PAGA in a representative action lawsuit. Please also consider this letter as providing notice on behalf of other similarly aggrieved

employees working for Employer, that were subject to the same Labor Code violations described above.

Should you have any questions with respect to the above, please do not hesitate to contact the undersigned.

Very truly yours,

BARTZ LAW GROUP, APC

/s/ Aaron A. Bartz
Aaron A. Bartz

EXHIBIT 4

Aaron A. Bartz (SBN 198722)
BARTZ LAW GROUP, APC
5151 California Ave., Suite 100
Irvine, California 92617
Tel: (949) 504-4413 / Fax: (949) 656-7760
Email: aaron@bartzlawgroup.com

Walter L. Haines, Esq. (SBN 71075)
UNITED EMPLOYEES LAW GROUP, PC
8605 Santa Monica Blvd., #63354
West Hollywood, CA 90069
Tel.: (562) 256-1047 / Fax: (562) 256-1006
Email: walter@uelglaw.com

Attorneys for Plaintiffs RANDY LLOYD and EDDIE ALVARADO and all others similarly situated

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

RANDY LLOYD, an individual; EDDIE
ALVARADO, an individual; on behalf of
themselves and all others similarly situated and
the general public,

Plaintiffs,

v.

BERRY ROOFING, INC., a California
corporation; and DOES 1 to 100, inclusive,

Defendants.

Case No.: **CVRI 2300461**

CLASS ACTION

COMPLAINT FOR:

1. Violation of B&PC §17200, et seq.
2. Violation of Labor Code §§ 204, 510, 1194 and 1198;
3. Violation of Labor Code §§ 200, et seq.
4. Failure to Provide & Maintain Accurate Wage Statements Pursuant to Labor Code §226;
5. Failure to Provide Meal Periods (Lab. Code §226.7);
6. Failure to Provide Rest Breaks (Lab. Code §226.7);
7. Failure to Reimburse Expenses (Lab. Code §2802);
8. Violation of Labor Code §§2698-2699 (PAGA).

DEMAND FOR JURY TRIAL

1 Plaintiffs RANDY LLOYD and EDDIE ALVARADO, on behalf of themselves and
2 all other persons similarly situated, and the general public (hereinafter, "Plaintiffs"), hereby
3 complains against Defendant, BERRY ROOFING, INC., a California corporation ("Berry
4 Roofing"); and DOES 1 to 100, inclusive (hereinafter Berry Roofing and Does 1-100 are
5 collectively referred to herein as "Defendants"), and on information and belief allege as
6 follows:

7 **GENERAL ALLEGATIONS**

8 **JURISDICTION**

9 1. This is a civil action seeking recovery of unpaid wages, waiting time penalties,
10 pay stub penalties, civil penalties, and meal and rest period premiums under California Labor
11 Code §§ 510, 1194 et seq., 201 et seq., 226, 226.7 and 2699 et seq. Plaintiffs bring an action
12 for monetary damages for failure to pay wages as well as for restitution for Defendants'
13 violations of Business and Professions Code (B&PC) §17200, et seq., including full restitution
14 of all compensation retained by Defendants as a result of their unlawful, fraudulent and unfair
15 business practices. Plaintiffs seek all available relief, including full restitution of all
16 compensation retained by Defendants as a result of their unlawful and unfair business
17 practices. Further, Plaintiffs seek injunctive relief under B&PC §17200, et seq.

18 **VENUE**

19 2. Venue as to each of the Defendants is proper in this judicial district pursuant to
20 California Code of Civil Procedure (CCP) §§ 395(a) and 395.5, as at least some of the acts
21 complained of herein occurred in the County of Riverside. Each defendant either owns,
22 maintains offices, transacts business, has an agent or agents within the County of Riverside, or
23 otherwise is found within the County of Riverside, and each defendant is within the
24 jurisdiction of this Court for purposes of service of process.

25 **PARTIES**

26 3. Plaintiff Randy Lloyd ("Lloyd") is an individual over the age of eighteen (18).
27 At all relevant times herein, Plaintiff Lloyd worked for Defendants within the State of
28 California, County of Riverside.

1 4. Plaintiff Eddie Alvarado (“Alvarado”) is an individual over the age of eighteen
2 (18). At all relevant times herein, Plaintiff Alvarado worked for Defendants within the State
3 of California, County of Riverside.

4 5. Plaintiffs are informed and believe and thereon allege that at all times
5 mentioned herein, defendant Berry Roofing is and was a California corporation.

6 6. Plaintiffs are informed and believe and thereon allege that at all times
7 mentioned herein, Defendant Berry Roofing was authorized to do business in the State of
8 California, County of Riverside, and offering solar and roofing services and installation.
9 Thus, each named defendant and DOES 1 to 100 are subject to B&PC §17200, et seq. (Unfair
10 Competition Law) and the Labor Code, as hereinafter alleged.

11 7. Plaintiffs do not know the true names or capacities, whether individual,
12 partner, or corporate, of defendants sued herein as DOES 1 to 100, inclusive, and for that
13 reason, those defendants are sued under such fictitious names, and Plaintiffs will seek from
14 this Court leave to amend this Complaint when such true names and capacities are discovered.
15 Plaintiffs are informed and believe and thereon allege that each of the Defendants and each
16 fictitious defendant, whether individual, partners, or corporate, was responsible in some
17 manner for the circumstances alleged herein, and proximately caused Plaintiffs and all others
18 similarly situated hereinafter alleged and the general public to be subjected to the unlawful
19 employment practices, wrongs, injuries and damages complained of herein.

20 8. At all times herein mentioned, each of the Defendants participated in the doing
21 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore,
22 Defendants, and each of them, were the agents, servants, and employees of each and every
23 one of the other Defendants, as well as the agents of all Defendants, and at all times herein
24 mentioned were acting within the course and scope of said agency and employment. Plaintiffs
25 herein allege that Defendants and each of them is the joint employer of Plaintiffs and the
26 classes.

27 9. At all times mentioned herein, Defendants, and each of them, were members of
28 and engaged in a joint venture, partnership, and common enterprise, and acting within the

1 course and scope of and in pursuance of said joint venture, partnership, and common
2 enterprise.

3 10. At all times herein mentioned, the acts and omissions of various Defendants,
4 and each of them, concurred and contributed to the various acts and omissions of each and
5 every one of the other Defendants in proximately causing the complaints, injuries and
6 damages alleged herein.

7 11. At all times herein mentioned, Defendants, and each of them, approved of,
8 condoned, and/or otherwise ratified each and every one of the acts or omissions complained of
9 herein. At all times herein mentioned, Defendants, and each of them, aided and abetted the
10 acts and omissions of each and every one of the other Defendants, thereby proximately
11 causing the damages, as herein alleged.

12 12. The California Superior Court also has jurisdiction in this matter because both
13 the individual and aggregate monetary damages and restitution sought herein exceed the
14 minimal jurisdictional limits of the Superior Court and will be established at trial, according to
15 proof. The California Superior Court also has jurisdiction in this matter because Plaintiffs and
16 the putative classes herein worked within the State of California, and were subject to
17 California's wage and hour laws.

18 **PLAINTIFF CLASSES**

19 13. The class representative Plaintiffs were employees who worked for Defendants
20 within the State of California, are as follows:

21 a. Randy Lloyd

22 Plaintiff Lloyd worked within California as a field estimator/technician between
23 August and October 2022.

24 b. Eddie Alvarado

25 Plaintiff Alvarado worked within California as a field estimator/technician and other
26 similar positions between 2017 and October 2022.

27 14. At all times mentioned herein, Plaintiffs and the entirety of the employee Class
28 identified herein are current and former employees of Defendants who were not properly paid

1 all their wages, including but not limited to, proper premium overtime, and/or double time due
2 to Defendants' failure to properly calculate the regular rate and/or include all hours worked in
3 a week to determine hours over eight (8) in a given day, or forty (40) in a week.

4 **CLASS ACTION ALLEGATIONS**

5 15. Plaintiffs bring this action on behalf of themselves and all others similarly
6 situated as a class action pursuant to CCP §382. The Classes which Plaintiffs seek to
7 represent are composed of and defined as follows:

8 **Class 1:**

9 All employees misclassified as exempt and/or non-exempt hourly employees who
10 worked for Defendants in California from 2019 through the date of judgment, who were not
11 paid premium overtime and/or double time at the employee's regular rate of pay.

12 **Class 2:**

13 All employees misclassified as exempt and/or non-exempt hourly employees who
14 worked for Defendants in California from 2019 through the date of judgment, who were not
15 paid the minimum wage for all hours worked (Minimum Wage Class);

16 **Class 3:**

17 All employees misclassified as exempt and/or non-exempt hourly employees who
18 worked for Defendants in California and who worked at some point from 2020 through the
19 present, who are no longer employed with Defendants and to whom Defendants willfully
20 failed to pay all wages due upon separation from Defendants (Waiting Time Penalty Class);

21 **Class 4:**

22 All employees misclassified as exempt and/or non-exempt hourly employees who
23 worked for Defendants in California from 2019 to the present who were not provided legally
24 compliant meal periods and/or were not paid a meal period penalty at the regular rate of pay
25 (Meal Break Class);

26 **Class 5:**

27 All employees misclassified as exempt and/or non-exempt hourly employees who
28 worked for Defendants in California from 2019 through the present who were not provided

legally-compliant rest breaks and/or were not paid a rest break penalty at their regular rate of pay (Rest Break Class);

Class 6:

All employees misclassified as exempt and/or non-exempt hourly employees who worked for Defendants in California from 2022 through the present who were provided a paystub (a.k.a. wage statement) which failed to list all hours actually worked and wages owed (Pay Stub Class).

Class 7:

All employees misclassified as exempt and/or non-exempt hourly employees who worked for Defendants in California from 2019 through the present who were not reimbursed for their necessary and reasonable business expenses (Reimbursement Class).

The members of the classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the classes are unknown to Plaintiffs at this time; however, it is estimated that the classes number greater than 100 individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

16. There are common questions of law and fact as to Plaintiffs and all others similarly situated which predominate over questions affecting only individual members including, without limitation to:

- i. Whether Defendants paid their employees proper premium overtime and/or double time at the employees' regular rate for hours over eight (8) in a day and/or forty (40) hours in a week, in paying their hourly non-exempt employees;
- ii. Whether Defendants violated the applicable Labor Code provisions including §510, 1194, and 203 by requiring substantial overtime work and not paying for that work according to the overtime laws of the State of California;

- 1 iii. Whether Defendants failed to pay the appropriate premium overtime
2 compensation to the hourly employees;
- 3 iv. Whether Defendants improperly retained, appropriated or deprived
4 Plaintiffs and the class members of the use of monies or sums to which
5 Plaintiffs and the class were legally entitled;
- 6 v. Whether Defendants engaged in unfair business practices;
- 7 vi. Whether Defendants, and each of them, were participants in the alleged
8 unlawful conduct;
- 9 vii. Whether Defendants' conduct was willful or reckless;
- 10 viii. The effect upon and the extent of injuries suffered by Plaintiffs and all
11 others similarly situated and the appropriate amount of compensation;
- 12 ix. The appropriate amount of monetary penalties allowed by Labor Code
13 §201, et. seq.;
- 14 x. Whether Defendants pay and continue to pay for missed meal and rest
15 period premiums at an allegedly "reduced" rate of pay in violation of
16 Section 11 of the applicable Wage Orders;
- 17 xi. Whether Defendants violated Labor Code §226 and relevant IWC
18 Wage Orders by failing to, among other violations, accurately report
19 total hours worked, all applicable hourly rates in effect during each pay
20 period and the corresponding number of hours worked at each hourly
21 rate, by Plaintiffs and the members of the Class;
- 22 xii. Whether Defendants knowingly and intentionally failed to maintain
23 records for Plaintiffs and members of the Class as required by Labor
24 Code § 1174 and the applicable IWC Wage Orders; and
- 25 xiii. Whether Defendants failed to reimburse Plaintiffs and the
26 class members for necessary expenditures incurred in the performance
27 of their work for Defendants.
- 28

1 17. Plaintiffs' claims are typical of the claims of all members of the classes and
2 subclasses mentioned herein. Plaintiffs, as representative parties, will fairly and adequately
3 protect the interest of the classes by vigorously pursuing this suit through their attorneys who
4 are skilled and experienced in handling matters of this type. Plaintiffs have no claim or
5 interest that is antagonistic to any class member.

6 18. The nature of this action and the nature of laws available to the members of the
7 classes and subclasses identified herein make use of the class action format a particularly
8 efficient and appropriate procedure to afford relief to Plaintiffs for the wrongs alleged herein.
9 Further, this claim involves a corporate employer, Defendant Berry Roofing, and a large
10 number of individual employees (Plaintiffs and all others similarly situated) with many
11 relatively small claims with common issues of law and fact. If each employee were required
12 to file an individual lawsuit, the corporate defendants would necessarily gain an
13 unconscionable advantage since they would be able to exploit and overwhelm the limited
14 resources of each individual plaintiff with their vastly superior financial and legal resources.
15 Requiring each class member to pursue an individual remedy would also discourage the
16 assertion of lawful claims by employees who would be disinclined to pursue an action against
17 their present and/or former employer for an appreciable and justifiable fear of retaliation and
18 permanent damage to their careers at present and/or subsequent employment. Proof of a
19 common business practice or factual pattern, of which the Plaintiffs experienced, is
20 representative of the class mentioned herein and will establish the right of each of the
21 members of the named class to recovery on the causes of action alleged herein.

22 19. The prosecution of separate actions by the individual class members, even if
23 possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
24 with respect to the individual class members against Defendants herein; and which would
25 establish potentially incompatible standards of conduct for Defendants; and/or (b) legal
26 determinations with respect to individual class members which would, as a practical matter,
27 be dispositive of the interest of the other class members not parties to adjudications or which
28 would substantially impair or impede the ability of the class members to protect their interests.

1 Further, the claims of the individual members of the class are not sufficiently large to warrant
2 vigorous individual prosecution considering all of the concomitant costs and expenses
3 attending thereto.

4 20. Plaintiffs and all others similarly situated are entitled to the wages and other
5 monies unlawfully withheld. This action is brought for the benefit of the public.

6 **FIRST CAUSE OF ACTION**

7 **(Violation of B&PC §17200, et seq.)**

8 21. Plaintiffs re-allege and incorporate by reference herein the allegations of all
9 preceding paragraphs as though fully set forth herein.

10 22. Beginning on an exact date unknown to Plaintiffs but believed to have
11 occurred from 2019 on, Defendants have engaged in a pattern and practice of acts of unfair
12 competition in violation of B&PC §17200, including the practices alleged herein.

13 23. Defendants, and each of them, provide roofing and solar repair and
14 replacement services within California, and have engaged in the practice of misclassifying
15 and/or failing to properly pay their employees, in a fashion that circumvents California's wage
16 and hour laws.

17 **FAILURE TO PAY PROPER WAGES AND OVERTIME COMPENSATION**

18 24. Plaintiffs are informed and believe and thereon allege that as part of
19 Defendants' ongoing unfair business practices, Defendants' employees who were
20 misclassified as exempt and/or hourly employees worked in excess of eight (8) hours per day,
21 and in excess of forty (40) hours per week without receiving the proper regular rate of pay
22 and/or minimum wage rate because Plaintiffs regularly work overtime hours to complete their
23 jobs, but Defendants fail to pay Plaintiffs overtime wages. Defendants also fail to pay the
24 proper rate of pay because Plaintiffs and others similarly situated are required to use their own
25 tools for perform their jobs, but Defendants fail and refuse to pay at least twice the minimum
26 wage as required by California's Wage Orders. Defendants are therefore in violation of Labor
27 Code §§ 510 and 1194, and the relevant California Industrial Welfare Commission Orders.

1 25. Defendants, and each of them, consistently administered a corporate policy
2 regarding off-the-clock and on-call time, which required that employees work overtime
3 without proper premium overtime pay, the regular rate of pay, and/or minimum wage. This
4 corporate policy and pattern of conduct is accomplished with the advanced knowledge and
5 designed intent to avoid paying Defendants' employees for all hours worked. Accordingly,
6 Plaintiffs and the class members are entitled to all unpaid wages due under California law.
7 Further, Plaintiffs and the class are entitled to restitution of these wages obtained by
8 Defendants, and each of them.

9 **VIOLATION OF LABOR CODE § 200, ET SEQ.**

10 26. Plaintiffs are informed and believe and thereon allege that as part of
11 Defendants' ongoing unfair business practices, Defendants failed to provide all employees all
12 wages at the time of their separation in violation of Labor Code § 200, et. seq., including but
13 not limited to, §§201, 202, 203 & 204.

14 27. Labor Code § 200, et seq. provides that an employer is required to pay an
15 employee all wages (including accrued vacation) immediately upon the employee's
16 involuntary separation from employment; immediately upon his or her voluntary separation if
17 the employee gave at least seventy-two (72) hours notice, and within seventy-two (72) hours,
18 if the employee voluntarily separated, but did not give at least seventy-two (72) hours notice.

19 28. Plaintiffs are informed and believe and thereon allege that all employees who
20 have been separated from Defendants did not timely receive a final paycheck detailing the
21 proper amount of pay from Defendants in violation of Labor Code § 200, et. seq.

22 29. Pursuant to Labor Code § 200, et seq. employees that no longer work for
23 Defendants, and who were not timely paid, are entitled to one (1) day of pay in penalties for
24 each day that he or she was paid late, until payment was made, up to a maximum of thirty (30)
25 days.

26 **VIOLATION OF MEAL AND REST PERIOD PROVISIONS**

27 30. Defendants' improper meal and rest period policies are in violation of
28 California law including, but not limited to Labor Code § 226.7, 512, and the applicable IWC

1 Wage Orders. Plaintiffs and the class were entitled to 1 hour of pay for each meal and rest
2 break violation at their regular rate of pay. Defendants failed and continue to fail to pay for
3 meal and rest period violations at the employees' regular rate of pay in violation of Section 11
4 of the applicable Wage Orders.

5 31. Plaintiffs seek restitution and injunctive relief for said violations.

6 32. Plaintiffs are informed and believe and thereon allege that at all times herein
7 mentioned, Defendants have engaged in unlawful, deceptive, and unfair business practices
8 prohibited by California B&PC §17200, thereby depriving their employees and the putative
9 class the minimum working standards and conditions due to them under the California labor
10 laws and Industrial Welfare Commission wage orders as specifically described herein.
11 Plaintiffs seek an injunction preventing Defendants from continuing their unfair business
12 practice of improperly depriving their employees of overtime pay, and payment of their
13 regular rate of pay for meal and rest period premiums. Plaintiffs further seek an order
14 requiring Defendants to identify by full name, telephone number, and last known address
15 employees who worked or still work for Defendants between 2019 through the date of
16 judgment; Plaintiffs further seek an order requiring Defendants to timely pay restitution to all
17 current and former employees, including back wages, premium payments, and interest.

18 **FAILURE TO PROVIDE ITEMIZED WAGE STATEMENTS**

19 33. Plaintiffs are informed and believe and thereon allege that as part of
20 Defendants' ongoing unfair business practices, Defendants, and each of them, fail to provide
21 their employees with proper and understandable itemized wage statement, as required by Labor
22 Code § 226.

23 34. Plaintiffs are informed and believe, and thereon allege, that Defendants, and
24 each of them, fail to provide each employee with an itemized statement which states the actual
25 regular rate paid, the total hours worked by the employee, the gross and net wages earned, and
26 all applicable hourly rates in effect during the pay period and the corresponding number of
27 hours worked at each hourly rate by the employee.
28

35. Defendants have adopted and implemented an illegal reimbursement policy that fails to compensate Plaintiffs for all of their necessary business expenses incurred in discharging their duties for Defendants.

SECOND CAUSE OF ACTION

(Violation of Labor Code §§ 204, 510, 1194 and 1198)

38. Plaintiffs and all others similarly situated identified herein were and are employed and scheduled as a matter of established company policy to work and in fact worked as employees misclassified as exempt and/or non-exempt hourly employees in excess of eight (8) hours per day and/or in excess of forty (40) hours per week. Defendants employed and scheduled all employees without providing overtime compensation for such excess hours worked in violation of Labor Code §§ 510 and 1194 and the relevant California Industrial Welfare Commission (IWC) orders. Labor Code § 204 establishes the fundamental right of all employees in the State of California to be paid the proper amount of wages in a timely fashion for their work, including overtime.

-11-

1 of Labor Standards Enforcement (hereinafter “DLSE”) and may recover such wages, together
2 with interest thereon, penalties, attorneys’ fees and costs.

3 40. At all times relevant hereto, Defendants have failed to pay to Plaintiffs and all
4 persons similarly situated wages when due as required by Labor Code § 204.

5 41. Pursuant to Labor Code § 1198, it is unlawful to employ persons for longer
6 than the hours set by the IWC or under conditions prohibited by the applicable IWC Wage
7 Orders.

8 42. At all times relevant hereto, Plaintiffs are informed and believe and thereon
9 allege that Defendants have misclassified Plaintiffs as exempt employees, despite the fact that
10 they performed non-exempt duties, including estimating and related non-exempt duties.
11 Because of such unlawful classification, Defendants have willfully violated the Labor Code
12 with respect to meeting the requirements of paying one (1) regular rate of pay and calculating
13 overtime and double time based on that regular rate, as herein before alleged. Defendants
14 have failed to properly pay premium overtime for hours worked in a week, and as such,
15 Defendants are able to reduce their overhead and operating expenses and gain an unfair
16 advantage over competing companies complying with state law. Furthermore, Defendants
17 have failed to include all items of remuneration when determining the employees’ regular rate
18 of pay, as described above.

19 43. Plaintiffs are informed and believe and thereon allege that Defendants
20 consistently administered a corporate policy regarding both staffing levels and duties and
21 responsibilities of the members of the classes which required the entirety of all classes to work
22 overtime without proper premium pay, and to fail all wages for hours worked. This corporate
23 policy and pattern of conduct was/is accomplished with the advance knowledge and design of
24 all Defendants herein. Thus, Plaintiffs and all others similarly situated routinely, regularly
25 and customarily performed overtime work and/or work that they failed to be compensated at
26 the appropriate regular rate of pay.

27 44. Plaintiffs are informed and believe and thereon allege that the obligations and
28 responsibilities of the class employees are irrelevant because Plaintiffs and all others similarly

1 situated merely allege wrongdoing with Defendants' pay plans, policies and practices.
2 Further, the duties of Plaintiffs and all others similarly situated are not relevant in certifying
3 any of the classes.

4 45. Defendants, and each of them, had a consistent and uniform policy, practice
5 and procedure of willfully failing to pay the earned and unpaid wages of all such employees
6 misclassified as exempt and/or non-exempt employees. Defendants have willfully failed to
7 pay the earned and unpaid wages of such individuals, including, but not limited to regular pay,
8 premium pay, and other wages earned and remaining uncompensated according to
9 amendment, or proof.

10 46. The pattern, practice and uniform administration of corporate policy regarding
11 illegal employee compensation as described herein is unlawful and creates an entitlement to
12 recovery by Plaintiffs and all others similarly situated, in a civil action, for the unpaid balance
13 of the full amount of all wages owing, including the proper calculation of the regular rate and
14 the proper overtime premiums calculated at 1.5 or 2 times the legal regular rate which are
15 owing, including interest thereon, willful penalties, reasonable attorneys' fees, and costs of
16 suit according to the mandate of Labor Code § 1194, et. seq.

17 47. Likewise, Defendants have a pattern, practice and uniform administration of
18 corporate policy regarding failure to comply with the required provisions of Labor Code §
19 226.7, in failing to pay Plaintiffs and the class the meal and rest period premium payments at
20 the regular rate.

21 **THIRD CAUSE OF ACTION**

22 **(Violation of Labor Code §§ 200, et. seq.)**

23 48. Plaintiffs re-allege and incorporate by reference herein the allegations of all
24 preceding paragraphs as though fully set forth herein.

25 49. Labor Code §§ 200, et. seq., provides that an employer is required to pay an
26 employee all wages (including accrued vacation) immediately upon an employee's
27 involuntary separation from employment; immediately upon her voluntary separation if the
28

1 employee gave at least seventy two (72) hours notice, and within seventy two (72) hours, if
2 the employee voluntarily separated, but did not give at least seventy two (72) hours notice.

3 50. Plaintiffs Lloyd and Alvarado and other former employees of Defendants
4 employed in the State of California separated from employment with Defendants, and did not
5 timely receive a final pay check with all of their wages due from Defendants in violation of
6 Labor Code §§ 200, et seq. Plaintiffs are informed and believe and thereon allege that
7 Defendants also violated the mandates of Labor Code §§ 200, et seq., as to other employees
8 whose employment ended during the period of time covered by this action.

9 51. Pursuant to Labor Code §§ 200, et. seq., each member of the class that no
10 longer works for Defendants, and who was not timely paid all of his or her wages due is
11 entitled to one (1) day of pay in penalties for each day that he or she was paid late, until
12 payment was made, up to a maximum of thirty (30) days.

13 **FOURTH CAUSE OF ACTION**

14 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

15 **(Violation of Labor Code § 226)**

16 52. Plaintiffs re-allege and incorporate by reference herein the allegations of all
17 preceding paragraphs as though fully set forth herein.

18 53. Labor Code §226(a) provides, in pertinent part:

19 An employer, semimonthly or at the time of each payment of wages, shall
20 furnish to his or her employee, either as a detachable part of the check, draft, or
21 voucher paying the employee's wages, or separately if wages are paid by
22 personal check or cash, an accurate itemized statement in writing showing (1)
23 gross wages earned, (2) total hours worked by the employee, except as
24 provided in subdivision (j), (3) the number of piece-rate units earned and any
25 applicable piece rate if the employee is paid on a piece-rate basis, (4) all
26 deductions, provided that all deductions made on written orders of the
27 employee may be aggregated and shown as one item, (5) net wages earned, (6)
28 the inclusive dates of the period for which the employee is paid, (7) the name
of the employee and only the last four digits of his or her social security
number or an employee identification number other than a social security
number, (8) the name and address of the legal entity that is the employer and, if
the employer is a farm labor contractor, as defined in subdivision (b) of Section
1682, the name and address of the legal entity that secured the services of the
employer, and (9) all applicable hourly rates in effect during the pay period and

1 the corresponding number of hours worked at each hourly rate by the
2 employee. . . .

3 54. During the Class Period, Defendants knowingly and intentionally failed to
4 provide the Class Members, including Plaintiffs Lloyd and Alvarado, with timely and accurate
5 wage and hour statements showing gross wages earned, total hours worked, all deductions
6 made, net wages earned, the name and address of the legal entity employing that Class
7 Member, and all applicable hourly rates in effect during each pay period and the
8 corresponding number of hours worked at each hourly rate by that Class Member.

9 55. The Class Members, including Plaintiffs, suffered injury as a result of
10 Defendants' knowing and intentional failure to provide the Class Members, with the wage and
11 hour statements required by law.

12 56. Based on Defendants' conduct as alleged herein, Defendants are liable for actual
13 damages, statutory damages and/or statutory penalties pursuant to California Labor Code §
14 226, attorney's fees and costs and other applicable provisions of the Labor Code and
15 applicable Wage Order.

16
17 **FIFTH CAUSE OF ACTION**

18 **FAILURE TO PROVIDE MEAL PERIODS**

19 **(Violation of Labor Code §§ 226.7 and 512)**

20 57. Plaintiffs re-allege and incorporate by reference herein the allegations of all
21 preceding paragraphs as though fully set forth herein.

22 58. California Labor Code § 512 and IWC Wage Orders state that an employer
23 may not employ an employee for a work period of more than five (5) hours per day without
24 providing the employee a meal period of not less than 30 minutes, and an employer may not
25 employ an employee for a work period of more than 10 hours per day without providing the
26 employee with a second meal period of not less than 30 minutes. Unless the employee is
27 relieved of all duty during a 30-minute meal period, the meal period shall be considered an
28 "on duty" meal period and counted as time worked. California Labor Code § 226.7(a) further

1 states that no employer shall require any employee to work during any meal or rest period
2 mandated by an applicable order of the IWC.

3 59. Employers are prohibited from exerting coercion against the taking of, creating
4 incentives to forego, or otherwise encouraging the skipping of legally protected breaks.

5 60. Plaintiffs and members of the Class were not provided with or given the
6 opportunity to take the requisite meal periods before the end of the first 5 hours of work, nor
7 were they provided with or given the opportunity to take a proper second meal period during
8 the days when they worked more than 10 hours in a day. Because Defendants misclassified
9 Plaintiffs, they were not afforded meal periods. Moreover, Defendants coerced Plaintiffs and
10 the members of the Class to forego meal periods by disciplining and/or threatening
11 disciplinary action against them if they attempted to take meal periods, created incentives to
12 forego meal breaks, and encouraged the skipping of meal periods by scheduling work to
13 coincide with the meal periods, among other things. In addition, Defendants placed
14 unnecessarily tight timelines on Plaintiffs' work, forcing them to miss their meal periods in
15 order to complete their jobs. As a result, Plaintiffs and members of the Class were required to
16 work and/or were not relieved of all duties during any meal period taken, and thus were
17 considered "on duty;" however, Defendants failed to count as time worked any "on duty"
18 meal period taken by Plaintiffs and the members of the Class.

19 61. Pursuant to California Labor Code § 226.7(c) and IWC Wage Orders, if an
20 employer fails to provide an employee a meal period in accordance with the applicable
21 provisions of the IWC Wage Orders, the employer shall pay the employee one (1) hour of pay
22 at the employee's regular rate of pay for each workday that the meal period is not provided.
23 As such, Plaintiffs and members of the Class are entitled to an additional one hour's pay for
24 each day in which Plaintiffs and members of the Class were not provided a proper meal break
25 under the above-described authorities.

26 62. Plaintiffs and the members of the Class request that the Court award interest on
27 all unpaid wages at the legal rate specified by California Civil Code § 3289(b), accruing from
28 the date the wages were due and payable pursuant to Labor Code § 218.6.

1 **SIXTH CAUSE OF ACTION**

2 **FAILURE TO AUTHORIZE OR PERMIT REST PERIODS**

3 **(Violation of Labor Code § 226.7)**

4 63. Plaintiffs re-allege and incorporate by reference as if fully set forth herein, the
5 allegations of the preceding paragraphs.

6 64. The applicable IWC Wage Orders state that every employer shall authorize and
7 permit all employees to take rest periods. The authorized rest period time shall be based on
8 the total hours worked daily at the rate of ten (10) minutes net rest time per four hours of
9 work, or major fraction thereof. An employer must provide employees with 10 minutes' rest
10 for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six
11 hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on.

12 65. Plaintiffs and Class Members were not permitted to take rest periods, were
13 required to work during their rest periods, and/or were disciplined and/or were advised that
14 they would be disciplined if they took rest periods during work hours, in contravention of
15 California law.

16 66. Pursuant to California Labor Code § 226.7(c) and the applicable IWC Wage
17 Orders, if an employer fails to provide an employee a rest period in accordance with the
18 applicable IWC Wage Orders, the employer shall pay the employee one (1) hour of pay at the
19 employee's regular rate of compensation for each workday that the rest period is not provided.

20 67. As such, Plaintiffs and the Class members are entitled to an additional one
21 hour's pay for each day in which they were not provided a proper rest period under the above-
22 described authorities.

23 68. Plaintiffs and the members of the Class request that the Court award interest on
24 all unpaid wages at the legal rate specified by California Civil Code § 3289(b), accruing from
25 the date the wages were due and payable pursuant to Labor Code § 218.6.

26 **SEVENTH CAUSE OF ACTION**

27 **FAILURE TO REIMBURSE EXPENSES**

28 **(Violation of (Labor Code § 2802)**

1 69. Plaintiffs re-allege and incorporate by reference as if fully set forth herein, the
2 allegations of the preceding paragraphs.

3 70. California Labor Code § 2802 provides that “[a]n employer shall indemnify his
4 or her employee for all necessary expenditures or losses incurred by the employee in direct
5 consequence of the discharge of his or her duties.”

6 71. Plaintiffs are informed and believe, and based thereon allege, that at all
7 relevant times Plaintiffs and the class members incurred certain expenses for their jobs with
8 Defendants, including but not limited to using their own tools and personal cell phones for
9 their work. Despite this, Defendants failed and refused to indemnify Plaintiffs and the class
10 for all of their expenditures in carrying out their duties for Defendants.

11 72. As a result of Defendants’ failure to indemnify Plaintiff and the class members,
12 they have suffered losses according to proof, including prejudgment interest, costs, and
13 attorneys’ fees in prosecuting this case.

14 **EIGHTH CAUSE OF ACTION**
15 **PRIVATE ATTORNEYS GENERAL ACT**
16 **(Violation of Labor Code §§ 2698 and 2699)**

17 73. Plaintiffs re-allege and incorporate by reference as if fully set forth herein, the
18 allegations of the preceding paragraphs.

19 74. On or about November 22, 2022, Plaintiffs Lloyd and Alvarado provided
20 written notice to the Labor and Workforce Development Agency (“LWDA”) and Defendants
21 of the specific provisions of the Labor Code alleged to have been violated, including the facts
22 and theories to support the alleged violations.

23 75. The LWDA failed to respond to Plaintiffs’ counsel’s correspondence and failed
24 to notify Plaintiffs’ counsel as to whether it would investigate the allegations contained
25 therein, within the time period requirements of the Private Attorneys General Act (PAGA),
26 under Labor Code §2699.3. Plaintiffs have fully complied with the notice requirements set
27 forth in Labor Code §2699.3 in order to commence a civil action against an employer
28 pursuant to Labor Code §2699.

1 76. Defendants' failure to pay Plaintiffs for all hours worked, minimum wages,
2 overtime compensation, failure to provide meal periods, failure to authorize and permit rest
3 periods, failure to pay all wages upon termination or resignation, and failure to provide
4 accurate itemized wage statements, and failure to reimburse expenses, will subject Defendants
5 to civil penalties pursuant to, without limitation, Labor Code §§ 201, 202, 203, 204, 226,
6 432.5, 510, 512, 551, 552, 1174, 1194, 1198, 2802 and IWC Wage Orders.

7 77. Plaintiffs are aggrieved employees as defined in Labor Code §§2699(a) and
8 (c), and related Labor Code provisions. Plaintiffs bring this cause of action on behalf of
9 themselves, as private attorneys general, and in a representative capacity on behalf of other
10 aggrieved employees, affected by the labor law violations alleged herein.

11 78. Defendants committed numerous violations of the California Labor Code and
12 IWC Wage Orders against the Plaintiffs, and on information and belief, against members of
13 the Class and other current and former employees while they were employed by Defendants,
14 including but not limited to:

15 a. Defendants violated Labor Code §§ 510, 511, 1194 and/or IWC Wage Orders
16 by failing to pay Plaintiffs and the members of the Class, and on information and belief, other
17 current and former employees of Defendants, all minimum, straight time and overtime wages
18 owed in compliance with California law;

19 b. Defendants violated Labor Code §§ 226.7, 510, 1194, 1197 and/or IWC Wage
20 Orders by failing to pay Plaintiffs and the members of the Class by failing to pay for a missed
21 meal or rest period at the regular rate of pay;

22 c. Defendants violated Labor Code §§ 1194, 1197 and/or IWC Wage Orders by
23 failing to pay Plaintiffs and the members of the Class, and on information and belief, other
24 current and former employees of Defendants, all minimum wages owed in compliance with
25 California law;

26 d. Defendants violated Labor Code §§ 1194, 204, 510, 511 and/or IWC Wage
27 Orders by failing to pay Plaintiffs and the members of the Class, and on information and
28 belief, other current and former employees of Defendants, all wages owed in a timely manner
in compliance with California law;

 e. Defendants violated Labor Code § 226.7, 512, and /or IWC Wage Orders by

1 failing to provide Plaintiffs and the members of the Class, and on information and belief, other
2 current and former employees of Defendants, the opportunity to take the requisite meal
3 periods in compliance with California law;

4 f. Defendants violated Labor Code § 226.7 and/or IWC Wage Orders by
5 failing to authorize and permit Plaintiffs and the members of the Class, and on information
6 and belief, other current and former employees of Defendants, the opportunity to take the
7 requisite rest periods in compliance with California law;

8 g. Defendants violated Labor Code §§ 226, 1174 and/or IWC Wage Orders by
9 failing to properly maintain accurate employment time and records, maintain and/or submit
10 accurate itemized wage statements on behalf of Plaintiffs, members of the Class, and on
11 information and belief, on behalf of other current and former employees of Defendants as
described herein; and

12 h. Defendants violated Labor Code §§ 201, 202 and/or IWC Wage Orders by
13 failing to pay Plaintiffs, the Class, and on information and belief, other current and former
14 employees of Defendants as described herein;

15 i. Defendants violated Labor Code § 2802 by failing to indemnify Plaintiffs and
16 members of the Class and on information and belief, other current and former employees of
Defendants as described herein;

17 j. Defendants violated Labor Code § 432.5 by requiring Plaintiffs and members
18 of the Class to enter into illegal agreements to indemnify Defendants for losses resulting from
19 their employment.

20 79. Pursuant to Labor Code § 2699, Plaintiffs, members of the Class, and all other
21 aggrieved current and former employees seek to recover civil penalties, as otherwise provided
22 by statute and wage order, for which Defendants are liable as a result of their violations of the
23 California Labor Code and applicable wage order(s) in an amount to be proven at trial. These
24 penalties include, but are not limited to, those provided by Labor Code §§ 201, 202, 203, 204,
25 210, 226, 226.3, 226.7, 256, 432.5, 510, 512, 558, 1174, 1194, 1197, 2699, 2802 and IWC
26 Wage Orders. Plaintiffs and aggrieved current and former employees further seek and award
27 of reasonable attorneys' fees and costs pursuant to Labor Code § 2698 and 2699.
28

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiffs pray:

3 1. That the Court determine this action may be maintained as a class action;

4 **As to the First Cause of Action:**

5 2. For an order preliminarily and permanently enjoining Defendants from
6 engaging in the practices challenged herein;

7 3. An order for full restitution of all monies, as necessary and according to proof,
8 to restore any and all monies withheld by the Defendants by means of the unfair practices
9 complained of herein. Plaintiffs seek, on behalf of the putative class, the appointment of a
10 receiver, as necessary. The restitution includes all monies retained as wages, as defined in
11 Labor Code §§ 201, 202, 510 and 1194, and interest, and attorneys' fees as a result of the
12 unfair business practices;

13 4. For an order finding and declaring that Defendants' acts and practices as
14 challenged herein are unlawful, and unfair and/or fraudulent;

15 5. For an accounting, under administration of Plaintiffs and subject to court
16 supervision, to determine the amount to be returned by Defendants and the amounts to be
17 refunded to members who are or were not paid all their wages due to Defendants' unfair
18 business practices;

19 6. For the creation of an administrative process wherein each injured current and
20 former employee receives his or her back wages in the form of overtime pay or alternatively
21 that each current or former eligible employee may submit a claim in order to receive his/her
22 money;

23 7. For an order requiring Defendants to make full restitution and payment
24 pursuant to B&PC §§ 17200, et seq.;

25 8. For all other appropriate declaratory and equitable relief;

26 9. For pre-judgment interest to the extent permitted by law;

1 10. For an order requiring Defendants to identify, by name, address and telephone
2 number of each person who worked in California as an employee for Defendants between
3 2019 through the time of judgment;

4 11. For an order imposing all civil and statutory penalties provided by law.

5 **As to the Second Cause of Action:**

6 12. For damages according to proof, as set forth in Labor Code §§ 510, 226.7 and
7 1194, et seq., (and the applicable California Industrial Welfare Commission wage orders)
8 regarding wages due and owing;

9 13. For pre-judgment interest as allowed by Labor Code § 1194 and California
10 Civil Code § 3287(b), for waiting time penalties as authorized by Labor Code § 203, and for
11 reasonable attorneys' fees;

12 14. For an order imposing all civil and statutory penalties provided by law.

13 **As to the Third Cause of Action:**

14 15. For waiting time penalties for all former employees not timely paid their last
15 pay check, including vacation pay;

16 16. For reasonable attorneys' fees and costs;

17 17. For an order imposing all civil and statutory penalties provided by law.

18 **As to the Fourth Cause of Action:**

19 18. For recovery as authorized by Labor Code §226(e);

20 19. For injunctive relief to ensure Defendants' compliance with Labor Code §226
21 and the IWC Wage Orders §7(A) pursuant to Labor Code §226(h);

22 20. For an award of costs and reasonable attorneys' fees pursuant to Labor Code
23 §226(e) and/or §226(h);

24 21. For an order imposing all civil and statutory penalties provided by law.

25 **As to the Fifth Cause of Action:**

26 22. One (1) hour of pay at each of the employees' regular rate of compensation for
27 each workday that a meal period was not provided, impeded, discouraged and/or dissuaded;

28 23. For an order imposing all civil and statutory penalties provided by law.

1 **As to the Sixth Cause of Action:**

2 24. One (1) hour of pay at each of the employees' regular rate of compensation for
3 each workday that a rest period was not authorized or permitted, or impeded, interrupted,
4 discouraged and/or dissuaded;

5 25. For an order imposing all civil and statutory penalties provided by law.

6 **As to the Seventh Cause of Action:**

7 26. For recovery of all necessary expenditures or losses incurred by Plaintiffs and
8 the class members, according to proof;

9 27. For pre-judgment interest as allowed by Labor Code §§ 218.6, 1194(a), and
10 Civil Code § 3287;

11 28. For an award of reasonable attorneys' fees and costs pursuant to Labor Code §
12 2802(c);

13 **As to the Eighth Cause of Action:**

14 29. That the Court declare, adjudge and decree that Defendants violated California
15 Private Attorneys General Act, Labor Code § 2698 and 2699;

16 30. For an order imposing all civil and statutory penalties provided by law;

17 31. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
18 California Labor Code § 2699(g); and

19 32. For such other and further relief as the Court may deem equitable and
20 appropriate.

21 ///

22 ///

1 **As to All Causes of Action:**

2 33. For reasonable costs incurred;

3 34. For such other and further relief as this Court may deem just and proper.

4
5 Dated: January 25, 2023

BARTZ LAW GROUP, APC

6
7
8 By: /s/ Aaron A. Bartz
 AARON A. BARTZ
9 Attorneys for Plaintiffs Randy Lloyd and Eddie
 Alvarado and all others similarly situated
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Dated: January 25, 2023

By: /s/ Aaron A. Bartz
AARON A. BARTZ
Attorneys for Plaintiffs Randy Lloyd and Eddie
Alvarado and all others similarly situated

EXHIBIT 5

Activities Export

06/12/2024
11:43 AM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
06/12/2024	  Unbilled	Review, revise and finalize motion for final settlement approval, and supporting documents.	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	2.30h	\$850.00	-	\$1,955.00
06/10/2024	  Unbilled	Client conference Call (Alvarado) re case status and motion	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Nestor Mejia	0.25h	\$295.00	-	\$73.75
06/10/2024	  Unbilled	Client conference Call (lloyd) re case status and motion	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Nestor Mejia	0.25h	\$295.00	-	\$73.75
06/10/2024	  Unbilled	Review and revise final settlement papers, and review and respond to settlement administrator regarding same.	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	1.20h	\$850.00	-	\$1,020.00
06/08/2024	  Unbilled	Prepare supporting declarations, and review and revise Motion for Final Approval.	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	4.20h	\$850.00	-	\$3,570.00
06/04/2024	  Unbilled	Research regarding final approval motion, and prepare motion for final approval.	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	3.00h	\$850.00	-	\$2,550.00
05/24/2024	  Unbilled	Review and consider further weekly reports from Phoenix.	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	0.40h	\$850.00	-	\$340.00
05/10/2024	  Unbilled	Review and consider further weekly reports from Phoenix.	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	0.40h	\$850.00	-	\$340.00
					116.70h		\$0.00 0.00h	\$94,415.00 116.70h

Activities Export

06/12/2024
11:43 AM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
		● Unbilled						
04/26/2024	🕒	Review and consider weekly report from Phoenix. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	0.30h	\$850.00	-	\$255.00
03/25/2024	🕒	Review case for further handling, and conference call with OPC regarding settlement; Review emails from OPC regarding same. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	1.00h	\$850.00	-	\$850.00
02/27/2024	🕒	Prepare Joint CMS for service and filing, and confer with AB regarding same. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Nestor Mejia	0.50h	\$295.00	-	\$147.50
02/26/2024	🕒	Prepare Joint Report, and review and respond to emails regarding same. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	0.50h	\$850.00	-	\$425.00
02/21/2024	🕒	Review of minute order granting preliminary approval, and case for further handling. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	0.50h	\$850.00	-	\$425.00
02/13/2024	🕒	revise, resubmit , and file rejected documents ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Nestor Mejia	0.50h	\$295.00	-	\$147.50
02/12/2024	🕒	Client Conference call with clients Lloyd and Alvarado regarding settlement amendment. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Nestor Mejia	0.50h	\$295.00	-	\$147.50
					116.70h		\$0.00 0.00h	\$94,415.00 116.70h

Activities Export

06/12/2024

11:43 AM

Date ▼	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
02/12/2024	 	Review, revise and final supplemental declaration and proposed Order, and exhibits. Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	2.00h	\$850.00	-	\$1,700.00
02/05/2024	 	Review and revise settlement agreement amendment, objection form, and class notice; Prepare supplemental declaration in support of preliminary approval. Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	2.00h	\$850.00	-	\$1,700.00
02/01/2024	 	Prepare for hearing on motion for preliminary approval, and attend same; Prepare amendment to settlement agreement. Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	2.00h	\$850.00	-	\$1,700.00
01/31/2024	 	Review of tentative ruling, and review CMO and related documents in preparation for hearing. Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	2.00h	\$850.00	-	\$1,700.00
01/09/2024	 	Prepare Motion re Settlement for service and filing. Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Nestor Mejia	1.00h	\$295.00	-	\$295.00
01/09/2024	 	Review, revise and final motion for preliminary approval papers, and coordinate filing of same. Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	3.60h	\$850.00	-	\$3,060.00
01/08/2024		Review and revise motion for preliminary approval and support	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	3.00h	\$850.00	-	\$2,550.00
					116.70h		\$0.00 0.00h	\$94,415.00 116.70h

Activities Export

06/12/2024
11:43 AM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
		papers. ● Unbilled						
12/29/2023		Prepare proposed Order, and prepare Declaration and Motion for Preliminary Approval, and review and revise same. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	4.00h	\$850.00	-	\$3,400.00
12/19/2023		Finalize, File, and Serve Joint CMS statement ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Nestor Mejia	1.00h	\$295.00	-	\$295.00
12/19/2023		Review case for further handling, and prepare Joint Status Report; Prepare email to OPC regarding same. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	1.00h	\$850.00	-	\$850.00
12/12/2023		Continue preparing motion for preliminary approval; Prepare supporting declaration. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	3.70h	\$850.00	-	\$3,145.00
12/08/2023		Continue preparing motion for preliminary approval, and prepare declaration supporting same. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	2.50h	\$850.00	-	\$2,125.00
12/06/2023		Review and respond to emails from OPC regarding settlement; Begin preparing Motion for Preliminary Approval. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	4.00h	\$850.00	-	\$3,400.00
					116.70h		\$0.00 0.00h	\$94,415.00 116.70h

Activities Export

06/12/2024

11:43 AM

Date ▼	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
11/16/2023		Review and consider revisions to Settlement Agreement, and further revise same.  Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	2.00h	\$850.00	-	\$1,700.00
10/06/2023		Review and consider case for further handling, and review minute order, and coordinate calendaring of same.  Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	0.50h	\$850.00	-	\$425.00
10/03/2023		Continue preparing Class Action Settlement Agreement; Prepare Class Notice and Request for Exclusion and Objection Forms.  Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	2.70h	\$850.00	-	\$2,295.00
09/30/2023		Prepare Class and PAGA Settlement Agreement.  Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	2.00h	\$850.00	-	\$1,700.00
09/28/2023		Revise settlement agreements, and conferences with clients regarding same; Prepare email to OPC.  Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	1.00h	\$850.00	-	\$850.00
09/27/2023		Attend Mediation, and review and revise MOU.  Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	11.00h	\$850.00	-	\$9,350.00
09/26/2023		Conference calls with expert regarding damages model, and review and consider same; Prepare for Mediation, and	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	6.00h	\$850.00	-	\$5,100.00
					116.70h		\$0.00 0.00h	\$94,415.00 116.70h

Activities Export

06/12/2024
11:43 AM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
		research in support of same. ● Unbilled						
09/25/2023	🕒	Review and consider client documents in support of case; Conference call with mediator for pre-mediation conference; Call with expert regarding damages analysis, and review and respond to emails regarding same. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	1.30h	\$850.00	-	\$1,105.00
09/19/2023	🕒	Revise and final Mediation Brief, and review and respond to emails from mediator. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	0.60h	\$850.00	-	\$510.00
09/18/2023	🕒	Review and revise Mediation Brief, and review exhibits in support of same. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	1.50h	\$850.00	-	\$1,275.00
09/15/2023	🕒	Continued review payroll and personnel records, and conference call with expert regarding same; Research in support of Mediation; Prepare Mediation Brief. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	5.50h	\$850.00	-	\$4,675.00
09/14/2023	🕒	Review and consider payroll and personnel records regarding Mediation; Prepare Mediation Brief, and research in support of same. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	6.00h	\$850.00	-	\$5,100.00
					116.70h		\$0.00 0.00h	\$94,415.00 116.70h

Activities Export

06/12/2024

11:43 AM

Date ▼	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
09/13/2023		Review and consider voluminous case records in preparation for Mediation.  Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	5.00h	\$850.00	-	\$4,250.00
09/07/2023		Review and consider case for further handling, and review and respond to emails from OPC regarding mediation data.  Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	0.40h	\$850.00	-	\$340.00
09/06/2023		Review and consider Protective Order, and email OPC regarding same.  Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	0.60h	\$850.00	-	\$510.00
08/28/2023		Conference call with client Alvarado regarding case status.  Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Nestor Mejia	0.50h	\$295.00	-	\$147.50
08/04/2023		Review case for further handling, and case status; Call with OPC regarding mediation data.  Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	0.50h	\$850.00	-	\$425.00
07/06/2023		Review and consider Answer, and review and respond to emails regarding same.  Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	0.40h	\$850.00	-	\$340.00
06/30/2023		Review case in preparation for CMC, and review Minute Order regarding same.  Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	1.00h	\$850.00	-	\$850.00
					116.70h		\$0.00 0.00h	\$94,415.00 116.70h

Activities Export

06/12/2024

11:43 AM

Date ▼	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
06/26/2023		Review and revise Joint Report, and review and respond to emails regarding same; Coordinate filing and service of Joint Report.  Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	1.00h	\$850.00	-	\$850.00
06/21/2023		Review case for further handling, and Notice of Department Change; Review and respond to emails from OPC; Prepare joint status report.  Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	1.00h	\$850.00	-	\$850.00
06/05/2023		Review of cease and desist letter, and prepare email to client regarding same; Review case for further handling.  Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	0.50h	\$850.00	-	\$425.00
06/02/2023		Review case for further handling; Conference call with OPC regarding case developments.  Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	0.50h	\$850.00	-	\$425.00
03/22/2023		Review and consider case management order, and conference call with OPC regarding meet and confer; Review and revise joint statement.  Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	1.00h	\$850.00	-	\$850.00
02/16/2023		Review Case Management Order and research in support of claims; Conference call with E. Alvarado regarding case, and review case documents supporting claims.	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	3.00h	\$850.00	-	\$2,550.00
					116.70h		\$0.00 0.00h	\$94,415.00 116.70h

Activities Export

06/12/2024

11:43 AM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
		● Unbilled						
02/14/2023	🕒	Conference Call with Client Lloyd regarding case status. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Nestor Mejia	0.25h	\$295.00	-	\$73.75
02/14/2023	🕒	Conference Call with Client Alvarado re case status. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Nestor Mejia	0.25h	\$295.00	-	\$73.75
02/08/2023	🕒	Review and consider case documents, and conference call with OPC regarding case. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	1.00h	\$850.00	-	\$850.00
01/30/2023	🕒	Finalize filing documents for complaint ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Nestor Mejia	1.00h	\$295.00	-	\$295.00
01/25/2023	🕒	Review revise and final Complaint; Research regarding Local Rules, and prepare Certificate of Counsel. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	2.50h	\$850.00	-	\$2,125.00
01/18/2023	🕒	Review and consider client documents; Prepare class action and PAGA complaint. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	3.50h	\$850.00	-	\$2,975.00
12/13/2022	🕒	Conference call with client Alvarado regarding case. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Nestor Mejia	0.50h	\$250.00	-	\$125.00
11/22/2022	🕒	Prepare PAGA letter, and research in support of same, and coordinate	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	2.50h	\$750.00	-	\$1,875.00
					116.70h		\$0.00	\$94,415.00
							0.00h	116.70h

Activities Export

06/12/2024
11:43 AM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
		filing and service. ● Unbilled						
11/02/2022	🕒	Conference call with client regarding case strategies. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	0.60h	\$850.00	-	\$510.00
10/26/2022	🕒	Conference with clients regarding case. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Nestor Mejia	1.50h	\$250.00	-	\$375.00
					116.70h		\$0.00 0.00h	\$94,415.00 116.70h

EXHIBIT 6

Activities Export

06/12/2024

11:44 AM

Date ▼	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
06/08/2024	\$	Motion for final approval and supporting documents filing fees (anticipated). ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	1.00	\$100.00	-	\$100.00
02/27/2024	\$	One Legal Filing of Joint CMS 2-27-2024 Confirmation #29969524 ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Nestor Mejia	1.00	\$18.75	-	\$18.75
02/26/2024	\$	Document retrieval fees from RSC. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	1.00	\$12.00	-	\$12.00
02/21/2024	\$	One Legal Filing re Proposed Order ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Nestor Mejia	1.00	\$18.75	-	\$18.75
02/21/2024	\$	Document retrieval fees from RSC. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	1.00	\$1.00	-	\$1.00
02/20/2024	\$	Document retrieval fees from RSC. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	1.00	\$3.00	-	\$3.00
02/13/2024	\$	One Legal Rebumission of rejected documents Confirmation #29891903 ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Nestor Mejia	1.00	\$18.75	-	\$18.75
02/13/2024	\$	One Legal Amended Settlement filing Confirmation #29889239 ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Nestor Mejia	1.00	\$18.75	-	\$18.75
01/22/2024	\$	Onelegal-Motion,declaration-1/10/2024-\$18.75	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Chandler Nelson	1.00	\$18.75	-	\$18.75
							\$0.00 0.00h	\$8,414.15 0.00h

Activities Export

06/12/2024

11:44 AM

Date ▼	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
		● Unbilled						
01/10/2024	\$	One Legal refiling Motion and Proposed order Confirmation #29695513 ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Nestor Mejia	1.00	\$78.75	-	\$78.75
01/09/2024	\$	One Legal Motion to Approve Class Action Settlement Fee : Confirmation #29687535 ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Nestor Mejia	1.00	\$78.06	-	\$78.06
12/19/2023	\$	One Legal Joint CMS filing Fees Confirmation #29592613 ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Nestor Mejia	1.00	\$16.75	-	\$16.75
10/07/2023	\$	Document retrieval costs from RSC. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	1.00	\$16.50	-	\$16.50
09/29/2023	\$	JT Calcs - Expert Fees. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	1.00	\$1,100.00	-	\$1,100.00
09/27/2023	\$	ARC Mediation Fees. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	1.00	\$1,000.00	-	\$1,000.00
07/28/2023	\$	Mediation Fees. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Nestor Mejia	1.00	\$4,325.00	-	\$4,325.00
06/30/2023	\$	Court fee re 6-30-23 Minute Order. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	1.00	\$1.00	-	\$1.00
06/28/2023	\$	One Legal E-Filing Charges Joint Statement of Case	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Sally Bartz	1.00	\$16.75	-	\$16.75
							\$0.00 0.00h	\$8,414.15 0.00h

Activities Export

06/12/2024

11:44 AM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
		● Unbilled						
06/26/2023	\$	One Legal Filing Fee re Joint CMS Confirmation #28641304 ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Nestor Mejia	1.00	\$16.75	-	\$16.75
06/21/2023	\$	Document retrieval fees from RSC. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	1.00	\$2.00	-	\$2.00
03/30/2023	\$	Document retrieval costs from RSC. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	1.00	\$3.00	-	\$3.00
01/30/2023	\$	One Legal Civil Complex filing Confirmation #27885294 ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Nestor Mejia	1.00	\$1,466.75	-	\$1,466.75
11/22/2022	\$	PAGA letter sent out to for both clients to Defendant ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Nestor Mejia	1.00	\$8.09	-	\$8.09
11/22/2022	\$	PAGA filing fee. ● Unbilled	00037-Lloyd Lloyd v. Berry Roofing, Inc.	Aaron Bartz	1.00	\$75.00	-	\$75.00
							\$0.00 0.00h	\$8,414.15 0.00h