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

KEVIN BECERRA, RIGOBERTO
BENAVIDEZ, RAFI CAMPBELL, and
MANUEL VARGAS HERNANDEZ,
individually, and on behalf of all others similarly
situated,

Plaintiffs,

v.

PACIFIC DISTRIBUTING, INC., a California
corporation, and DOES 1 through 10, inclusive,

Defendants.

ELECTRONICALLY FILED
Superior Court of California,
County of Tulare
07/17/2024
By: Kim Anaya,
Deputy Clerk

Case No.: VCU293519

**CLASS AND REPRESENTATIVE
ACTION**

[Assigned for all purposes to: Hon. David C.
Mathias, Dept. 1]

**DECLARATION OF JUSTIN F. MARQUEZ
IN SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

[Filed concurrently with: Plaintiffs' Notice of
Motion and Motion for Preliminary Approval
of Class Action Settlement, Memorandum of
Points and Authorities; [Proposed] Order]

PRELIMINARY APPROVAL HEARING

Date: August 8, 2024

Time: 8:30 a.m.

Dept: 1

Complaint filed: September 27, 2022
FAC filed; January 24, 2023
Trial date: Not set

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1. I am admitted, in good standing, to practice as an attorney in the State of California, the Ninth Circuit Court of Appeals, and the United States District Courts for the Central, Southern, Eastern, and Northern Districts of California. I am a Senior Partner at Wilshire Law Firm, PLC, counsel of record for Plaintiffs Kevin Becerra, Rigoberto Benavidez, Rafi Campbell, and Manuel Vargas Hernandez (collectively, "Plaintiffs"). I have personal knowledge of the facts set forth in this declaration and could and would competently testify to them under oath if called as a witness. This Declaration is submitted in support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement.

2. This is a wage and hour class and Private Attorneys General Act (“PAGA”) (Cal. Lab. Code §§ 2699, *et seq.*) representative action. Plaintiffs and putative class members worked in California as hourly-paid or non-exempt employees for Defendant Pacific Distributing, Inc. (“Defendant”, and together with the Plaintiffs, the “Parties”) during the class period. Defendant is headquartered out of Woodlake, California and provides growers with sales, services, and OEM parts for Orchard-Rite tree shakers and wind machines.

3. Plaintiffs allege that Defendant's payroll, timekeeping, and wage and hour practices resulted in Labor Code violations. Plaintiffs allege that Defendant failed to pay for all hours worked. Plaintiffs further allege that Defendant failed to provide employees with legally compliant meal and rest periods, and Defendant failed to reimburse business expenses. Based on these allegations, Plaintiffs asserts related claims for failure to provide accurate wage statements, failure to pay all final wages at termination, unfair business practices, and civil penalties under PAGA.

4. On September 27, 2022, Plaintiffs filed a putative wage-and-hour class action complaint against Defendant for: (1) failure to pay minimum and straight time wages (Labor Code §§ 204, 1194, 1194.2, and 1197); (2) failure to pay overtime wages (Labor Code §§ 1194 and 1198); (3) failure to provide meal periods (Labor Code §§ 226.7 and 512); (4) failure to authorize and permit rest periods (Labor Code §§ 226.7 and 512); (5) failure to timely pay final wages at

1 termination (Labor Code §§ 201-203); (6) failure to provide accurate itemized wage statements
2 (Labor Code § 226); (7) failure to indemnify employees for expenditures (Labor Code § 2802);
3 and (8) unfair business practices (Business and Professions Code 17200 et seq.). On November
4 14, 2022, Plaintiffs sent notice to Defendant and the California Labor & Workforce Development
5 Agency (“LWDA”) alleging wage-and-hour violations pursuant to the Private Attorneys General
6 Act “PAGA” (Cal. Lab. Code §§ 2699, *et seq.*) On January 24, 2023, Plaintiffs filed their First
7 Amended Complaint adding claims for civil penalties under PAGA.

8 DISCOVERY AND INVESTIGATION

9 5. Following the filing of the Complaint, the Parties exchanged documents and
10 information before mediating this action. Defendant produced a sample of time and pay records
11 for class members. Defendant also provided documents of its wage and hour policies and practices
12 during the class period, and information regarding the total number of current and former
13 employees in its informal discovery responses.

14 6. After reviewing documents regarding Defendant’s wage and hour policies and
15 practices, and analyzing Defendant’s timekeeping and payroll records, Class Counsel was able to
16 evaluate the probability of class certification, success on the merits, and Defendant’s maximum
17 monetary exposure for all claims. Class Counsel also investigated the applicable law regarding
18 the claims and defenses asserted in the Litigation. Class Counsel reviewed these records and
19 utilized an expert to prepare a damages analysis prior to mediation.

20 SETTLEMENT NEGOTIATIONS

21 7. On November 6, 2023, the Parties participated in private mediation with
22 experienced class action mediator, Hon. Amy Hogue (Ret.). The mediation was conducted via
23 Zoom. The settlement negotiations were at arm’s length and, although conducted in a professional
24 manner, were adversarial. The Parties went into the mediation willing to explore the potential for
25 a settlement of the dispute, but each side was also prepared to litigate their position through trial
26 and appeal if a settlement had not been reached.

27 8. After extensive negotiations and discussions regarding the strengths and
28 weaknesses of Plaintiffs’ claims and Defendant’s defenses, the Parties were able to reach a

1 resolution, the material terms of which are encompassed within the Settlement Agreement.
2 Attached as **Exhibit 1** is a true and correct copy of the Class Action and PAGA Settlement
3 Agreement and Class Notice (“Settlement Agreement”).

4 9. Class Counsel submitted the proposed Settlement to the LWDA before filing the
5 Motion for Preliminary Approval.

6 10. I requested several bids from experienced class action settlement administrators to
7 handle the responsibilities of the Settlement Administrator under this Settlement. The Parties
8 accepted the bid of ILYM Group, Inc. (“ILYM”). ILYM’s founder has multiple years of
9 experience in the field of Class Action Administration, particularly in the wage-and-hour arena.
10 In its bid, ILYM agreed to cap its costs at \$8,000.00 if there are 100 class members. ILYM’s bid
11 also accounts for Notice in English and Spanish. A true and correct copy of the bid is attached
12 hereto as **Exhibit 2**.

13 11. Plaintiffs do not have any interest, financial or otherwise, in the proposed third-
14 party administrator, ILYM.

15 12. No one at Wilshire Law Firm, PLC (meaning the law firm itself and anyone
16 employed at the law firm) has any interest, financial or otherwise, in the proposed third-party
17 administrator, ILYM.

18 13. Wilshire Law Firm, PLC has no fee-splitting agreement with any other counsel in
19 this case.

20 14. Class Counsel is not aware of any other pending matter or action asserting claims
21 that will be extinguished or affected by the Settlement.

22 **THE PROPOSED SETTLEMENT IS FAIR AND REASONABLE**

23 15. Class Counsel has conducted a thorough investigation into the facts of this case.
24 Based on the foregoing discovery and their own independent investigation and evaluation, Class
25 Counsel is of the opinion that the Settlement is fair, reasonable, and adequate and is in the best
26 interests of the Settlement Class Members in light of all known facts and circumstances, the risk
27 of significant delay, the defenses that could be asserted by Defendant both to certification and on
28 the merits, trial risk, and appellate risk.

1 16. Based on an analysis of the facts and legal contentions in this case, documents and
2 information from Defendant, I evaluated Defendant's maximum exposure. I took into account the
3 risk of not having the claims certified and the risk of not prevailing at trial, even if the claims are
4 certified. After using the data Defendant provided, including class member timekeeping and
5 payroll records, as well as class member demographics (i.e., the number of class members,
6 workweeks, and average total compensation of the class), with the assistance of a statistics expert,
7 I created a damages model to evaluate the realistic range of potential recovery for the class. The
8 damages model is based on the following benchmarks:

9 Total Class Members: 98
10 Terminated Class Members during 3-year statute: 70
11 Total Workweeks: 10,573
12 Total Shifts Worked by the Class: 56,701
13 PAGA Pay Periods: 2,710
14 PAGA Eligible Employees: 70
15 Avg. Hourly Rate: \$24.14

16 17. Based on Plaintiffs' discovery and investigation, Class Counsel reached the
17 conclusion that Defendant failed to pay class members for all hours worked, including overtime
18 wages, Defendant had a policy and practice of not providing its employees with California
19 compliant meal and rest periods which it did not pay appropriate premiums for, and Defendant
20 required its employees to work "off-the-clock" prior to clocking in for the workday, during meal
21 periods, and after clocking out for the workday, time which it did not pay for, and Defendant failed
22 to reimburse its employees for business-related expenses. Defendant denies these claims.

23 18. Plaintiffs further allege that Defendant failed to pay for all hours worked, including
24 minimum wages, straight time wages, and overtime wages, by requiring class members to work
25 off-the-clock, unpaid. For purposes of calculating Defendant's liability based on a best-case
26 scenario for Plaintiffs and the Class, I estimated Defendant's maximum potential exposure by
27 assuming that all unpaid work time should have been paid at the overtime rate, not minimum or
28 straight time wages, and I assumed that Defendant is liable for 1 hour of unpaid worktime per

1 week. This results in an estimate of \$382,848.33 (10,573 weeks * \$24.14 hourly rate * 1.5 overtime rate * 1 hour of unpaid work per week), but I discounted this figure by 80% to account for the difficulty of prevailing on a motion for class certification and a trial on the merits because liability depends on whether Defendant knew or should have known that class members were working off-the-clock, yielding a realistic damage estimate of \$76,569.67.¹

19. With respect to the meal period claim, Plaintiffs allege that Defendant required them and similarly situated class members to either work in lieu of taking meal periods, or their meal periods were untimely or interrupted. My expert analyzed Defendant's timekeeping records and opined that approximately 32.8% of all meal breaks (17,772 shifts) had violations of short, missed, or no meal periods. Potential liability for the meal period claim is \$429,016.08 (17,772 * \$24.14). However, the data showed that Defendant paid approximately \$29,286.00 in meal period premium payments since 2018, so I reduced Defendant's liability by this amount, yielding \$399,730.08. I further discounted this figure by 80% to account for the difficulty of certifying and proving meal period claims, as well as Defendant's contention that the claim lacks merit, particularly in light of its numerous meal period premium payments, yielding a realistic damage estimate of \$79,946.02.

20. With respect to the rest period claim, Plaintiffs allege that Defendant required them and similarly situated class members to work in lieu of taking rest periods, or their rest periods were untimely or interrupted. Assuming an 40% violation rate for the class period based on Plaintiffs' and other class members' experience working for Defendant, Defendant's potential liability for the rest period claim is \$547,504.86 (56,701 shifts * 0.4 * \$24.14); however, I discounted this figure by 80% to account for the difficulty of certifying and proving rest period claims, particularly because rest periods do not have to be recorded, and to account for the possibility of class members voluntarily choosing to forego a rest period, yielding a realistic damage estimate of \$109,500.97.

¹ An 80% discount for risk at certification and trial is reasonable because the Judicial Council of California found that only 21.4% of all class actions were certified either as part of a settlement *or* as part of a contested certification motion. See Findings of the Study of California Class Action Litigation, 2000-2006, available at [http:// www.courts.ca.gov/documents/class-action-lit-study.pdf](http://www.courts.ca.gov/documents/class-action-lit-study.pdf).

1 21. Plaintiffs allege that Defendant failed to reimburse necessary business expenses.
2 Defendant's employees (including Plaintiffs) were frequently required to use their personal cell
3 phones to communicate with their supervisors and managers about work-related duties. This
4 included communication regarding their schedules and/or the following day's or week's tasks. For
5 purposes of calculating Defendant's liability based on a best case scenario for Plaintiffs and the
6 Class, I estimated that Defendant was liable to each class member for \$40 per month in
7 unreimbursed expenses, for a total amount of \$141,120.00 (\$40 per month * 36 months * 98 Class
8 Members); however, I discounted this figure by 80% to account for the difficulty of certifying and
9 proving expense reimbursement claims, particularly in light of written policies and practices
10 providing a mechanism for class member's to seek reimbursement, yielding a realistic damage
11 estimate of \$28,224.00.

12 22. In sum, I estimated that Plaintiffs' maximum recovery for the off-the-clock claim,
13 meal period violations, rest period violations, and failure to reimburse expenses is \$1,471,203.27,
14 but, after factoring in the risk and uncertainty of prevailing at certification and trial, I estimate that
15 Plaintiffs' realistic estimated recovery for the non-penalty claims is \$294,240.65.

16 23. With respect to Plaintiffs' derivative claims for statutory and civil penalties,
17 Plaintiffs estimated that Defendant's realistic potential liability is \$203,318.60. While Defendant's
18 maximum potential liability for waiting time penalties is \$481,593.00 based on approximately 70
19 terminated class members during the 3-year statute (70 * \$24.14 * 9.5 hours * 30 days),
20 \$264,000.00 for inaccurate wage statements based on approximately 70 class members who
21 worked 2,710 pay periods within the 1-year statute, and \$271,000.00 for PAGA violations based
22 on the Court assessing a \$100 penalty for initial violations for all 2,710 pay periods within the 1-
23 year statute, I believe that it would be unrealistic to expect the Court to award the full
24 \$1,016,593.00 in penalties given Defendant's defenses, the contested nature of Plaintiffs' claims,
25 and the discretionary nature of penalties. Considering that the underlying claims are realistically
26 estimated to be \$294,240.65, such a disproportionate award would also raise due process concerns.
27 Weighing these factors and applying a discount of 80% to account for the risk and uncertainty of
28 prevailing at trial, I arrived at \$203,318.60 for statutory and civil penalties.

1 24. Using these estimated figures, Plaintiffs predicted that the realistic maximum
2 recovery for all claims, including penalties, would be \$497,559.25. This means that the
3 \$425,000.00 settlement figure represents 70% of the realistic maximum recovery (\$425,000.00/
4 \$497,559.25 = 85.4%). Considering the risk and uncertainty of prevailing at class certification and
5 at trial, this is an excellent result for the Class.² Indeed, because of the proposed Settlement, class
6 members will receive timely, guaranteed relief and will avoid the risk of an unfavorable judgment.

7 25. While Plaintiffs are confident in the merits of their claims, a legitimate controversy
8 exists as to each cause of action. Plaintiffs also recognizes that proving the amount of wages due
9 to each Class Member would be an expensive, time-consuming, and uncertain proposition.

10 26. This Settlement avoids the risks and the accompanying expense of further litigation.
11 Although the Parties had engaged in a significant amount of investigation, informal discovery and
12 class-wide data analysis, the Parties had not yet completed formal written discovery. Moreover,
13 preparation for class certification and a trial remained for the Parties as well as the prospect of
14 appeals in the wake of a disputed class certification ruling for Plaintiffs and/or adverse summary
15 judgment ruling. Had the Court certified any claims, Defendant could move to decertify the claims.
16 As a result, the Parties would incur considerably more attorneys' fees and costs through trial.

17 27. The Net Settlement Amount available for Class Member settlement payments is
18 estimated to be \$185,333.33, for a class of 98 persons.³ As a result, each Settlement Class Member
19 is eligible to receive an average net benefit of approximately \$1,891.16.

20 28. The proposed Settlement of \$425,000.00, therefore, represents a substantial
21 recovery when compared to Plaintiffs' reasonably forecasted recovery. When considering the risks
22

23 ² See, e.g., *Wise v. Ulta Salon, Cosmetics & Fragrance, Inc.* (E.D. Cal. Aug. 21, 2019)
24 2019 WL 3943859 at *8 (granting preliminary approval where the proposed allocation to settle
25 class claims was between 9.53 percent of Plaintiffs' maximum recovery); *Bravo v. Gale Triangle,*
26 *Inc.* (C.D. Cal. Feb 16, 2017) 2017 WL 708766 at * 10 (finding that "a settlement for fourteen
percent recovery of Plaintiffs' maximum recovery is reasonable"); *In re Omnivision Techs., Inc.*
(N.D. Cal. 2008) 559 F.Supp.2d 1036, 1042 (approving settlement amount that "is just over 9% of
the maximum potential recovery asserted by either party.").

27 ³ The Net Settlement Amount is: \$425,000.00 minus \$141,666.67 for Class Counsel's
28 attorneys' fees, minus \$30,000.00 for Class Counsel's litigation expenses, minus \$8,000.00 in
administration costs, minus \$20,000.00 for the PAGA payment, and minus \$40,000.00 for the class
representative service award to named Plaintiffs.

1 of litigation, the uncertainties involved in achieving class certification, the burdens of proof
2 necessary to establish liability, the probability of appeal of a favorable judgment, it is clear that the
3 settlement amount of \$425,000.00 is within the “ballpark” of reasonableness, and preliminary
4 settlement approval is appropriate.

5 ENHANCEMENT AWARD FOR PLAINTIFFS ARE REASONABLE

6 29. Class Counsel represent that Plaintiffs devoted a great deal of time and work
7 assisting counsel in the case, communicated with counsel very frequently for litigation and to
8 prepare for mediation, and was frequently in contact with Class Counsel during the mediation.
9 Plaintiffs’ requested enhancement award is reasonable particularly in light of the substantial
10 benefits Plaintiffs generated for all class members.

11 30. Throughout this Litigation, Plaintiffs, who are former employees of Defendant, have
12 cooperated immensely with my office and have taken many actions to protect the interests of the
13 class. Plaintiffs provided valuable information regarding the off-the-clock, meal period, and rest
14 period claims. Plaintiffs also informed my office of developments and information relevant to this
15 action, participated in decisions concerning this action, made herself available to answer questions
16 during the mediation, and provided my office with the names and contact information of potential
17 witnesses in this action. Before we filed this case, Plaintiffs provided my office with documents
18 regarding the claims alleged in this action. The information and documentation provided by
19 Plaintiffs was instrumental in establishing the wage and hour violations alleged in this action, and
20 the recovery provided for in the Settlement Agreement would have been impossible to obtain
21 without Plaintiffs’ participation.

22 31. At the same time, Plaintiffs faced many risks in adding themselves as the class
23 representative in this matter. Plaintiffs faced actual risks with their future employment, as putting
24 themselves on public record in an employment lawsuit could also very well affect their likelihood
25 for future employment. Furthermore, as part of this Settlement, Plaintiffs are executing a general
26 release of all claims against Defendant.

27 32. In turn, class members will now have the opportunity to participate in a settlement,
28 reimbursing them for alleged wage violations they may have never known about on their own or

1 been willing to pursue on their own. If these class members would have each tried to pursue their
2 legal remedies on their own, that would have resulted in each having to expend a significant amount
3 of their own monetary resources and time, which were obviated by Plaintiffs putting themselves
4 on the line on behalf of these other class members.

5 33. In the final analysis, this class action would not have been possible without the aid
6 of Plaintiffs, who put their own time and effort into this Litigation, sacrificed the value of their
7 own individual claims, and placed themselves at risk for the sake of the class members. The
8 requested enhancement award for Plaintiffs for their service as the class representative and for their
9 general release of all individual claims is a relatively small amount of money when the time and
10 effort put into the Litigation are considered and in comparison to enhancements granted in other
11 class actions. The requested incentive award is therefore reasonable to compensate Plaintiffs for
12 their active participation in this lawsuit. Indeed, in *Karl Adams, III, et al. v. MarketStar*
13 *Corporation*, et al., No. 2:14-cv-02509-TLN-DB, a wage and hour class action alleging that class
14 members were misclassified as exempt outside salespersons, I was co-lead Class Counsel and
15 helped negotiate a \$2.5 million class action settlement for 339 class members, and the court
16 approved a \$25,000.00 class representative incentive award for each named Plaintiffs.

17 THE REQUEST FOR ATTORNEYS' FEES AND COSTS IS REASONABLE

18 34. The Settlement provides for attorneys' fees payable to Class Counsel in an amount
19 up to one-third (33 1/3%) of the Settlement Amount, for a maximum fees award of \$141,666.67,
20 plus actual costs and expenses not to exceed \$30,000.00. The proposed award of attorneys' fees
21 to Class Counsel in this case can be justified under either method – lodestar or percentage recovery.
22 Class Counsel, however, intend to base the proposed award of fees, costs and expenses on the
23 percentage method as many of the entries in the time records will have to be redacted to preserve
24 attorney-client and attorney work product privileges.

25 35. I am informed and believe that the fee and costs provision is reasonable. The fee
26 percentage requested is less than that charged by my office for most employment cases. My office
27 invested significant time and resources into the case, with payment deferred to the end of the case,
28 and then, of course, contingent on the outcome.

1 36. It is further estimated that my office will need to expend at least another 50 to 100
2 hours to monitor the process leading up to the final approval and payments made to the class. My
3 office also bears the risk of taking whatever actions are necessary if Defendant fails to pay.

4 37. The risk to my office has been very significant, particularly if we would not be
5 successful in pursuing this class action. In that case, we would have been left with no compensation
6 for all the time taken in litigating this case. Indeed, I have taken on a number of class action cases
7 that have resulted in thousands of attorney hours being expended and ultimately having
8 certification denied or the defendant company going bankrupt. The contingent risk in these types
9 of cases is very real and they do occur regularly. Furthermore, we were precluded from focusing
10 on, or taking on, other cases which could have resulted in a larger, and less risky, monetary gain.

11 38. Because most individuals cannot afford to pay for representation in litigation on an
12 hourly basis, Wilshire Law Firm, PLC represents virtually all of its employment law clients on a
13 contingency fee basis. Pursuant to this arrangement, we are not compensated for our time unless
14 we prevail at trial or successfully settle our clients' cases. Because Wilshire Law Firm, PLC is
15 taking the risk that we will not be reimbursed for our time unless our client settles or wins his or
16 her case, we cannot afford to represent an individual employee on a contingency basis if, at the
17 end of our representation, all we are to receive is our regular hourly rate for services. It is essential
18 that we recover more than our regular hourly rate when we win if we are to remain in practice so
19 as to be able to continue representing other individuals in civil rights employment disputes.

20 MY EXPERIENCE AND QUALIFICATIONS

21 39. Wilshire Law Firm, PLC was selected by Best Lawyers and U.S. News & World
22 Report as one of the nation's Best Law Firms for every year since 2020 and is comprised of over
23 70 attorneys and over 500 employees. Wilshire Law Firm, PLC is actively and continuously
24 practicing in employment litigation, representing employees in both individual and class actions
25 in both state and federal courts throughout California.

26 40. Wilshire Law Firm, PLC is qualified to handle this Litigation because its attorneys
27 are experienced in litigating Labor Code violations in both individual, class action, and
28 representative action cases. Wilshire Law Firm, PLC has handled, and is currently handling,

1 numerous wage and hour class action lawsuits, as well as class actions involving consumer rights
2 and data privacy litigation.

3 41. I graduated from the University of California, Los Angeles's College Honors
4 Program in 2004 with Bachelor of Arts degrees in History and Japanese, *magna cum laude* and *Phi*
5 *Beta Kappa*. As an undergraduate, I also received a scholarship to study abroad for one year at
6 Tokyo University in Tokyo, Japan. I received my Juris Doctor from Notre Dame Law School in
7 2008.

8 42. My practice is focused on advocating for the rights of consumers and employees in
9 class action litigation and appellate litigation. I am currently the primary attorney in charge of
10 litigating several class action cases in state and federal courts across the United States.

11 43. I have received numerous awards for my legal work. From 2017 to 2020, Super
12 Lawyers selected me as a "Southern California Rising Star," and from 2022 to 2024, I was selected
13 as a "Southern California Super Lawyer." I was selected as one of the "Best Lawyers in America"
14 in 2023 and 2024. In 2016 and 2017, the National Trial Lawyers selected me as a "Top 40 Under
15 40" attorney. I am also rated 10.0 ("Superb") by Avvo.com.

16 44. I am on the California Employment Lawyers Association ("CELA")'s Wage and
17 Hour Committee and Mentor Committee, and I was selected to speak at CELA's 2019 Advanced
18 Wage & Hour Seminar on the topic of manageability of class actions and at CELA's 2024
19 Advanced Wage & Hour Seminar on the topic of multiple cases against the same defendant. Since
20 2013, I have actively mentored young attorneys through CELA's mentorship program.

21 45. I am also a past member of the Consumer Attorneys of California ("CAOC"). In
22 2020, I was selected for a position on CAOC's Board of Directors. I am also a past member of
23 CAOC's Diversity Committee, and I helped assist the CAOC in defeating bills that harm
24 employees. Indeed, I recently helped assist Jacqueline Serna, Esq., Legislative Counsel for CAOC,
25 in defeating AB 443, which proposed legislation that sought to limit the enforceability of California
26 Labor Code § 226.

27 46. As the attorney responsible for day-to-day management of this matter at the
28 Wilshire Law Firm, PLC, I have over fourteen years of experience with litigating wage and hour

1 class actions. Over the last fourteen years, I have managed and assisted with the litigation and
2 settlement of several wage and hour class actions. In those class actions, I performed similar tasks
3 as those performed in the course of prosecuting this action. My litigation experience includes:

- 4 a. I served as lead or co-lead in negotiating class action settlements worth over \$10
5 million in gross recovery to class members for each year since 2020, including over
6 \$37.5 million in 2022 and over \$75 million in 2023.
- 7 b. I lead a team of attorneys that successfully obtained class certification of meal
8 period, rest period, and related derivative claims on April 5, 2024 in *Aguilar-Flores*
9 *v. Javier's CC LLC*, Los Angeles Superior Court No. 19STCV36438 (Hon. Elihu
10 M. Berle).
- 11 c. I was part of the team of attorneys that prevailed in *Moore v. Centrelake Medical*
12 *Group, Inc.* (2022) 83 Cal.App.5th 515, the first California appellate decision in a
13 data breach class action holding that consumer plaintiffs adequately alleged injury
14 in fact under the benefit of the bargain theory and monitoring-costs theory.
- 15 d. In 2022, Top Verdict recognized Wilshire Law Firm and myself for having one case
16 in the Top 20 Labor & Employment Settlements (including number 19 for the \$4.1
17 million settlement in The FPI Management Wage and Hour Cases) and four
18 additional cases in the Top 50 Labor & Employment Settlements (numbers 36, 39,
19 41, and 49).
- 20 e. In 2021, Top Verdict recognized Wilshire Law Firm and myself for having one case
21 in the Top 20 Labor & Employment Settlements (including number 19 for the \$1.6
22 million settlement in *Moreno v. Pretium Packaging, L.L.C.*) and four additional
23 cases in the Top 50 Labor & Employment Settlements (numbers 27, 30, 33, and 37).
- 24 f. To my knowledge, I am the only attorney to appear on each of the following Top
25 Verdict lists for 2018 in California: Top 20 Civil Rights Violation Verdicts, Top 20
26 Labor & Employment Settlements, and Top 50 Class Action Settlements.
- 27 g. As lead counsel, on April 29, 2021, I prevailed against CVS Pharmacy, Inc. by
28 winning class certification on behalf of hundreds of thousands of consumers for

misleading advertising claims in *Joseph Mier v. CVS Pharmacy, Inc.*, U.S. Dist. Ct. C.D. Cal. no. SA CV 20-1979-DOC-(ADSx).

- h. As lead counsel, I prevailed against Bank of America by: winning class certification on behalf of thousands of employees for California Labor Code violations; defeating appellate review of the court’s order certifying the class; defeating summary judgment; and defeating a motion to dismiss. (*Frausto v. Bank of America, N.A.* (N.D. Cal. 2019) 334 F.R.D. 192, 2020 WL 1290302 (9th Cir. Feb. 27, 2020), 2019 WL 5626640 (N.D. Cal. Oct. 31, 2019), 2018 W.L. 3659251 (N.D. Cal. Aug. 2, 2018)). The decision certifying the class in *Frausto* is also discussed in Class Certification Under Fed. R. Civ. P. 23 in Action by Information Technology or Call Center Employees for Violation of State Law Wage and Hour Rules, 35 A.L.R. Fed. 3d Art. 8.
- i. I was the primary author of the class certification and expert briefs in *ABM Industries Overtime Cases* (2017) 19 Cal.App.5th 277, a wage and hour class action for over 40,000 class members for off-the-clock, meal period, split shift, and reimbursement claims. *ABM Industries Overtime Cases* is the first published California appellate authority to hold that an employer’s “auto-deduct policy for meal breaks in light of the recordkeeping requirements for California employers is also an issue amenable to classwide resolution.” (*Id.* at p. 310.)⁴ Notably, the Court of Appeal also held that expert analysis of timekeeping records can also support the predominance requirement for class certification. (*Id.* at p. 310-11.) In 2021, the case settled for \$140 million, making it one of the largest ever wage and hour class action settlements for hourly-paid employees in California.
- j. I briefed, argued, and won *Yocupicio v. PAE Group, LLC* (9th Cir. 2015) 795 F.3d 1057. The Ninth Circuit ruled in my client’s favor and held that non-class claims

⁴ As a California district court observed before the *ABM Industries Overtime* decision, “[t]he case law regarding certification of auto-deduct classes is mixed.” (*Wilson v. TE Connectivity Networks, Inc.* (N.D. Cal. Feb. 9, 2017) No. 14-CV-04872-EDL, 2017 WL 1758048, *7.)

1 under California’s Private Attorney Generals Act (“PAGA”) cannot be used to
2 calculate the amount in controversy under the Class Action Fairness Act (“CAFA”).
3 This case is cited in several leading treatises such as Wright & Miller’s Federal
4 Practice & Procedure, and Newberg on Class Actions. In October 2016, the U.S.
5 Supreme Court denied review of a case that primarily concerned *Yocupicio*. That
6 effort was led by Theodore J. Boutrous, who brought the cert petition, with amicus
7 support from a brief authored by Andrew J. Pincus.⁵ Considering that leading
8 Supreme Court practitioners from the class action defense bar were very motivated
9 in undermining *Yocupicio* case, but failed, this demonstrates the national importance
10 of the *Yocupicio* decision.

- 11 k. On December 13, 2018, the United States District Court granted final approval of
12 the \$2,500,000 class action settlement in *Mark Brulee, et al. v. DAL Global Services,*
13 *LLC* (C.D. Cal. Dec. 13, 2018) No. CV 17-6433 JVS(JCGx), 2018 WL 6616659 in
14 which I served as lead counsel. In doing so, the Court found: “Class Counsel’s
15 declarations show that the attorneys are experienced and successful litigators.” (*Id.*
16 at p. *10.)
- 17 l. *Gasio v. Target Corp.* (C.D. Cal. Sep. 12, 2014) 2014 U.S. Dist. LEXIS 129852, a
18 reported decision permitting class-wide discovery even though the employer has a
19 lawful policy because “[t]he fact that a company has a policy of not violating the
20 law does not mean that the employees follow it, which is the issue here.” The court
21 also ordered defendant to pay for the cost of *Belaire-West* notice.
- 22 m. In 2013, I represented a whistleblower that reported that his former employer was
23 defrauding the State of California with the help of bribes to public employees. The
24 case, a false claims (qui tam) action, resulted in the arrest and criminal prosecution
25 of State of California employees by the California Attorney General’s Office.
- 26 n. In 2013, I was part of a team of attorneys that obtained conditional certification for
27

28 ⁵ <http://www.chamberlitigation.com/cases/abm-industries-inc-v-castro>.

1 over 2,000,000 class members in a federal labor law case for misclassification of
2 independent contractors that did crowdsourced work on the Internet, *Otey v.*
3 *CrowdFlower, Inc.*, N.D. Cal. Case No. 12-cv-05524-JST (MEJ), resulting in the
4 following pro-plaintiff reported decisions:

- 5 i. 2013 U.S. Dist. LEXIS 151846 (N.D. Cal. Oct. 22, 2013) (holding that an
6 unaccepted Rule 68 offer doesn't moot plaintiff's claims, and granting
7 plaintiff's motion to strike defendant's affirmative defenses based on
8 *Twombly/Iqbal*).
- 9 ii. 2013 U.S. Dist. LEXIS 122007 (N.D. Cal. Aug. 27, 2013) (order granting
10 conditional collective certification).
- 11 iii. 2013 U.S. Dist. LEXIS 95687 (N.D. Cal. July 8, 2013) (affirming the
12 magistrate judge's discovery ruling which held that "evidence of other
13 sources of income is irrelevant to the question of whether a plaintiff is an
14 employee within the meaning of the FLSA").
- 15 iv. 2013 U.S. Dist. LEXIS 91771 (N.D. Cal. June 20, 2013) (granting broad
16 discovery because "an FLSA plaintiff is entitled to discovery from locations
17 where he never worked if he can provide some evidence to indicate
18 company-wide violations").
- 19 o. From 2012 to 2013, I was part of a team of attorneys that obtained class certification
20 for over 60,000 class members for off-the-clock claims, *Linares v. Securitas*
21 *Security Services USA, Inc.*, Los Angeles Superior Court No. BC416555. We also
22 successfully opposed subsequent appeals to the California Court of Appeal and
23 California Supreme Court.

24 47. My current contingent billing rate of \$1,500.00 per hour is consistent with my actual
25 billing rate for paid legal industry consulting services, my practice area, lead appellate experience
26 in the Ninth Circuit Court of Appeals, numerous awards received, legal market and accepted hourly
27 rates:

- 28 a. I have been paid for legal industry consulting services at \$1,500 per hour by

1 Gerson Lehrman Group (GLG), a company that provides financial information
2 and advises investors and consultants with business clients seeking expert advice.
3 GLG is one of the largest companies that provides expert consulting services.
4 GLG's clients include corporations, hedge funds, private equity firms, and
5 consulting firms. I have worked with GLG on numerous occasions at a rate of
6 \$1,500 per hour, including on three recent occasions in October and November of
7 2023.

- 8 b. On January 11, 2024, the Hon. Laurel Beeler of the United States District Court,
9 Northern District of California approved my \$1,500 hourly rate when she
10 granted final approval of the class action settlement in *Suarez v. Bank of*
11 *America, N.A.* (N.D. Cal. Jan. 11, 2024), No. 18-cv-01202-LB, 2024
12 WL150721, *3 ("As for the lodestar cross-check, the billing rates are normal
13 and customary for timekeepers with similar qualifications and experience in the
14 relevant market.")
- 15 c. My \$1,500 hourly rate was approved by many California state courts:

- 16 i. On December 8, 2023, the Hon. Marcella O. McLaughlin of the San Diego
17 County Superior Court approved my \$1,500 hourly rate when she granted
18 final approval of the class action settlement in *Payabyab v. Bridge*
19 *Hospice, LLC*, Case No. 7-2021-00046218-CU-OE-CTL.

- 20 ii. On January 11, 2024, the Hon. Harold Hopp of the Riverside County
21 Superior Court approved my \$1,500 hourly rate when he granted final
22 approval of the class action settlement in *Gutierrez v. Next Level Door &*
23 *Millwork, Inc.*, Case No. CVRI2105455.

- 24 iii. On January 19, 2024, the Hon. Lauri A. Damrell of the Sacramento County
25 Superior Court approved my \$1,500 hourly rate when she granted final
26 approval of the class action settlement in *Sunshine Retirement Wage and*
27 *Hour Cases*, Case No. JCCP 5247.

- 28 iv. On January 26, 2024, the Hon. Loren G. Freestone of the San Diego

1 Superior Court approved my \$1,500 hourly rate when he granted final
2 approval of the class action settlement in *Lupercio v. Western CNC, Inc.*,
3 Case No. 37-2021-00010314-CU-OE-CTL.

4 v. On February 1, 2024, the Hon. Joseph T. Ortiz of the San Bernardino Court
5 approved by \$1,500 hourly rate when he granted final approval of the class
6 action settlement in *Jackson, et al. v. Apple Valley Communications, Inc.*,
7 et al., Case No. CIVSB2124721.

8 vi. On February 2, 2024, the Hon. Harold Hopp of the Riverside County
9 Superior Court approved by \$1,500 hourly rate when he granted final
10 approval of the class action settlement in *Barrera v. Paradise Chevrolet*
11 *Cadillac*, Case No. CVSW2107199.

12 vii. On January 11, 2024, the Hon. Harold Hopp of the Riverside County
13 Superior Court approved my \$1,500 hourly rate when he granted final
14 approval of the class action settlement in *Gutierrez v. Next Level Door &*
15 *Millwork, Inc.*, No. CVRI2105455.

16 d. On May 6, 2022, the Hon. Jay A. Garcia-Gregory of the United States District
17 Court in Puerto Rico approved my \$850 hourly rate when he granted final
18 approval of the class action settlement in *Serrano v. Inmediata Corp.*, No. 3:19-
19 cv-01811-JAG, Dkt. 57 (U.S. Dist. Ct. P.R. May 6, 2022).

20 e. On September 9, 2021, the Hon. Peter Wilson of the Orange County Superior Court
21 approved my \$800 hourly rate when he granted final approval of the class action
22 settlement in *Ricardo Campos Hernandez v. Adams Iron Co., Inc.*, No. 30-2019-
23 01066522-CU-OE-CXC.

24 f. On August 6, 2021, the Hon. Stanley Blumenfeld, Jr. of the United States District
25 Court granted final approval of the \$1,600,000 class action settlement in *Carlos*
26 *Moreno v. Pretium Packaging, Inc.* (C.D. Cal. Aug. 6, 2021) No. 8:19-cv-02500-
27 SB-DFM, 2021 WL 3673845 in which I served as lead counsel. In doing so, the
28 Court approved my then \$750 hourly rate after finding it was “reasonable, given the

1 qualifications of the attorneys who worked on this matter.” (*Id.* at p. *3.)

2 g. On January 19, 2021, the Hon. Elihu M. Berle of the Los Angeles County Superior
3 Court approved my \$750 hourly rate when he granted final approval of the class
4 action settlement in *Faye Zhang v. Richemont North America, Inc.*, Case No.
5 19STCV32396.

6 48. The reasonableness of my firm’s hourly rates is also supported by several surveys
7 of legal rates, including the following:

8 a. The 2022 Real Rate Report survey compiled by Wolters Kluwer, which presents
9 the real market rates of Los Angeles area attorneys who practice litigation. For
10 that category, the third quartile 2022 rate was \$1,045 per hour for partners and
11 \$855 for associates. Likewise, page 32 of the Report describes the rates charged
12 by 183 Los Angeles partners with “21 or more years of experience” and “Fewer
13 than 21 years.” For those categories, the third quartile Los Angeles partner rate in
14 2022 were \$1,133 per hour for 21 or more years and \$1,075 for attorneys with
15 fewer than 21 years. A true and correct copy of portions of the 2022 Real Rate
16 Report is attached hereto as **Exhibit 3**.

17 b. In an article entitled “Big Law Rates Topping \$2,000 Leave Value ‘In Eye of
18 Beholder,’” written by Roy Strom and published by Bloomberg Law on June 9,
19 2022, the author describes how Big Law firms have crossed the \$2,000-per hour
20 rate. The article also notes that law firm rates have been increasing by just under
21 3% per year. A true and correct copy of this article is attached hereto as **Exhibit 4**.

22 49. Benjamin H. Haber is a eighth-year Associate Attorney at Wilshire Law Firm. He
23 graduated from the University of California, Los Angeles, with a Bachelor of Arts in Political
24 Science, and received his Juris Doctor from the University of California, Hastings College of the
25 Law in 2016. During law school, he was a member of the executive board for the Hastings Law
26 Journal and student mediator at the San Francisco Superior Court, Small Claims Division. He was
27 admitted to practice law in the State of California in 2017. Since graduating from law school, he
28 has focused his legal work primarily on wage-and-hour litigation and has helped obtain dozens of

1 settlements on behalf of tens of thousands of workers in California. He was also selected as a
2 “Southern California Rising Star” in 2024..

3 50. Daniel J. Kramer is an eighth-year Associate Attorney at Wilshire Law Firm, PLC.
4 He was admitted to practice law in the State of California and the Central, Eastern, and Northern
5 Districts of California. He graduated from Stanford University with a Bachelor of Arts in History
6 and Political Science, and received his Juris Doctor from Loyola Law School, Los Angeles in 2016.
7 During law school, he was a research editor for the Loyola of Los Angeles International and
8 Comparative Law Review. Before joining Wilshire Law Firm, he practiced briefly at a firm that
9 focused on municipal law and code enforcement and then moved to a respected plaintiff-side firm
10 to practice wage and hour class action litigation. He has several years of work experience litigating
11 wage and hour class actions.

12 51. Bradford Smith is a Law and Motion Attorney at Wilshire Law Firm. He graduated
13 from the University of California, Irvine with a Bachelor of Arts in History and received his Juris
14 Doctor from Loyola Law School, Los Angeles in 2022. He was admitted to practice law in the
15 State of California in 2022. Before joining Wilshire Law Firm, he worked at a law firm
16 specializing in insurance defense litigation. His focus now is on wage and hour class action
17 litigation. His current contingent billing rate for this case is \$450 per hour.

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

20 Executed on July 17, 2024, at Los Angeles, California.

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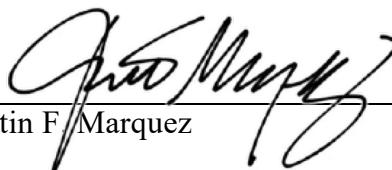

Justin F. Marquez

Exhibit 1

1 Nina Huerta (SBN 229070)
2 nhuerta@lockelord.com
3 William C. Mullen (SBN: 297272)
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10 Telephone: (213) 485-1500
11 Fax: (213) 485-1200

12 Attorneys for Defendant,

13 PACIFIC DISTRIBUTING, INC.

14
15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16
17 **FOR THE COUNTY OF TULARE**

18 KEVIN BECERRA, RIGOBERTO
19 BENAVIDEZ, RAFI CAMPBELL, and
20 MANUEL VARGAS HERNANDEZ,
21 individually, and on behalf of all others
22 similarly situated,

23
24 Plaintiffs,

25 v.

26 PACIFIC DISTRIBUTING, INC., a California
27 corporation; and DOES 1 through 10,
28 inclusive,

Defendants.

Case No.: VCU293519

CLASS AND PAGA ACTION

**JOINT STIPULATION OF CLASS AND
PAGA ACTION SETTLEMENT AND
RELEASE**

Honorable David C. Mathias
Dept. 1

Complaint filed: September 27, 2022

Trial date: None set

**JOINT STIPULATION OF CLASS AND PAGA ACTION SETTLEMENT AND
RELEASE**

IT IS HEREBY STIPULATED, by and among Kevin Becerra, Rigoberto Benavidez, Rafi Campbell, and Manuel Vargas Hernandez (collectively, “Plaintiffs”), on behalf of themselves and the Settlement Class Members, on the one hand, and Pacific Distributing, Inc. (“PDI”), on the other hand (together with Plaintiffs, the “Parties”), and subject to the approval of the Court, that the above-captioned action is hereby being compromised and settled pursuant to the terms and conditions set forth in this Joint Stipulation of Class Action Settlement and Release (the “Settlement Agreement” or “Settlement”).

1. DEFINITIONS

Capitalized terms used in this Settlement shall have the meanings set forth below:

1.1. “Action” means the putative class action entitled *KEVIN BECERRA, et al. v. PACIFIC DISTRIBUTING, INC.*, pending in the Superior Court of the State of California, County of Tulare, and designated as Case No. VCU293519.

1.2. “Class Member” means “Plaintiffs and all other persons who have been employed by Defendant in California as an hourly-paid or non-exempt employee during the statute of limitations period applicable,” September 27, 2018 through the date the Court Preliminarily Approves this settlement.

1.3. “PAGA Member(s)” means all non-exempt, hourly paid employees currently and formerly employed by Defendant in the state of California from November 20, 2021 through the date the Court Preliminarily Approves this settlement.

1.4. “Settlement Administrator” means ILYM Group, Inc.

1.5. “Settlement Administration Costs” means the amount to be paid to the third-party Settlement Administrator from the Gross Settlement Amount for the administration of the Settlement. The Settlement Administration Costs amount is not to exceed Eight Thousand Dollars and Zero Cents (\$8,000.00). Any portion of the requested Settlement Administration Costs that is not awarded to the Settlement Administrator shall be part of the Net Settlement Amount.

1.6. “Class Counsel” means Justin F. Marquez, Christina M. Le, and Zachary D.

Greenberg of the Wilshire Law Firm.

1.7. “Class Counsel Fees” means reasonable attorneys’ fees for Class Counsel’s litigation and resolution of this Action, in the amount of One Hundred Forty-Six Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$141,666.67) (or 33 1/3% of the Gross Settlement Amount). The Court shall determine the amount of the Class Counsel Fees, and it shall be paid from the Gross Settlement Amount. Any portion of the requested Class Counsel Fees that is not awarded to Class Counsel shall be part of the Net Settlement Amount.

1.8. “Class Counsel Costs” means actual expenses incurred by Class Counsel for Class Counsel’s litigation and resolution of this Action, as supported by declaration, in an amount not to exceed Thirty Thousand Dollars and Zero Cents (\$30,000.00). The Court shall determine the amount of the Class Counsel Costs, and it shall be paid from the Gross Settlement Amount. Any portion of the requested Class Counsel Costs that is not awarded to Class Counsel shall be part of the Net Settlement Amount.

1.9. “Class Information” means information regarding Settlement Class Members that Defendant will in good faith compile from its records and provide to the Settlement Administrator. Class Information shall be provided as a Microsoft Excel spreadsheet and shall include: each Settlement Class Member’s full name; last known address; last known home telephone number; social security number; all start and end dates of employment during the Class Period, and the total number of weeks each Settlement Class Member worked for Defendant during the Class Period. The number of weeks worked shall be calculated using Defendant’s payroll data during the Class Period whenever the hours worked for the work week was greater than zero. Because social security numbers are included in the Class Information, the Settlement Administrator shall maintain the Class Information in confidence; access shall be limited to those with a need to use the Class Information as part of the administration of the Settlement, and transmission shall be through use of a secure, password-protected file.

1.10. “Class Period” means the period from September 27, 2018 through the date the Court Preliminarily Approves this settlement.

1.11. “PAGA Class Period” means the period from November 20, 2021 through the date

1 the Court Preliminarily Approves this settlement.

2 1.12. "PAGA Released Claims" shall mean all claims, demands, rights, liabilities and
3 causes of action for penalties under California Labor Code Private Attorneys General Act of 2004
4 against the Released Parties, based on the letter to the Labor & Workforce Development Agency
5 on November 14, 2021, that arose during the PAGA Class Period, including but not limited to
6 claims for civil penalties for violations of Labor Code sections 210, 226.3, 1174.5, 1197.1, and
7 2699, and all related claims for attorneys' fees and costs.

8 1.13. "Class Representative Service Award" means the amount that the Court authorizes
9 to be paid to each of the Plaintiffs, not to exceed Ten Thousand Dollars and Zero Cents
10 (\$10,000.00), in addition to each of the Plaintiffs' Individual Settlement Payments. The Class
11 Representative Service Award to each of the Plaintiffs is in exchange for the Released Claims,
12 Plaintiffs' General Released Claims, and for Plaintiffs' efforts and risks in assisting with the
13 prosecution of the Action. The Class Representative Service Award shall be paid from the Gross
14 Settlement Amount. Any portion of the requested Class Representative Service Award that is not
15 awarded to Plaintiffs shall be part of the Net Settlement Amount.

16 1.14. "Court" means the Superior Court of the State of California for the County of
17 Tulare.

18 1.15. "Defendant" means PACIFIC DISTRIBUTING, INC., and each of its parent
19 companies, subsidiaries, related companies, affiliates, dbas, current and former management
20 companies, shareholders, members, agents (including any investment bankers, accountants, insurers,
21 reinsurers, attorneys and any past, present or future officers, directors and employees) predecessors,
22 successors, and assigns or any related entity that was the "employer" of the Settlement Class
23 Members.

24 1.16. "Defendant's Counsel" means Nina Huerta and Eve Tilley-Coulson of Locke Lord
25 LLP.

26 1.17. "Effective Date" means the date that the Gross Settlement Amount is fully funded.

27 1.18. "Employee Taxes" means the employee's share of any and all applicable federal,
28 state, and local payroll taxes on the portion of Settlement Class Members' Individual Settlement

1 Payment that constitutes wages. The Employee Taxes shall be paid out of the Net Settlement
2 Amount.

3 1.19. "Employer Taxes" means the employer's share of any and all applicable federal,
4 state, and local payroll taxes on the portion of Settlement Class Members' Individual Settlement
5 Payment that constitutes wages. The Employer Taxes shall be paid by Defendant separately and
6 not out of the Gross Settlement Amount or Net Settlement Amount.

7 1.20. "Final Approval Hearing" means the hearing held on the motion for final approval
8 of the Settlement.

9 1.21. "Final Approval Date" means the date which the Court grants final approval of the
10 Settlement.

11 1.22. "Final Judgment" means the Court's entry of an order of judgment in this Action
12 following the Court's final approval of the Settlement.

13 1.23. "Gross Settlement Amount" means the maximum amount Defendant shall have to
14 pay in connection with this Settlement, by way of a common fund, which shall be inclusive of all
15 Individual Settlement Amounts to Settlement Class Members, Class Counsel Fees, Class Counsel
16 Costs, Settlement Administrator Costs, Class Representative Service Awards, Employee Taxes
17 and PAGA Allocation. Subject to Court approval and the terms of this Settlement, the Gross
18 Settlement Amount Defendant shall be required to pay is Four Hundred and Twenty-Five
19 Thousand Dollars and Zero Cents (\$425,000.00). No portion of the Gross Settlement Amount
20 will revert to Defendant, and the Settlement does not require Settlement Class Members to submit
21 claims as a prerequisite to receiving their Individual Settlement Payment. This settlement sum is
22 based on Defendant's representation that the number of total Workweeks during the Class Period
23 through November 6, 2023 was Ten Thousand, Five Hundred and Seventy-Three weeks (10,573).
24 Defendant shall not be required to pay more than the Gross Settlement Amount as long as the
25 actual number of Workweeks during the Class Period through the date the Court Preliminarily
26 Approves this settlement is no more than ten percent (10%) greater than Defendant's estimate. If
27 the actual number of Workweeks during the Class Period through the date the Court Preliminarily
28 Approves this settlement is more than ten percent (10%) greater than the estimate, the Gross

1 Settlement Amount shall increase proportionately to the increase in the number of Workweeks
2 over the ten percent (10%) grace amount— e.g., if the number of Workweeks increases by eleven
3 percent (11%), the Gross Settlement Amount shall increase by one percent (1%); if the number
4 of Workweeks increases by twelve percent (12%), the Gross Settlement Amount shall increase
5 by two percent (2%), and so forth. Under no other circumstances shall Defendant be required to
6 pay more than the Gross Settlement Amount except as provided for in this section of the
7 Settlement Agreement.

8 1.24. “Individual Settlement Payment” means the amount payable to each Settlement
9 Class Member, as calculated pursuant to Paragraph 3.12.1 of the Settlement, from the Net
10 Settlement Amount. Checks for Individual Settlement Payments shall specifically indicate that
11 they are void if not negotiated within one hundred eighty (180) days of their issuance.

12 1.25. “PAGA Allocation” means Twenty Thousand Dollars and Zero Cents
13 (\$20,000.00), allocated from the Gross Settlement Amount for the compromise of claims brought
14 under the Labor Code Private Attorney General Act of 2004 (“PAGA”). Per California Labor
15 Code section 2699(i), Fifteen Thousand Dollars and Zero Cents (\$15,000.00), representing 75%
16 of the PAGA Allocation, shall be paid to California’s Labor Workforce Development Agency.
17 The remaining Five Thousand Dollars and Zero Cents (\$5,000.00), representing 25% of the
18 PAGA Allocation, shall be part of the Net Settlement Amount and shall be distributed to PAGA
19 Members.

20 1.26. “LWDA” shall mean the California Labor and Workforce Development Agency.

21 1.27. “LWDA PAGA Allocation” means Fifteen Thousand Dollars and Zero Cents
22 (\$15,000.00), representing 75% of the PAGA Allocation, and is the amount payable from the
23 Gross Settlement Amount to California’s Labor Workforce Development Agency.

24 1.28. “PAGA Member Allocation” means Five Thousand Dollars and Zero Cents
25 (\$5,000.00), representing 25% of the PAGA Allocation, and is the amount payable to PAGA
26 Members. The PAGA Member Allocation shall be distributed in its entirety to PAGA Members
27 pursuant to paragraph 3.13.

28 1.29. “Net Settlement Amount” means the Gross Settlement Amount, less the Class

Counsel Fees, the Class Counsel Costs, the Class Representative Service Awards, the Settlement Administration Costs, the LWDA PAGA Allocation, and the PAGA Member Allocation. The Net Settlement Amount shall be distributed in its entirety to Settlement Class Members, as provided for in this Settlement.

1.30. “Notice of Objection” means a written statement of objection to the Settlement, made and signed by a Settlement Class Member and includes the following: (1) the full name of the Settlement Class Member; (2) the dates of employment of the Settlement Class Member; (3) the last four digits of the Settlement Class Member’s Social Security number and/or the entire Employee ID number; (4) the basis for the objection; and, (5) whether the Settlement Class Member intends to appear at the Final Approval Hearing.

1.31. “Notice of Settlement” means the Notice of Proposed Class Action Settlement and Notice of Private Attorney General Act Settlement.

1.32. “Notice Packet” means the Notice of Proposed Class Action Settlement, Notice of Private Attorney General Act Settlement, Class Workweek Dispute Form, and the Request for Exclusion Form to be provided in English and Spanish.

1.33. “Parties” means Plaintiffs and Defendant collectively; and “Party” shall mean any Defendant or Plaintiffs, individually.

1.34. “PAGA Members” means all non-exempt employees, currently and formerly employed by Defendant in the State of California at any time during the PAGA Class Period.

1.35. “Plaintiffs” means Kevin Becerra, Rigoberto Benavidez, Rafi Campbell, and Manuel Vargas Hernandez.

1.36. “Plaintiffs’ General Released Claims” includes the Released Claims, and/or any claims on behalf of Plaintiffs, their agents, spouses, executors, representatives, heirs, successors, assigns, and estates, in exchange for the terms and conditions of this Settlement. Including, as of the Effective Date, Plaintiffs fully and forever release the Released Parties, to the full extent permitted by law, of and from any and all claims arising from their employment with Defendant, known and unknown, asserted and unasserted, which Plaintiffs had or may have had against the Released Parties, whether sounding in tort, in contract, in law, in equity or otherwise, and

1 including but not limited to all claims for violation of any local, state, or federal statute, rule, or
2 regulation. Plaintiffs expressly waive and relinquish all rights and benefits afforded by section
3 1542 of the Civil Code of the State of California and do so understanding and acknowledging the
4 significance of such specific waiver of section 1542. Section 1542 of the Civil Code of the State
5 of California states as follows:

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

10 Notwithstanding the above, Plaintiffs' General Released Claims do not include any
11 workers' compensation claims, and claims that cannot be waived as a matter of law by signing
12 this agreement, or enforcing this agreement.

13 1.37. "Preliminary Approval Date" means the date the Court enters the Preliminary
14 Approval Order for the Settlement.

15 1.38. "Preliminary Approval Order" means the proposed order (filed concurrently with
16 this Settlement and Plaintiffs' motion for preliminary approval of the Settlement), as may be
17 amended by the Court, for preliminary approval of the Settlement.

18 1.39. "Released Claims" means any and all claims during the Class Period which were
19 or could have been raised based on the facts, conduct, and/or omissions alleged in the Action,
20 including all wage and hour claims, demands, rights, liabilities, and causes of action for unpaid
21 wages, including minimum wage payments, regular wages, overtime wages; failure to pay wages
22 during employment; failure to pay all wages due upon separation of employment; failure to
23 maintain and provide accurate records; meal and rest break violations; meal and rest break
24 premiums; wage statement violations, failure to reimburse for necessary business expenditures,
25 violation of the Private Attorney General Act (California Labor Code section 2698, et seq.), civil
26 and statutory penalties, interest, liquidated damages, attorney's fees and costs, claims under
27 California Labor Code sections 201-204, 226, 226.7, 512, 1194, 1194.2, 1197, 1198, 2699, 2802
28 and applicable Industrial Welfare Commission Wage Order, and claims under California Business

1 & Professions Code sections 17200-17204. It is understood and agreed that Released Claims do
2 not include claims for workers' compensation, unemployment, or disability benefits of any nature,
3 nor any claims, actions, or causes of action which may be possessed by Settlement Class Members
4 under state or federal discrimination statutes, including, without limitation, the California Fair
5 Employment and Housing Act, California Government Code section 12940, *et seq.*; the Unruh
6 Civil Rights Act, California Civil Code section 51, *et seq.*; the California Constitution; Title VII
7 of the Civil Rights Act of 1964, 42 U.S.C. § 2000, *et seq.*; the Americans with Disabilities Act,
8 as amended, 42 U.S.C. § 12101, *et seq.*; the Employee Retirement Income Security Act of 1974,
9 as amended, 29 U.S.C. § 1001, *et seq.*; and all of their implementing regulations and interpretive
10 guidelines.

11 1.40. "Released Parties" means Pacific Distributing, Inc., and each of its parent
12 companies, subsidiaries, related companies, affiliates, dbas, current and former management
13 companies, shareholders, members, officers, directors, employees, agents (including any investment
14 bankers, accountants, insurers, reinsurers, attorneys and any past, present or future officers, directors
15 and employees) predecessors, successors, and assigns, or any related entity that was the "employer"
16 of Class Members.

17 1.41. "Pacific Distributing, Inc.'s Release of Claims Against Plaintiffs" means Pacific
18 Distributing, Inc., forever releases Plaintiffs Kevin Becerra, Rigoberto Benavidez, Rafi Campbell,
19 and Manuel Vargas Hernandez from any and all charges, complaints, claims, liabilities,
20 obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights,
21 demands, costs, losses, debts, and expenses (including attorneys' fees and costs actually incurred)
22 of any nature whatsoever, from the beginning of time through the date of their signature on this
23 Settlement Agreement, known or unknown, suspected or unsuspected, including but not limited
24 to all claims arising out of, based upon, or relating to Plaintiffs' employment with Defendant and
25 related to this Lawsuit.

26 1.42. In so far as Pacific Distributing, Inc.'s claims against Plaintiffs Kevin Becerra,
27 Rigoberto Benavidez, Rafi Campbell, and Manuel Vargas Hernandez, Pacific Distributing, Inc.
28 expressly waives and relinquishes all rights and benefits afforded by section 1542 of the Civil

1 Code of the State of California and does so understanding and acknowledging the significance of
2 the specific waiver of section 1542. Section 1542 of the Civil Code of the State of California
3 states as follows:

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

8 1.43. Thus, subject to and in accordance with this Settlement Agreement, even if Pacific
9 Distributing, Inc. hereafter discovers facts in addition to or different from those they now know
10 or believe to be true, Pacific Distributing, Inc. shall be deemed to have fully, finally, and forever
11 settled and released any and all claims against Plaintiffs Kevin Becerra, Rigoberto Benavidez,
12 Rafi Campbell, and Manuel Vargas Hernandez that could have been alleged against them, as well
13 as any other claims, whether known or unknown, suspected or unsuspected, contingent or non-
14 contingent, that now exist, upon any theory of law or equity, including without limitation, conduct
15 which is negligent, intentional, with or without malice, or a breach of any duty, law, or rule,
16 without regard to the subsequent discovery or existence of such different or additional facts.

17 1.44. "Response Deadline" means the date sixty (60) days after the Settlement
18 Administrator mails the Notice Packets to Settlement Class Members, and shall be the last date
19 on which Settlement Class Members may: (a) postmark Requests for Exclusion from the
20 Settlement, or (b) postmark Objections to the Settlement.

21 1.45. The "Settlement Agreement" or "Settlement" means this Joint Stipulation of Class
22 Action Settlement and Release.

23 1.46. "Settlement Class Member(s)" or "Settlement Class" or "Class Member(s)" means
24 all non-exempt employees, currently and formerly employed by Defendant in the State of
25 California at any time during the Class Period.

26 1.47. "Workweeks" shall mean the number of weeks each Class Member worked for
27 Defendant as an hourly-paid and/or non-exempt employee in California during the Class Period.
28 The Settlement Administrator will calculate the number of Workweeks by calculating the number
of days each Class Member worked at Pacific Distributing, Inc. was employed during the Class
Period, and dividing by seven (7).

2. RECITALS

2.1. Class Certification. The Parties stipulate and agree to the conditional certification of this Action for purposes of this Settlement only. Should, for whatever reason, the Settlement not become final and effective, conditional Class Certification shall immediately be set aside (subject to further proceedings on motion of any Party to certify or decertify thereafter). The Parties' willingness to stipulate to conditional Class Certification as part of the Settlement shall have no bearing on and shall not be admissible or considered in connection with the issue of whether a class should be certified in a non-settlement context in this Action, and shall have no bearing on and shall not be admissible or considered in connection with the issue of whether a class should be certified in any other lawsuit. Defendant expressly reserves its right to oppose class certification should this Settlement be modified or reversed on appeal or otherwise not become final and effective for any reason.

2.2. Procedural History. On November 14, 2022, Plaintiffs submitted their PAGA letter to the LWDA alleging Defendant violated, among other provisions of the California Labor Code and applicable wage law, Labor Code sections 210, 226.3, 1174.5, 1197.1, 2699, 2699(a), and 2699.3. On September 27, 2022, Plaintiffs filed a lawsuit in the Superior Court of California for the County of Tulare as a proposed class action on behalf of all current and former non-exempt California employees of Defendant during the period of September 27, 2018 through the date notice is sent to the class. In their initial complaint Plaintiffs alleged that Defendant (1) failed to pay minimum and straight time wages; (2) failed to pay overtime wages; (3) failed to provide meal periods; (4) failed to authorize and permit rest periods; (5) failed to timely pay final wages at termination; (6) failed to provide accurate itemized wage statements; (7) failed to indemnify employees for expenditures; and engaged in (8) unfair business practices. Plaintiffs sought recovery under the California Labor Code, the applicable Industrial Welfare Commission Wage Order, and the California Business & Professions Code. On January 24, 2023, Plaintiffs filed an amended complaint alleging claims under the Labor Code Private Attorneys General Act of 2004 ("PAGA").

2.3. Settlement Negotiations. On November 6, 2023, the Parties participated in a full-

1 day private mediation session with mediator Hon. Amy Hogue (Ret.). Prior to the mediation,
2 Defendant provided time records and corresponding pay records for a sample of putative class
3 members, as well as other documents, allowing Class Counsel to construct a damages analysis.
4 Based on the information obtained through informal discovery, the Parties reached an agreement
5 in principal to the basic terms of the Settlement. The Settlement is the result of an informed and
6 detailed evaluation of the total exposure and potential liability, in relation to the costs and risks
7 associated with continued litigation of the Action. The Parties have engaged in sufficient
8 discovery and investigation to assess the relative merits of the claims, defenses, and contentions
9 of the Parties.

10 2.4. Benefits of Settlement to Settlement Class Members. Plaintiffs and Class Counsel
11 recognize the length of continued proceedings necessary to litigate the Parties' disputes through
12 certification, trial, and any possible appeal. Plaintiffs and Class Counsel have also taken into
13 account the uncertainty and risk of the outcome of further litigation, the difficulties and delays
14 inherent in such litigation, including, but not limited to, the risks related to a contested motion for
15 class certification, potential motions for decertification, trial, and appeal. Plaintiffs and Class
16 Counsel are also aware of the burdens of proof necessary to establish liability for the claims
17 asserted in the Action and the difficulties in establishing damages for the Class Members.
18 Plaintiffs and Class Counsel have also taken into account Defendant's agreement to enter into a
19 settlement that confers substantial relief upon Class Members. Based on the foregoing, Plaintiffs
20 and Class Counsel have determined that this Settlement is fair, adequate, and reasonable, and is
21 in the best interests of the Class Members.

22 2.5. Defendant's Denial of Wrongdoing and Liability and Reasons for Settlement.
23 Defendant has denied and continue to deny each and all of the claims and contentions alleged in
24 the Action. Defendant has repeatedly asserted, and continues to assert, defenses thereto, and has
25 expressly denied, and continues to deny, any wrongdoing or legal liability arising out of any of
26 the facts, conduct, and/or omissions alleged in the Action. Defendant has also denied, and
27 continues to deny, *inter alia*, the allegations that the Class Members have suffered damage.
28 Without limiting the foregoing, Defendant contends that the Class Members were properly and

1 timely paid all wages owed, including, but not limited to, all straight and overtime pay; were
2 provided timely and uninterrupted meal and rest periods as required under California law; were
3 properly and timely paid all wages upon separation of employment or otherwise when due; were
4 properly and timely provided accurate itemized wage statements as required under California law;
5 were properly reimbursed for any expenses required to incur; and that Defendant has not engaged
6 in any unlawful, unfair, or fraudulent business practices in violation of California law. However,
7 Defendant has concluded that any further defense of this litigation would be protracted and
8 expensive for all Parties. Substantial amounts of time, energy, and resources of Defendant has
9 been and, unless the Settlement is approved, will continue to be devoted to the defense of the
10 claims asserted by Plaintiffs and Class Members. Defendant has also taken into account the
11 uncertainty and risks inherent in any litigation, especially in complex cases such as this Action.
12 Based on the foregoing, Defendant has concluded that it is desirable and beneficial that the Action
13 be fully and finally settled in the manner and upon the terms and conditions set forth in the
14 Settlement. This will allow Defendant to dispose of burdensome and protracted litigation, permit
15 the operation of Defendant's business without further expensive litigation, and put an end to the
16 distraction and diversion of its personnel regarding matters at issue in the Action.

17 2.6. No Admissions. The Parties understand and agree that the Settlement is the result
18 of a good faith compromise of disputed claims and allegations, and Defendant is entering into the
19 Settlement solely to resolve disputed matters. No part of the Settlement or any conduct or written
20 or oral statements made in connection with the Settlement, whether or not the Settlement is finally
21 approved and/or consummated, is or may be offered as or construed to be an admission or
22 concession of any kind by any of the Parties. In particular, but without limiting the generality of
23 the foregoing, nothing about the Settlement shall be offered or construed as an admission that
24 Defendant violated any of its obligations under the California Labor Code, applicable Industrial
25 Welfare Commission Wage Orders, Business and Professions Code or Private Attorneys General
26 Act, or of liability in general, or any wrongdoing, impropriety, responsibility, or fault whatsoever
27 on the part of Defendant and/or the Released Parties. In addition, this Settlement shall not be
28 offered or be admissible in evidence against any of the Parties or any of the Released Parties,

except in any action or proceeding brought by or against Plaintiffs, Class Members, or Defendant to enforce the Settlement's terms, or by Defendant in defense of any claims brought by Plaintiffs or Class Members. The provisions of this paragraph shall become effective when this Settlement is signed by all Parties, and shall be binding on the Parties and their counsel regardless of whether the Settlement is preliminarily and/or finally approved or terminated for any reason, or rendered null and void.

2.7. Class Members' Claims. Plaintiffs claim that the Released Claims have merit and give rise to liability on the part of Defendant. This Settlement is a compromise of disputed claims. Nothing contained in this Settlement, and no documents referred to herein, nor any action taken to carry out this Settlement, may be construed or used as an admission by or against the Plaintiffs, Class Members or Class Counsel as to the merits or lack thereof of the claims asserted in the Action.

2.8. Defendant's Defenses. Defendant has denied and continues to deny each and all of the allegations, claims, and contentions of wrongdoing alleged by Plaintiffs in the Action. Defendant has expressly denied and continues to deny all charges of wrongdoing or liability against it arising out of any of the conduct, statements, acts, or omissions alleged in the Action. Defendant contends that it complied in good faith with California and federal wage-and-hour laws and has dealt legally and fairly with Plaintiffs and Class Members. Defendant further denies that, for any purpose other than settling this Action, these claims are appropriate for class or representative treatment.

3. TERMS OF SETTLEMENT

The Parties agree as follows:

3.1. Binding Settlement. This Settlement shall bind the Parties and all Settlement Class Members, subject to the terms and conditions set forth in the Settlement and the Court's approval.

3.2. Release As To All Settlement Class Members and Plaintiffs.

3.2.1. Release As To All Settlement Class Members. As of the Effective Date, all Settlement Class Members, including Plaintiffs, will be deemed to have fully, finally and forever released, settled, compromised, relinquished, and discharged the Released Parties from the

Released Claims during the Class Period. This release shall be binding on all Settlement Class Members, including each of their respective attorneys, agents, executors, representatives, guardians ad litem, heirs, successors, and assigns, and shall inure to the benefit of the Released Parties, who shall have no further or other liability or obligation to any Class Member with respect to the Released Claims, except as expressly provided herein. All PAGA Members, regardless of whether they submit timely and valid Requests for Exclusion from the Settlement, will release all PAGA Released Claims, as well as claims that could have been premised on the claims, causes of action or legal theories alleged in the Action, during the PAGA Class Period. Plaintiffs on behalf of the State of California and the LWDA will also release all PAGA Released Claims.

3.3. Tax Liability. The Parties understand and agree that the Parties are not providing tax or legal advice. Defendant shall be responsible for any Employer Taxes due as a result of the Settlement. These payments shall be separate and shall not be made from the Gross Settlement Amount or the Net Settlement Amount. Settlement Class Members shall remain responsible for any Employee Taxes due as a result of the Settlement. Settlement Class Members will assume any employee tax obligations or consequences that may arise from this Settlement and should consult with a tax expert if they have questions. However, Individual Settlement Payments will be allocated as follows: 33% as wages (for which an IRS Form W-2 will be issued) and 67% as interest and penalties (for which an IRS Form 1099 will be issued). Any required payroll deductions will be based on this apportionment. The Parties agree that, in the event that any taxing body determines that additional employee taxes are due from any Settlement Class Member, such Settlement Class Member assumes all responsibility for the payment of such taxes.

3.4. Circular 230 Disclaimer. The Parties acknowledge and agree that (1) no provision of this Settlement, and no written communication or disclosure between or among the Parties, Class Counsel or Defendant's Counsel and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed, or be relied upon, as tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the acknowledging Party (a) has relied exclusively upon his, her, or its own,

1 independent legal and tax counsel for advice (including tax advice) in connection with this
2 Settlement, (b) has not entered into this Settlement based upon the recommendation of any other
3 Party or any attorney or advisor to any other Party, and (c) is not entitled to rely upon any
4 communication or disclosure by any attorney or adviser to any other Party to avoid any tax penalty
5 that may be imposed on the acknowledging Party; and (3) no attorney or adviser to any other
6 Party has imposed any limitation that protects the confidentiality of any such attorney's or
7 adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure
8 by the acknowledging Party of the tax treatment or tax structure of any transaction, including any
9 transaction contemplated by this Settlement.

10 3.5. Settlement Approval and Implementation Procedures. As part of this Settlement,
11 the Parties agree to the following procedures for obtaining the Court's preliminary approval of
12 the Settlement: conditionally certifying the Settlement Class, notifying Settlement Class Members
13 of the Settlement and distributing the PAGA Payment, obtaining the Court's final approval of the
14 Settlement, and processing the Individual Settlement Payments, as set forth below.

15 3.5.1. Preliminary Approval and Certification. As soon as practicable after
16 execution of this Settlement, pending the Court's availability, Plaintiffs will submit this
17 Settlement to the Court for preliminary approval of the Settlement, in accordance with California
18 Rules of Court, Rule 3.769(c). Such submission will include this Settlement, the proposed Notice
19 Packet, the proposed Preliminary Approval Order, and any memoranda and evidence as may be
20 necessary for the Court to determine that this Settlement is fair, adequate, and reasonable. The
21 Parties agree to request the Court to enter an order conditionally certifying the Settlement Class
22 after the preliminary approval hearing, in accordance with California Rules of Court, Rule
23 3.769(d).

24 3.5.2. Class Information. No more than twenty-one (21) calendar days after the
25 entry of the Preliminary Approval Order by the Court, Defendant shall provide the Settlement
26 Administrator with the Class Information for purposes of mailing Notice Packets to Class
27 Members. Defendant shall also provide the Settlement Administrator a separate list of PAGA
28 Members and dates of PAGA Members' employment with Defendant.

1 3.5.3. Notice by First Class U.S. Mail. Upon receipt of the Class Information,
2 the Settlement Administrator will perform a search on the National Change of Address database
3 to update the Class Members' addresses. No more than ten (10) calendar days after receiving the
4 Class Information from Defendant, as provided herein, the Settlement Administrator shall mail
5 copies of the Notice Packet to all Settlement Class Members by regular First-Class U.S. Mail.
6 The Settlement Administrator shall exercise its best judgment to determine the current mailing
7 address for each Class Member. The address identified by the Settlement Administrator as the
8 current mailing address shall be presumed to be the best mailing address for each Class Member.
9 It will be conclusively presumed that if an envelope so mailed has not been returned within twenty
10 (20) days of the mailing that the Class Member received the Notice Packet.

11 3.5.4. Undeliverable Notices. Any Notice Packets returned to the Settlement
12 Administrator as undeliverable on or before the Response Deadline shall be re-mailed to the
13 forwarding address affixed thereto or as described in paragraph 3.5.5 of this Settlement.

14 3.5.5. For each Class Member whose Notice Packet is returned, and a forwarding
15 address is not affixed thereto, there will be one skip trace by the Settlement Administrator. If an
16 updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet
17 to the Class Member at the updated mailing address so identified. One supplemental Notice
18 Packet shall be mailed to each Class Member whose original Notice Packet is returned as
19 undeliverable to the Settlement Administrator, if a forwarding or updated address can be
20 identified. Such re-mailing shall be made within five (5) business days of the Settlement
21 Administrator receiving notice that the respective Notice Packet was undeliverable. Any requests
22 to Defendant's Counsel by the Settlement Administrator for documents or information from
23 Defendant must be responded to within a reasonable amount of time by Defendant's Counsel. It
24 is the intent of the Parties that reasonable means be used to locate the Class Members and apprise
25 them of their rights.

26 3.5.6. Class Members to whom Notice Packets are resent after having been
27 returned undeliverable to the Settlement Administrator shall have an additional fourteen (14)
28 calendar days after the Response Deadline has expired to mail the Request for Exclusion or a

1 Notice of Objection. Notice Packets that are resent shall inform the recipient of this adjusted
2 deadline. The date of the postmark on the return envelope shall be the exclusive means used to
3 determine whether a Class Member has returned his or her Request for Exclusion on or before
4 the adjusted deadline. It will be conclusively presumed that if an envelope so mailed has not been
5 returned within thirty (30) days of the mailing, that the Class Member received the Notice Packet.
6 If a Class Member's Notice Packet is returned to the Settlement Administrator more than once as
7 undeliverable, then an additional Notice Packet shall not be re-mailed.

8 3.5.7. Compliance with the procedures specified in paragraphs 3.5.3 through
9 3.5.6 of this Settlement shall constitute due and sufficient notice to Class Members of this
10 Settlement and shall satisfy the requirement of due process. Nothing else shall be required of, or
11 done by, the Parties, Class Counsel, and Defendant's Counsel to provide notice of the proposed
12 Settlement.

13 3.6. Disputes. Class Members will have the opportunity during the 45-day response
14 period, should they disagree with Defendant's records regarding their weeks worked during the
15 Class Period, to provide documentation and/or an explanation to show contrary weeks worked.
16 If there is a dispute, the Settlement Administrator will consult with the Parties to determine
17 whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility
18 for, and the amounts of, any Individual Settlement Payments under the terms of this Settlement.
19 The Settlement Administrator's determination of the eligibility for and amount of any Individual
20 Settlement Payment shall be binding upon the Class Member and the Parties.

21 3.7. Exclusions (Opt-Outs). The Notice Packet shall state that Class Members who
22 wish to exclude themselves from the Settlement must submit a Request for Exclusion Form by
23 the Response Deadline. A Class Member may submit a Request To Be Excluded From Settlement
24 form or a writing that contains: (1) the name, address, and the last four digits of the Social Security
25 number and/or the entire Employee ID number of the Class Member requesting exclusion; (2) a
26 clear statement requesting to be excluded from the Class Settlement; (3) the signature of the Class
27 Member; and (4) a postmark by the Response Deadline and returned to the Settlement
28 Administrator at the specified address. If the Request for Exclusion does not contain the

information listed in (1)-(3), it will not be deemed a valid Request for Exclusion from this Settlement. The date of the postmark on the return mailing envelope shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Class Member who requests to be excluded from the Settlement in accordance with the provisions of this paragraph will not be entitled to any recovery under the Settlement and will not be bound by the terms of the Settlement. Class Members who receive a Notice Packet but fail to submit a valid and timely Request for Exclusion on or before the Response Deadline, which is forty-five (45) days from the date of the mailing of the Notice Packet, shall be bound by all terms of the Settlement and any Final Judgment entered in this Action if the Settlement is approved by the Court. Any Class Member who does not request exclusion as set forth above is deemed to have released all claims, including Released Claims against Released Parties, as set forth herein and therefore by operation will be deemed a Settlement Class Member. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage members of the Class to submit Requests for Exclusion from the Settlement. Class Counsel shall not represent any Class Member with respect to any such Request for Exclusion. Class Members who submit a valid Request for Exclusion may not also submit a Notice of Objection. PAGA Members cannot opt out or submit a Request for Exclusion

3.8. Objections. The Notice Packet shall state that Class Members who wish to object to the Settlement shall submit a written statement of objection (“Notice of Objection”) by the Response Deadline, which is forty-five (45) days from the date of the mailing of the Notice Packet, to the Settlement Administrator. The Notice of Objection must be signed by the Class Member and state: (1) the full name of the Class Member; (2) the dates of employment of the Class Member; (3) the last four digits of the Class Member’s Social Security number and/or the entire Employee ID number; (4) the basis for the objection; and, (5) whether the Class Member intends to appear at the Final Approval Hearing. The Notice of Objection must be postmarked by the Response Deadline and returned to the Settlement Administrator at the specified address. Within five (5) days of receiving a Notice of Objection from a Settlement Class Member, the Settlement Administrator shall forward the Notice of Objection to Class Counsel and Defendant’s

1 Counsel. The Parties shall thereafter lodge the Class Member's Notice of Objection with the
2 Court. Class Members, regardless of whether or not they submit a timely Notice of Objection,
3 will have a right to appear at the Final Approval Hearing, with or without an attorney, and have
4 their objections heard by the Court. At no time shall any of the Parties or their counsel seek to
5 solicit or otherwise encourage Class Members to file or serve written objections to the Settlement
6 or to appeal from the Final Judgment. Class Counsel shall not represent any Class Member with
7 respect to any such objection.

8 3.9. No Solicitation of Settlement Objections or Exclusions. The Parties and their
9 counsel agree to use their best efforts to carry out the terms of this Settlement. At no time shall
10 any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to submit
11 Notices of Objection to the Settlement or Requests for Exclusion from the Settlement, or to appeal
12 from the Court's Final Judgment.

13 3.10. Funding of the Gross Settlement Amount. This is a non-reversionary Settlement
14 in which Defendant is required to pay the entire Gross Settlement Amount. No portion of the
15 Gross Settlement Amount will revert to Defendant. Defendant is separately and solely
16 responsible for any employer payroll taxes owed as a result of the Settlement. Defendant shall
17 fund the Gross Settlement Amount By no later than twenty-one (21) calendar days after the Final
18 Approval Date. No release in this Settlement shall be effective until the Gross Settlement Amount
19 is fully funded.

20 3.10.1. No more than five (5) business days after Defendant makes the Gross
21 Settlement Amount payment, the Settlement Administrator shall provide the Parties with an
22 accounting of all anticipated payments from the Gross Settlement Amount. The Net Settlement
23 Amount shall be calculated by deducting from the Gross Settlement Amount the anticipated
24 payments for (1) Class Representative Service Award, as specified in this Settlement and
25 approved by the Court; (2) Class Counsel Fees, as specified in this Settlement and approved by
26 the Court; (3) Class Counsel Costs, as specified in this Settlement and approved by the Court;
27 (4) Settlement Administration Costs, as specified in this Settlement and approved by the Court;
28 and (5) the LWDA PAGA Allocation, as specified in this Settlement and approved by the Court.

1 The Net Settlement Amount shall be distributed in Individual Settlement Payments in accordance
2 with Paragraphs 3.12, 3.12.1 and 3.13.

3 3.11. Individual Settlement Payments. Each Settlement Class Member shall be eligible
4 to receive an Individual Settlement Payment, which is a share of the Net Settlement Amount,
5 based on the number of weeks worked by the Settlement Class Member for Defendant during the
6 Class Period, as a proportion of all weeks worked by all Class Members for Defendant during the
7 Class Period. Individual Settlement Payments shall be paid by check pursuant to the formula set
8 forth in Paragraph 3.12.1 and 3.13 below. Individual Settlement Payments shall be mailed by
9 regular First-Class U.S. Mail to Settlement Class Members' last known mailing address no later
10 than fifteen (15) calendar days after Defendant makes the payment of the Gross Settlement
11 Amount. Individual Settlement Payments shall specifically indicate that they are void if not
12 negotiated within one hundred eighty (180) days of their issuance. Individual Settlement
13 Payments reflect settlement of a dispute regarding wages, interest, and penalties. Individual
14 Settlement Payments will be allocated as follows: 33% as wages; and 67% as interest and
15 penalties. The "wage" portion of each Individual Settlement Payment will be reduced by any
16 Employee Taxes. The Settlement Administrator shall issue the appropriate tax documents
17 associated with the Individual Settlement Payments, including an IRS Form W-2 for the amounts
18 allocated as "wages" and an IRS Form 1099 for the amounts allocated as "interest" or "penalties."

19 3.11.1. Individual Settlement Payment Formula. After deducting the Class Counsel Fees
20 and Class Counsel Costs, the PAGA Payment, Class Representative Service Awards, and
21 Settlement Administration Costs, the remaining funds (the "Net Settlement Amount"), shall be
22 distributed as follows: The Settlement Administrator shall divide the Net Settlement Amount by
23 the total number of workweeks Class Members worked for Defendant during the Class Period in
24 order to determine the amount each Settlement Class Member is entitled to for each workweek
25 he or she worked for Defendant (the "Weekly Amount") during the Class Period. The Settlement
26 Administrator shall multiply the Weekly Amount by the estimated total number of workweeks
27 that each Settlement Class Member worked for Defendant during the Class Period. The product
28 of each calculation represents the gross Individual Settlement Payment for the respective

Settlement Class Member. The Settlement Administrator shall then deduct Employee Taxes attributable to wages to arrive at the net Individual Settlement Payment for each respective Class Member. Within twenty-one (21) calendar days after Preliminary Approval, Defendant shall provide the Settlement Administrator with any information reasonably necessary to perform the calculation of number of workweeks for each Class Member, and any other reasonably required information the Settlement Administrator requests to perform the calculations required under this Settlement. Defendant shall have no responsibility for deciding the validity of any Individual Settlement Payment or any other payments made pursuant to this Settlement, shall have no involvement in or responsibility for the determination or payment of Employee Taxes, and shall have no liability for any errors made with respect to such Employee Taxes.

3.12. **PAGA Allocation & Related Release.** Out of the Maximum Settlement Amount that is ultimately preliminarily approved, Defendant shall pay a total of \$20,000.00 to resolve the PAGA Claims (as defined below) of the Settlement Class (the “PAGA Payment”). Of this amount, 75% will be paid to the LWDA and 25% (i.e. \$5,000.00) will be distributed on a pro rata per pay period basis to the PAGA Members who worked at any time from November 20, 2021 through the date the Court Preliminarily Approves this settlement. Each PAGA Member’s Individual PAGA Payment will be calculated based on the total number of pay periods he or she worked during the PAGA Class Period. To establish the pay period value, the Settlement Administrator will first determine the total number of pay periods worked by PAGA Members during the PAGA Class Period. 25% of the PAGA Settlement Fund will then be divided by the total number of pay periods worked by PAGA Members during the PAGA Class Period to determine the pay period value. The PAGA Member Allocation represents the portion of civil penalties awarded directly under PAGA, and shall be allocated as 100% penalties. The Settlement Administrator will report the PAGA Payments on IRS 1099 Forms. PAGA Members will not be required to submit a claim form in order to be issued a check for their share of the PAGA Payment. The PAGA Members will not have the opportunity to opt out of, or object to, the PAGA Payment and release of the PAGA Claims. Upon receipt of the PAGA Payment, PAGA Members shall be deemed to have released the PAGA claims as to civil and statutory penalties, and any other interest, liquidated

1 damages, attorney's fees and costs related to PAGA.

2 3.12.1. Settlement Class Members are not eligible to receive any compensation
3 other than the Individual Settlement Payment (and PAGA Payment for PAGA Members), and
4 they may only receive an Individual Settlement Payment if they do not submit a valid and timely
5 Request for Exclusion to opt out of the Settlement. PAGA Members will receive their portion
6 of the PAGA Payment regardless of whether they submit a valid and timely Request for
7 Exclusion to opt out of the Settlement. Plaintiffs, however, are also eligible to receive a Class
8 Representative Service Award.

9 3.12.2. No benefit, including but not limited to pension benefits, shall increase or
10 accrue as a result of any payment made pursuant to this Settlement.

11 3.12.3. If an Individual Settlement Payment is returned to the Settlement
12 Administrator as undeliverable and does not have a forwarding address, the Settlement
13 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace
14 search. If the returned Individual Settlement Payment has a forwarding address, or another
15 address is identified, the Settlement Administrator shall mail the Individual Settlement Payment
16 to the forwarding, or newly-identified, address. If an Individual Settlement Payment is returned
17 to the Settlement Administrator a second time as undeliverable, the Settlement Administrator
18 shall not attempt any further re-mailing of that Individual Settlement Payment, but shall hold
19 such Individual Settlement Payment until it becomes void. Any settlement checks that remain
20 uncashed one hundred eighty (180) calendar days after issuance shall be void ("Voided
21 Checks").

22 3.12.4. Any settlement checks that are not cashed within one hundred eighty (180)
23 days after mailing shall thereafter be paid to the California State Controller in the name of the
24 Class Member who did not cash his or her check.

25 3.13. Class Representative Service Award. Defendant agrees not to oppose or object to
26 any application or motion by Plaintiffs for a Class Representative Service Award, not to exceed
27 Ten Thousand Dollars and Zero Cents (\$10,000.00) for each Plaintiff, as consideration for
28 Plaintiffs' time and effort in bringing and prosecuting this matter. The Class Representative

1 Service Award shall be paid to Plaintiffs from the Gross Settlement Amount no later than fifteen
2 (15) calendar days after Defendant funds the Gross Settlement Amount. The Settlement
3 Administrator shall issue an IRS Form 1099 — MISC to Plaintiffs for their Class Representative
4 Service Award. Plaintiffs shall be solely and legally responsible for payment of all applicable
5 taxes on their Class Representative Service Award and shall hold Defendant harmless from any
6 claim or liability for taxes, penalties, or interest arising as a result of their Class Representative
7 Service Award. The Class Representative Service Award shall be in addition to Plaintiffs'
8 Individual Settlement Payments as Settlement Class Members. In the event that the Court awards
9 lesser amounts than the Class Representative Service Award requested, then any portion of the
10 requested amount not awarded to Plaintiffs shall be added to the Net Settlement Amount.
11 Plaintiffs shall not have the right to revoke this agreement to the Settlement on the grounds the
12 Court does not approve any or all of their request for a Class Representative Service Award; it
13 shall remain binding. Any adjustments made by the Court to the requested Class Representative
14 Service Award shall not be deemed a material modification of this Agreement.

15 3.14. Class Counsel Fees and Costs. Defendant agrees not to oppose or object to any
16 application or motion by Class Counsel for Class Counsel Fees in the amount of One Hundred
17 Forty-Six Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$146,666.67) and
18 Class Counsel Costs not to exceed Thirty Thousand Dollars and Zero Cents (\$30,000.00) from
19 the Gross Settlement Amount. The Class Counsel Fees and Class Counsel Costs shall be paid no
20 later than fifteen (15) calendar days after the Defendant funds the Gross Settlement Amount.
21 Class Counsel shall be solely and legally responsible to pay all applicable taxes on the payments
22 made pursuant to this paragraph. The Settlement Administrator shall issue an IRS Form 1099 —
23 MISC to Class Counsel for the payments made pursuant to this paragraph. This Settlement is not
24 contingent upon the Court awarding Class Counsel any particular amount in attorneys' fees and
25 costs. Any amount requested by Class Counsel for the Class Counsel Fees and Class Counsel
26 Costs and not granted by the Court shall become part of the Net Settlement Amount.

27 3.15. PAGA Allocation. Subject to Court approval, the Parties shall allocate a total of
28 Twenty Thousand Dollars and Zero Cents (\$20,000.00) from the Gross Settlement Amount for

the compromise of claims brought under the Labor Code Private Attorney's General Act of 2004 (the "PAGA Allocation").

3.16. LWDA PAGA Allocation. The LWDA PAGA Allocation shall be Fifteen Thousand Dollars and Zero Cents (\$15,000.00), representing 75% of the PAGA Allocation, and shall be paid to California's Labor Workforce Development Agency ("LWDA") from the Gross Settlement Amount by the Settlement Administrator no later than fifteen (15) calendar days after Defendant funds the Gross Settlement Amount. The remaining Five Thousand Dollars and Zero Cents (\$5,000.00), representing 25% of the PAGA Allocation, shall be distributed to PAGA Members.

3.17. Defendant's Option to Terminate Settlement. If, after the Response Deadline and before the Final Approval Hearing, ten percent (10%) or more of the Settlement Class Members submit timely and valid Requests for Exclusion from the Settlement, Defendant shall have, in its sole discretion, the option to terminate this Settlement. Defendant shall exercise its option to terminate, if they wish, prior to the Final Approval Hearing, provided the Settlement Administrator has provided Defendant the number and percentage of valid and timely Requests for Exclusion no later than fourteen (14) calendar days prior to the Final Approval Hearing. If Defendant decides to void the Settlement, then the Settlement and conditional class certification shall be considered void, and neither the Settlement, conditional class certification, nor any of the related negotiations or proceedings, shall be of any force or effect, and the Parties shall stand in the same position, without prejudice, as if this Settlement had been neither entered into nor filed with the Court. Should Defendant void the Settlement under this paragraph, Defendant shall be responsible for all Settlement Administration Costs incurred by the Settlement Administrator through the date that Defendant notifies the Settlement Administrator that they are exercising the option to terminate the Settlement.

3.18. Settlement Administration Costs. The Settlement Administrator shall be paid for the costs of administration of the Settlement from the Gross Settlement Amount. Such costs of administration are not to exceed Eight Thousand Dollars and Zero Cents (\$8,000.00), unless the court approves a higher amount. No fewer than twenty (20) days prior to the Final Approval

Hearing, the Settlement Administrator shall provide the Parties with a statement detailing the costs of administration. The Settlement Administrator, on Defendant's behalf, shall have the authority and obligation to make payments, credits and disbursements, including payments and credits in the manner set forth in this Settlement, to Settlement Class Members, calculated in accordance with the methodology set out in this Settlement and orders of the Court. The Parties agree to cooperate in the administration of the Settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in administration of the Settlement. The Parties each represent they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest. The Settlement Administrator shall be responsible for: processing and mailing all payments described in the Settlement to the Plaintiffs, Class Counsel, Settlement Class Members, the LWDA, tax authorities; printing and mailing the Notice Packets to the Settlement Class Members as called for in this Settlement and ordered by the Court; receiving and reporting Notice of Objections and Requests for Exclusion submitted by Class Members; providing declaration(s) as necessary in support of preliminary and/or final approval of this Settlement; and other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator responsibilities. Any legally mandated tax reports, tax forms, tax filings, or other tax documents required by administration of this Settlement shall be prepared by the Settlement Administrator. Any expenses incurred in connection with such preparation shall be Settlement Administration Costs. The Settlement Administrator shall be paid the Settlement Administration Costs no later than fifteen (15) calendar days after the Defendant funds the Gross Settlement Amount.

3.19. Final Approval Hearing. At a reasonable time following the Response Deadline, the Court shall hold the Final Approval Hearing, where objections, if any, may be heard, and the Court shall determine amounts properly payable for (i) the Class Counsel Fees, (ii) the Class Counsel Costs, (iii) the Class Representative Service Awards, (iv) the PAGA Allocation; and (v) the Settlement Administration Costs.

1 3.20. Entry of Final Judgment. If the Court approves this Settlement at the Final
2 Approval Hearing, the Parties shall request that the Court enter the Final Judgment after the Gross
3 Settlement Amount has been fully funded, with the Court retaining jurisdiction over the Parties
4 to enforce the terms of the judgment. If the Court grants Final Approval to the Settlement, notice
5 of Final Approval shall be posted on the Settlement Administrator's website.

6 3.21. No Effect on Employee Benefits. Amounts paid to Plaintiffs or other Settlement
7 Class Members pursuant to this Settlement will not count as earnings or compensation for
8 purposes of any benefits (e.g., pensions or retirement plans) sponsored by Defendant. It is
9 expressly understood and agreed that the receipt of Individual Settlement Payments and/or PAGA
10 Payments shall not entitle any Settlement Class Member to additional compensation or benefits
11 under any collective bargaining agreement or under any bonus, contest, or other compensation or
12 benefit plan or agreement in place during the period covered by the Settlement, nor shall it entitle
13 any Settlement Class Member to any increased pension and/or retirement, or other deferred
14 compensation benefits. It is the intent of the Parties that payments from Net Settlement Amount
15 provided for in this Settlement are the sole payments to be made by Defendant to Settlement Class
16 Members in connection with this Settlement, with the sole exception of Plaintiffs' Class
17 Representative Service Award, and that the Settlement Class Members are not entitled to any new
18 or additional compensation or benefits as a result of having received funds from the Net
19 Settlement Amount. Furthermore, the receipt of Individual Settlement Payments by Settlement
20 Class Members shall not, and does not, by itself establish any general, special, or joint
21 employment relationship between and among the Settlement Class Member(s) and Defendant

22 3.22. Nullification of Settlement. In the event: (i) the Court does not enter the
23 Preliminary Approval Order as specified herein; (ii) the Court does not grant final approval of the
24 Settlement as provided herein; (iii) the Court does not enter a Final Judgment as provided herein;
25 or (iv) the Settlement does not become final for any other reason, this Settlement shall be null and
26 void and any order or judgment entered by the Court in furtherance of this Settlement shall be
27 treated as void from the beginning. In such a case, the Parties and any funds to be awarded under
28 this Settlement shall be returned to their respective statuses as of the date and time immediately

1 prior to the execution of this Settlement, and the Parties shall proceed in all respects as if this
2 Settlement had not been executed. In the event an appeal is filed from the Court's Final Judgment,
3 or any other appellate review is sought, administration of the Settlement shall be stayed pending
4 final resolution of the appeal or other appellate review.

5 3.23. No Admission by the Parties. Defendant denies any and all claims alleged in this
6 Action and denies all wrongdoing whatsoever. This Settlement is not a concession or admission,
7 and shall not be used against Defendant as an admission or indication, with respect to any claim,
8 of any fault, concession, or omission by Defendant. Neither this Settlement, nor any of its terms
9 and conditions, nor any of the negotiations connected with it, is a concession or admission, and
10 none shall be used against Defendant as an admission or indication with respect to any claim of
11 any fault, concession, or omission by Defendant, or that class certification is proper under the
12 standard applied to contested certification motions. The Parties stipulate and agree to the
13 certification of the Settlement for settlement purposes only. The Parties further agree that this
14 Settlement will not be admissible in this or any other proceeding as evidence that either: (i) a class
15 action should be certified or (ii) Defendant is liable to Plaintiffs or any Class Member, other than
16 according to the terms of this Settlement.

17 3.24. Dispute Resolution. Except as otherwise set forth herein, all disputes concerning
18 the interpretation, calculation or payment of settlement claims, or other disputes regarding
19 compliance with this Settlement shall be resolved as follows:

20 3.24.1. If Plaintiffs or Class Counsel, on behalf of Plaintiffs or any Settlement
21 Class Members, or Defendant at any time believe that the other Party or Parties have breached or
22 acted contrary to the Settlement, that Party shall notify the other Party or Parties in writing of the
23 alleged violation.

24 3.24.2. Upon receiving notice of the alleged violation or dispute, the responding
25 Party shall have ten (10) days to correct the alleged violation and/or respond to the initiating Party
26 with the reasons why the Party disputes all or part of the allegation.

27 3.24.3. If the response does not address the alleged violation to the initiating
28 Party's satisfaction, the Parties shall negotiate in good faith for up to ten (10) days to resolve their

1 differences.

2 3.24.4. Prior to the Court's involvement pursuant to paragraph 3.35, if the Parties
3 still cannot resolve a dispute, the Parties shall utilize the services of the Hon. Amy Hogue (Ret.)
4 (Mediator) in a good-faith attempt to mediate and resolve the dispute.

5 3.24.5. If the Parties are unable to resolve their differences after twenty (20) days,
6 either Party may file an appropriate motion for enforcement with the Court.

7 3.25. Headings. The descriptive headings of any paragraphs or sections of this
8 Settlement are inserted for convenience of reference only and do not constitute a part of this
9 Settlement.

10 3.26. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the
11 Action and thereafter implement and complete the Settlement.

12 3.27. Amendment or Modification. This Settlement may be amended or modified only
13 by a written instrument signed by all the Parties and counsel for all Parties or their successors-in-
14 interest.

15 3.28. Entire Settlement. This Settlement constitutes the entire agreement among these
16 Parties, and no oral or written representations, warranties, or inducements have been made to any
17 Party concerning this Settlement, other than the representations, warranties, and covenants
18 contained and memorialized in the Settlement. No other prior or contemporaneous written or oral
19 agreements may be deemed binding on the Parties.

20 3.29. Authorization to Enter into Settlement. Counsel for all Parties warrant and
21 represent they are expressly authorized by the Parties whom they represent to negotiate this
22 Settlement and to take all appropriate actions required or permitted to be taken by such Parties
23 pursuant to this Settlement to effectuate its terms, and to execute any other documents required
24 to effectuate the terms of this Settlement. The Parties and their counsel will cooperate with each
25 other and use their best efforts to affect the implementation of the Settlement. In the event the
26 Parties are unable to reach agreement on the form or content of any document needed to
27 implement the Settlement, or on any supplemental provisions that may become necessary to
28 effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve

1 such disagreement. The person signing this Settlement on behalf of Defendant represents and
2 warrants that he or she is authorized to sign this Settlement on behalf of Defendant. Plaintiffs
3 represent and warrant each is authorized to sign this Settlement and that they have not assigned
4 any claim, or part of a claim, covered by this Settlement to a third-party.

5 3.30. No Prior Assignments. The Parties and their counsel represent, covenant, and
6 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported
7 to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand,
8 action, cause of action or right herein released and discharged.

9 3.31. California Law Governs. All terms of this Settlement shall be governed by and
10 interpreted according to the laws of the State of California.

11 3.32. This Settlement is Fair, Adequate and Reasonable. The Parties believe this
12 Settlement is a fair, adequate, and reasonable settlement of the Action and have arrived at this
13 Settlement after extensive arms-length negotiations, taking into account all relevant factors,
14 present and potential.

15 3.33. Jurisdiction of the Court. In accordance with California Rule of Court 3.769(h),
16 the Parties agree that the Court shall retain jurisdiction with respect to the interpretation,
17 implementation, and enforcement of the terms of this Settlement and all orders and judgments
18 entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction
19 of the Court for purposes of interpreting, implementing, and enforcing this Settlement and all
20 orders and judgments entered in connection therewith.

21 3.34. Invalidity of Any Provision. Before declaring any provision of this Settlement
22 invalid, the Court shall first attempt to construe the provision to be valid to the fullest extent
23 possible, consistent with applicable precedents.

24 3.35. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to
25 conditional class certification for purposes of this Settlement only.

26 3.36. Cooperation. The Parties agree to cooperate fully with one another to accomplish
27 and implement the terms of this Settlement. Such cooperation shall include, but not be limited
28 to, execution of such other documents and the taking of such other action as may be reasonably

1 necessary to fulfill the terms of this Settlement. The Parties to this Settlement shall use their best
2 efforts, including all efforts contemplated by this Settlement and any other efforts that may
3 become necessary by Court order, or otherwise, to effectuate this Settlement and its terms.

4 3.37. Publicity. Plaintiffs agrees not to disclose or publicize the Settlement Agreement
5 contemplated herein, the facts of the Settlement Agreement, its terms or contents, or the
6 negotiations underlying the Settlement Agreement, in any manner or form, directly or indirectly,
7 to any person or entity, except to Settlement Class members and as shall be contractually required
8 to effectuate the terms of the Settlement Agreement as set forth herein. However, for the limited
9 purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class
10 Counsel may disclose the names of the Parties in this Action, the venue/case number of this
11 Action, and a general description of the Action, to a court in a declaration by Class Counsel. Class
12 Counsel may also include a general description of the Settlement on their respective websites, but
13 may not include the name(s) of any of the Parties, including the Defendant, or any of the Released
14 Parties, or the case name or case number of the Action.

15 3.38. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
16 and conditions of this Settlement. Accordingly, this Settlement will not be construed more strictly
17 against one party than another merely by virtue of the fact that it may have been prepared by
18 counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations
19 between the Parties, all Parties have contributed to the preparation of this Settlement.

20 3.39. Representation by Counsel. The Parties acknowledge that they have been
21 represented by counsel throughout all negotiations that preceded the execution of this Settlement,
22 and that this Settlement has been executed with the consent and advice of counsel, and reviewed
23 in full. Further, Plaintiffs and Class Counsel warrant and represent that there are no liens on the
24 Settlement.

25 3.40. All Terms Subject to Final Court Approval. All amounts and procedures described
26 in this Stipulation are subject to final Court approval.

27 3.41. Notices. Unless otherwise specifically provided, all notices, demands or other
28 communications in connection with this Settlement shall be: (1) in writing; (2) deemed given on

the third business day after mailing; and (3) sent via United States registered or certified mail, return receipt requested, addressed as follows:

To Plaintiffs:

Justin F. Marquez, Esq.
Christina M. Le, Esq.
Zachary D. Greenberg, Esq.
WILSHIRE LAW FIRM
3055 Wilshire Blvd., 12th Floor
Los Angeles, California 90010
Telephone: (213) 784-3030
Facsimile: (213) 381-9989

To Defendant:

Nina Huerta, Esq.
Eve Tilley-Coulson, Esq.
LOCKE LORD LLP
300 South Grand Avenue, Suite 2600
Los Angeles, CA 90071
Tel.: (213) 485-1500
Fax: (213) 485-1200

3.42. Execution by Settlement Class Members. It is agreed that it is impossible or impractical to have each Settlement Class Member execute this Settlement. The Notice of Settlement will advise all Settlement Class Members of the binding nature of the release and such shall have the same force and effect as if each Settlement Class Member executed this Settlement.

3.43. Execution by Plaintiffs and Defendant. Plaintiffs and Defendant, by signing this Settlement, are bound by the terms herein.

3.44. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement will be fully enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

3.45. Counterparts. This Settlement shall become effective upon its execution by all of the undersigned. Plaintiffs and Defendant may execute this Settlement in counterparts, and execution of counterparts shall have the same force and effect as if each had signed the same instrument. Copies of the executed Settlement shall be effective for all purposes as though the signatures contained therein were original signatures.

3.46. The Parties, Class Counsel and Defendant's 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.

On behalf of Pacific Distributing, Inc.

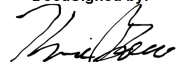
Dated: _____, 2024

Printed: _____

Title: _____

Kevin Becerra

DocuSigned by:


A8AABB29141B4F8...

Dated: 2/8/2024, 2024

Rigoberto Benavidez

DocuSigned by:


2F04BDC4F639474...

Dated: 2/6/2024, 2024

Rafi Campbell

DocuSigned by:


21C1511E51C9421...

Dated: 2/6/2024, 2024

Manuel Vargas Hernandez

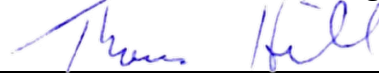
DocuSigned by:


15892E6FE63C4AC...

Dated: 2/6/2024, 2024

Dated: February 10, 2024

On behalf of Pacific Distributing, Inc.



Printed: Thomas Hill

Title: CEO

Kevin Becerra

Dated: _____, 2024

Rigoberto Benavidez

Dated: _____, 2024

Rafi Campbell

Dated: _____, 2024

Manuel Vargas Hernandez

Dated: _____, 2024

Exhibit 2

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Case Name: Becerra v. Pacific Distributing

Thursday, November 30, 2023

Requesting Attorneys Name:

E-Mail

ILYM Contact

E-Mail

Contact Number

Justin F. Marquez

justin@wilshirelawfirm.com

Tony Rogers

trogers@ilymgroup.com

714.878.8836

ESTIMATE FOR ADMINISTRATION SOLUTIONS

ASSUMPTIONS	
Total Number of Class Members	125
Estimated Mail Returned as Undeliverable	20%
NCOA	Yes
Certified Spanish Translation	Yes
ILYM Group Static Website	Yes

Activity	Rate Type	Unit Cost	Volume	Amount
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CASE STARTUP				
Initial Setup - Import and Formatting of Data*	Hourly	\$150.00	1	\$150.00
Programming of Class Database	Hourly	\$175.00	1	\$175.00

*ILYM assumes that data will be in a standard format. Client will be notified immediately if not in standard format to correct data or ILYM can convert to standard format @ \$150.00 per hour.

Subtotal \$325.00

PROJECT MANAGEMENT & NOTICING				
Project Manager (Case notification and maintenance)	Hourly	\$120.00	1	\$120.00
Staff Hours for Processing Returned Mail	Hourly	\$70.00	1	\$70.00
Staff Hours for Processing Opt-Outs, Disputes & Objection(s)	Hourly	\$70.00	1	\$70.00
Report Processing	Hourly	\$70.00	1	\$70.00
NCOA	Flat Rate	\$50.00	1	\$50.00
Toll Free Customer Service Representative	Flat Fee	\$125.00	1	\$125.00
Certified Spanish Translation	Flat Fee	\$1,250.00	1	\$1,250.00
ILYM Group Static Website	Flat Fee	\$750.00	1	\$750.00
Weekly Reports	Flat Rate	\$750.00	1	Waived

Subtotal \$2,505.00

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Activity	Rate Type	Unit Cost	Volume	Amount
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NOTIFICATION/MAILING				
Fulfillment of Notice, English & Spanish	Per Piece	\$1.50	125	\$187.50
USPS First Class Postage	Per Piece	\$0.83	125	\$103.75
Re-Mails (Forward/Skip trace Undeliverables)	Per Piece	\$2.00	25	\$50.00
Storage, Photocopies, Deliveries	Flat Fee	\$66.25	1	\$66.25

Subtotal \$407.50

DISTRIBUTION (Includes EIN, Bank Acct * /QSF Setup)				
Distribution Setup & Management	Hourly	\$150.00	1	\$150.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	1	\$125.00
Check, Stub & Release - Print & Mail (W2/1099)	Per Check	\$1.00	125	\$125.00
USPS First Class Postage	Per Piece	\$0.63	125	\$78.75
Re-Mails (Forward/Skip trace Undeliverables up to 10%)	Per Piece	\$1.50	13	\$18.75
Preparation of Taxes	Hourly	\$120.00	1	\$120.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

**Additional Bank fees may apply*

Subtotal \$2,117.50

CASE CONCLUSION				
Data Manager Final Reporting	Hourly	\$100.00	1	\$100.00
Project Manager Final Reporting	Hourly	\$120.00	1	\$120.00
Process Unclaimed Funds	Flat Fee	\$550.00	1	\$550.00
Declaration	Hourly	\$125.00	1	\$125.00

Subtotal \$895.00

Total Case Estimate: \$6,250.00

Terms and Conditions

All services to be provided by ILYM Group, Inc. (hereinafter, "ILYM") to Client shall be subject to the following terms and conditions:

Services: Subject to the terms hereof, ILYM agrees to provide the Client with Administration Services (hereinafter, "services") as specified in the Proposal provided to Client to which these Terms and Conditions are attached. The estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make provision for any services or class members/size not delineated in the request for proposal or stipulations. Such services do not in any way constitute legal services or advice. ILYM is performing its services as an Independent Contractor and neither it nor its employees shall be deemed to be employees of the Client.

Mailing and Data Conversion: ILYM's database administration assumes the Client will provide complete data that includes all information required to send notifications and complete the administration process. Data must be provided in a complete, consistent, standardized electronic format. ILYM's standard format is Microsoft Excel, however, ILYM may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by ILYM on a time and materials basis, according to ILYM's Standard Rates.

Charges for Services: Charges to the Client for services shall be on a time and materials basis at our prevailing rates, as the same may change from time to time. Any fee estimates set forth in the proposal are estimates only, based on information provided by Client to ILYM. Actual fees charged by ILYM to Client may be greater or less than such estimate, and Client shall be responsible for the payment of all such charges and expenses in accordance with Section 5 hereof. Charges incurred related to resolving post distribution withholdings and related corrective files due to voids and re-issues of payments and related correspondence with state and federal taxing authorities will not be charged to the Client to the extent that funds are received from the taxing authorities offset these charges. ILYM may derive financial benefits from financial institutions in connection with the deposit and investment of settlement funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.

Indemnification: Client will indemnify and hold ILYM (and the officers, employees, affiliates and agents harmless against any Losses incurred by ILYM, arising out of, in connection with, or related to (i) any breach of the terms by Client; (ii) the processing and handling of any payment by ILYM in accordance with Client's instructions, including without limitation, the imposition of any stop payment or void payment on any check or the wrongful dishonor of a check by ILYM pursuant to Client's instructions.

Payment of Charges: ILYM reserves the right to request payment of postage charges and 50% of the final administration charges at the start of the case. ILYM bills are due upon receipt unless otherwise negotiated and agreed to with the Client. In the event settlement terms provide that ILYM is to be paid out of the Settlement Fund, ILYM will request that Counsel endeavor to make alternate payment arrangements for ILYM charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the Settlement Account is funded by, or no later than the time of disbursement. Decisions of the court and actions of the parties, including disapproval or withdrawal of a settlement, do not affect the Client's liability to ILYM for payment of services. Services are not provided on a contingency fee basis.

Confidentiality: ILYM maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of Client data provided to ILYM by Client in connection herewith. Should ILYM ever be notified of any judicial order or other proceedings in which a third party seeks to obtain access to the confidential data created by or for the Client, ILYM will promptly notify the Client, unless prohibited by applicable law. The Client shall have the option to (1) provide legal representation at the Client's expense to avoid such access or (2) promptly reimburse ILYM for any of its costs, including attorneys' fees, reasonably incurred in avoiding, attempting to avoid or providing such access and not paid by the entity seeking the data. If ILYM is required, pursuant to a court order, to produce documents, disclose data, or otherwise act in contravention of the obligations imposed by this Agreement, or otherwise, with respect to maintaining the confidentiality, proprietary nature and secrecy of the produced documents or disclosed data, ILYM will not be liable for breach of said obligation.

Data Rights: ILYM does not convey nor does the Client obtain any right in the programs, system data, or materials utilized or provided by ILYM in the ordinary course of business in the performance of this Agreement.

Document Retention: Unless directed otherwise in writing by Client, ILYM will destroy undeliverable mail on the effective date of the settlement or the date that the disposition of the case is no longer subject to appeal or review, whichever is later. ILYM will maintain claim forms and other correspondence for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later.

Limitation of damages: ILYM is not responsible to the Client for any special, consequential or incidental damages incurred by Client. Any liability of ILYM to the Client shall not exceed the total amount billed to the Client for the particular services that give rise to any loss.

Termination: The services to be provided under this Agreement may be terminated, at will by the Client upon at least 30 calendar days' prior written notice to ILYM. The Client's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout that 30 day period. ILYM may terminate this Agreement (i) with 10 calendar days' prior written notice, if the Client is not current in payment of charges or (ii) in any event, upon at least 3 months' prior written notice to the Client.

Notice: Any notice required or permitted hereunder shall be in writing and shall be delivered personally, or sent by registered mail, postage prepaid, or overnight courier service to the responsible officer or principal of ILYM or the Client, as applicable, and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service.

Force Majeure: To the extent performance by ILYM of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond ILYM's reasonable control, then such performance shall be excused and this Agreement, at ILYM's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.

Waiver of Rights: No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will be effective unless given in a signed writing.

Jurisdiction: The parties hereto submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby waive any objection to the laying of venue of any such suit, action or proceeding in the Court.

Entire Agreement: These terms and conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.

Exhibit 3



ELM Solutions

2022 Real Rate Report[®]

The industry's leading
analysis of law firm rates,
trends, and practices

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Report Use Considerations

2022 Real Rate Report

- Examines law firm rates over time
- Identifies rates by location, experience, firm size, areas of expertise, industry, and timekeeper role (i.e., partner, associate, and paralegal)
- Itemizes variables that drive rates up or down

All the analyses included in the report derive from the actual rates charged by law firm professionals as recorded on invoices submitted and approved for payment.

Examining real, approved rate information, along with the ranges of those rates and their changes over time, highlights the role these variables play in driving aggregate legal cost and income. The analyses can energize questions for both corporate clients and law firm principals.

Clients might ask whether they are paying the right amount for different types of legal services, while law firm principals might ask whether they are charging the right amount for legal services and whether to modify their pricing approach.

Some key factors¹ that drive rates²:

Attorney location - Lawyers in urban and major metropolitan areas tend to charge more when compared with lawyers in rural areas or small towns.

Litigation complexity - The cost of representation will be higher if the case is particularly complex or time-consuming; for example, if there are a large number of documents to review, many witnesses to depose, and numerous procedural steps, the case is likely to cost more (regardless of other factors like the lawyer's level of experience).

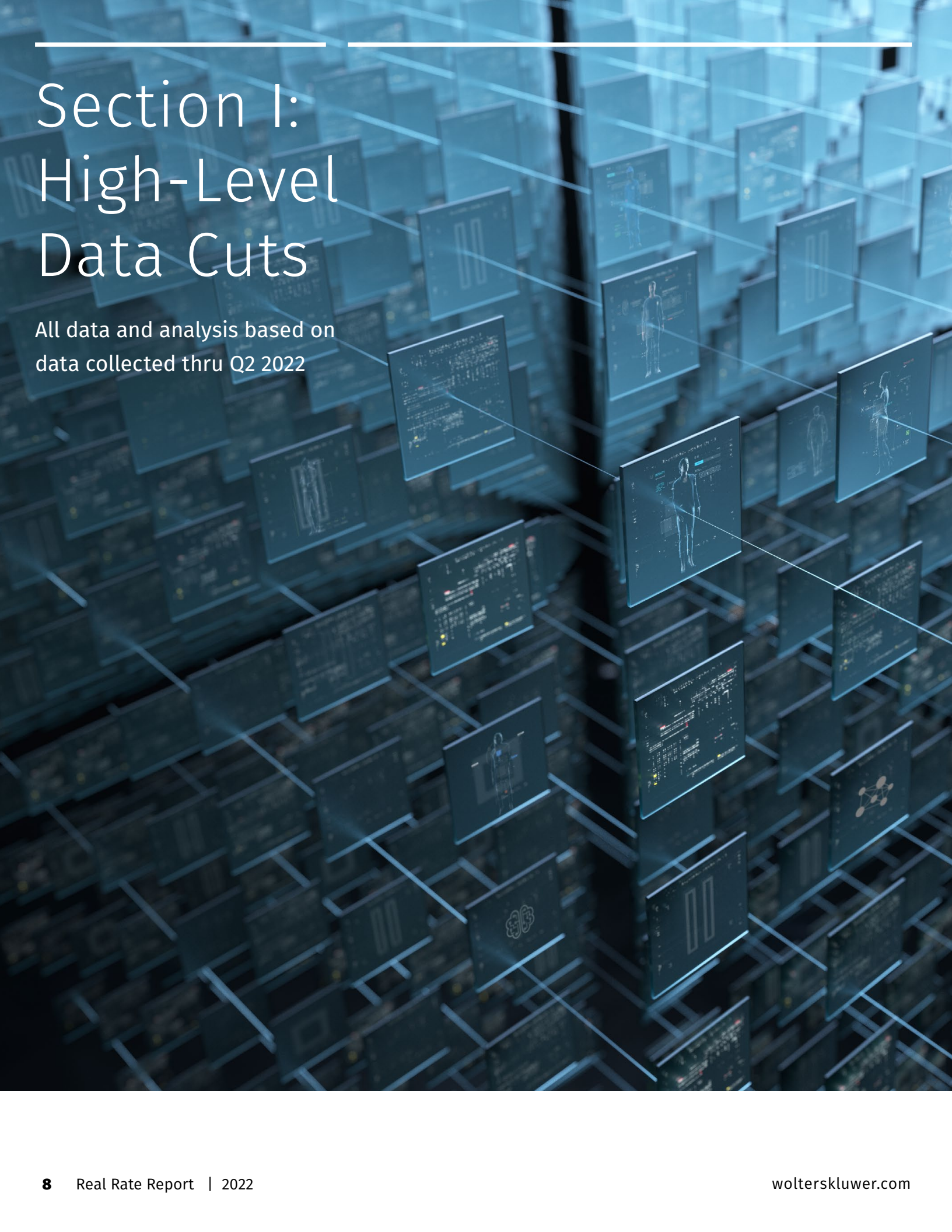
Years of experience and reputation - A more experienced, higher-profile lawyer is often going to charge more, but absorbing this higher cost at the outset may make more sense than hiring a less expensive lawyer who will likely take time and billable hours to come up to speed on unfamiliar legal and procedural issues.

Overhead - The costs associated with the firm's support network (paralegals, clerks, and assistants), document preparation, consultants, research, and other expenses.

Firm size - The rates can increase if the firm is large and has various timekeeper roles at the firm. For example, the cost to work with an associate or partner at a larger firm will be higher compared to a firm that has one to two associates and a paralegal.

¹ David Goguen, J.D., University of San Francisco School of Law (2020) Guide to Legal Services Billing Retrieved from: <https://www.lawyers.com/legal-info/research/guide-to-legal-services-billing-rates.html>

² Source: 2018 RRR. Factor order validated in multiple analyses since 2010



Section I: High-Level Data Cuts

All data and analysis based on
data collected thru Q2 2022

Section I: High-Level Data Cuts

Cities

By Matter Type

2022 - Real Rates for Associate and Partner

Trend Analysis - Mean

City	Matter Type	Role	n	First Quartile	Median	Third Quartile	2022	2021	2020
Jackson MS	Litigation	Associate	56	\$55	\$225	\$250	\$178	\$203	\$175
	Non-Litigation	Partner	24	\$315	\$420	\$485	\$418	\$394	\$375
		Associate	25	\$55	\$126	\$255	\$155	\$125	\$259
Kansas City MO	Litigation	Partner	74	\$413	\$450	\$556	\$472	\$450	\$450
		Associate	50	\$252	\$329	\$385	\$319	\$316	\$305
	Non-Litigation	Partner	101	\$411	\$487	\$615	\$519	\$487	\$464
		Associate	73	\$250	\$320	\$385	\$322	\$312	\$285
Las Vegas NV	Non-Litigation	Partner	20	\$350	\$425	\$525	\$440	\$422	\$432
		Associate	11	\$238	\$267	\$368	\$301	\$297	\$282
Little Rock AR	Non-Litigation	Partner	11	\$215	\$215	\$308	\$264	\$256	\$298
Los Angeles CA	Litigation	Partner	322	\$516	\$725	\$1,045	\$799	\$739	\$702
		Associate	408	\$400	\$615	\$855	\$642	\$606	\$564
	Non-Litigation	Partner	521	\$596	\$868	\$1,201	\$903	\$902	\$858
		Associate	667	\$441	\$603	\$845	\$653	\$712	\$648

Section I: High-Level Data Cuts

Cities

By Matter Type

2022 - Real Rates for Associate and Partner

Trend Analysis - Mean

City	Matter Type	Role	n	First Quartile	Median	Third Quartile	2022	2021	2020
Minneapolis MN	Non-Litigation	Associate	83	\$340	\$421	\$528	\$425	\$408	\$384
Nashville TN	Litigation	Partner	24	\$275	\$320	\$456	\$363	\$378	\$403
	Non-Litigation	Partner	78	\$412	\$484	\$576	\$505	\$481	\$470
		Associate	59	\$270	\$330	\$384	\$340	\$315	\$285
New Orleans LA	Litigation	Partner	47	\$290	\$332	\$412	\$343	\$330	\$340
		Associate	42	\$231	\$243	\$340	\$278	\$290	\$275
	Non-Litigation	Partner	32	\$295	\$347	\$405	\$419	\$380	\$391
		Associate	21	\$244	\$250	\$278	\$273	\$303	\$258
New York NY	Litigation	Partner	614	\$475	\$675	\$1,088	\$808	\$784	\$746
		Associate	631	\$323	\$460	\$729	\$545	\$527	\$509
	Non-Litigation	Partner	1,376	\$765	\$1,235	\$1,638	\$1,189	\$1,139	\$1,090
		Associate	1,809	\$550	\$776	\$1,050	\$796	\$766	\$716
Oklahoma City OK	Non-Litigation	Partner	14	\$235	\$338	\$393	\$337	\$319	\$311
Omaha NE	Litigation	Partner	12	\$293	\$339	\$353	\$329	\$338	\$341

Section I: High-Level Data Cuts

Cities

By Matter Type

2022 - Real Rates for Associate and Partner

Trend Analysis - Mean

City	Matter Type	Role	n	First Quartile	Median	Third Quartile	2022	2021	2020
Rochester NY	Non-Litigation	Partner	12	\$270	\$360	\$488	\$386	\$341	\$446
		Associate	13	\$220	\$310	\$375	\$314	\$278	\$287
Sacramento CA	Non-Litigation	Partner	11	\$381	\$437	\$682	\$534	\$559	\$516
Salt Lake City UT	Litigation	Partner	14	\$246	\$353	\$468	\$363	\$333	\$379
	Non-Litigation	Partner	42	\$297	\$371	\$447	\$391	\$363	\$353
		Associate	22	\$220	\$240	\$270	\$248	\$247	\$228
San Diego CA	Litigation	Associate	23	\$151	\$225	\$300	\$255	\$258	\$264
	Non-Litigation	Partner	89	\$332	\$540	\$1,066	\$699	\$667	\$649
		Associate	71	\$250	\$325	\$424	\$373	\$378	\$351
San Francisco CA	Litigation	Partner	143	\$423	\$675	\$995	\$742	\$711	\$691
		Associate	98	\$325	\$430	\$731	\$525	\$517	\$470
	Non-Litigation	Partner	221	\$475	\$750	\$950	\$758	\$746	\$741
		Associate	151	\$338	\$486	\$702	\$545	\$563	\$507
San Jose CA	Litigation	Partner	33	\$654	\$921	\$1,133	\$916	\$907	\$864

Section I: High-Level Data Cuts

Cities

By Matter Type

2022 - Real Rates for Associate and Partner

Trend Analysis - Mean

City	Matter Type	Role	n	First Quartile	Median	Third Quartile	2022	2021	2020
San Jose CA	Litigation	Associate	22	\$461	\$580	\$745	\$608	\$593	\$498
	Non-Litigation	Partner	50	\$660	\$864	\$1,303	\$969	\$985	\$887
		Associate	46	\$380	\$460	\$775	\$616	\$639	\$567
Seattle WA	Litigation	Partner	76	\$497	\$655	\$760	\$635	\$567	\$510
		Associate	61	\$394	\$468	\$530	\$447	\$453	\$395
	Non-Litigation	Partner	148	\$410	\$526	\$760	\$571	\$547	\$547
		Associate	113	\$310	\$395	\$502	\$422	\$401	\$377
St. Louis MO	Litigation	Partner	46	\$260	\$350	\$435	\$376	\$373	\$388
		Associate	17	\$197	\$225	\$250	\$228	\$237	\$232
	Non-Litigation	Partner	57	\$352	\$419	\$540	\$451	\$446	\$473
Tampa FL	Litigation	Partner	31	\$369	\$508	\$595	\$490	\$467	\$452
		Associate	15	\$269	\$298	\$368	\$316	\$302	\$306
Trenton NJ	Non-Litigation	Partner	21	\$408	\$600	\$700	\$569	\$620	\$581
		Associate	12	\$480	\$495	\$500	\$448	\$376	\$387

Section I: High-Level Data Cuts

Cities

By Years of Experience

2022 - Real Rates for Associate

Trend Analysis - Mean

City	Years of Experience	n	First Quartile	Median	Third Quartile	2022	2021	2020
Kansas City MO	3 to Fewer Than 7 Years	15	\$270	\$325	\$360	\$318	\$295	\$283
	7 or More Years	28	\$292	\$334	\$391	\$333	\$312	\$302
Los Angeles CA	Fewer Than 3 Years	63	\$429	\$595	\$654	\$556	\$524	\$488
	3 to Fewer Than 7 Years	144	\$486	\$688	\$838	\$662	\$626	\$530
	7 or More Years	171	\$351	\$550	\$840	\$600	\$634	\$586
Miami FL	3 to Fewer Than 7 Years	19	\$300	\$360	\$457	\$380	\$331	\$313
	7 or More Years	36	\$295	\$450	\$595	\$460	\$433	\$385
Minneapolis MN	Fewer Than 3 Years	11	\$374	\$405	\$446	\$408		\$230
	3 to Fewer Than 7 Years	27	\$340	\$451	\$510	\$421	\$358	\$356
	7 or More Years	27	\$423	\$468	\$585	\$478	\$438	\$392
Nashville TN	7 or More Years	12	\$219	\$245	\$345	\$282	\$266	\$262
New Orleans LA	3 to Fewer Than 7 Years	12	\$232	\$243	\$265	\$261	\$242	\$245
	7 or More Years	18	\$243	\$312	\$343	\$306	\$318	\$294
New York NY	Fewer Than 3 Years	142	\$443	\$622	\$775	\$629	\$600	\$652

Section I: High-Level Data Cuts

Cities

By Years of Experience

2022 - Real Rates for Partner

Trend Analysis - Mean

City	Years of Experience	n	First Quartile	Median	Third Quartile	2022	2021	2020
Kansas City MO	Fewer Than 21 Years	46	\$400	\$450	\$537	\$473	\$411	\$397
	21 or More Years	68	\$440	\$553	\$658	\$539	\$497	\$491
Las Vegas NV	Fewer Than 21 Years	12	\$284	\$381	\$495	\$389	\$349	\$343
	21 or More Years	13	\$350	\$425	\$515	\$468	\$456	\$472
Los Angeles CA	Fewer Than 21 Years	183	\$533	\$801	\$1,075	\$804	\$797	\$682
	21 or More Years	333	\$550	\$765	\$1,133	\$863	\$842	\$808
Memphis TN	Fewer Than 21 Years	14	\$288	\$331	\$380	\$345	\$317	\$328
	21 or More Years	15	\$355	\$415	\$425	\$394	\$382	\$375
Miami FL	Fewer Than 21 Years	57	\$370	\$450	\$598	\$490	\$498	\$443
	21 or More Years	104	\$388	\$581	\$749	\$584	\$580	\$536
Milwaukee WI	21 or More Years	16	\$302	\$454	\$613	\$589	\$515	\$530
Minneapolis MN	Fewer Than 21 Years	36	\$470	\$530	\$607	\$532	\$486	\$499
	21 or More Years	84	\$507	\$675	\$796	\$656	\$620	\$589
Nashville TN	Fewer Than 21 Years	28	\$375	\$405	\$535	\$449	\$405	\$397



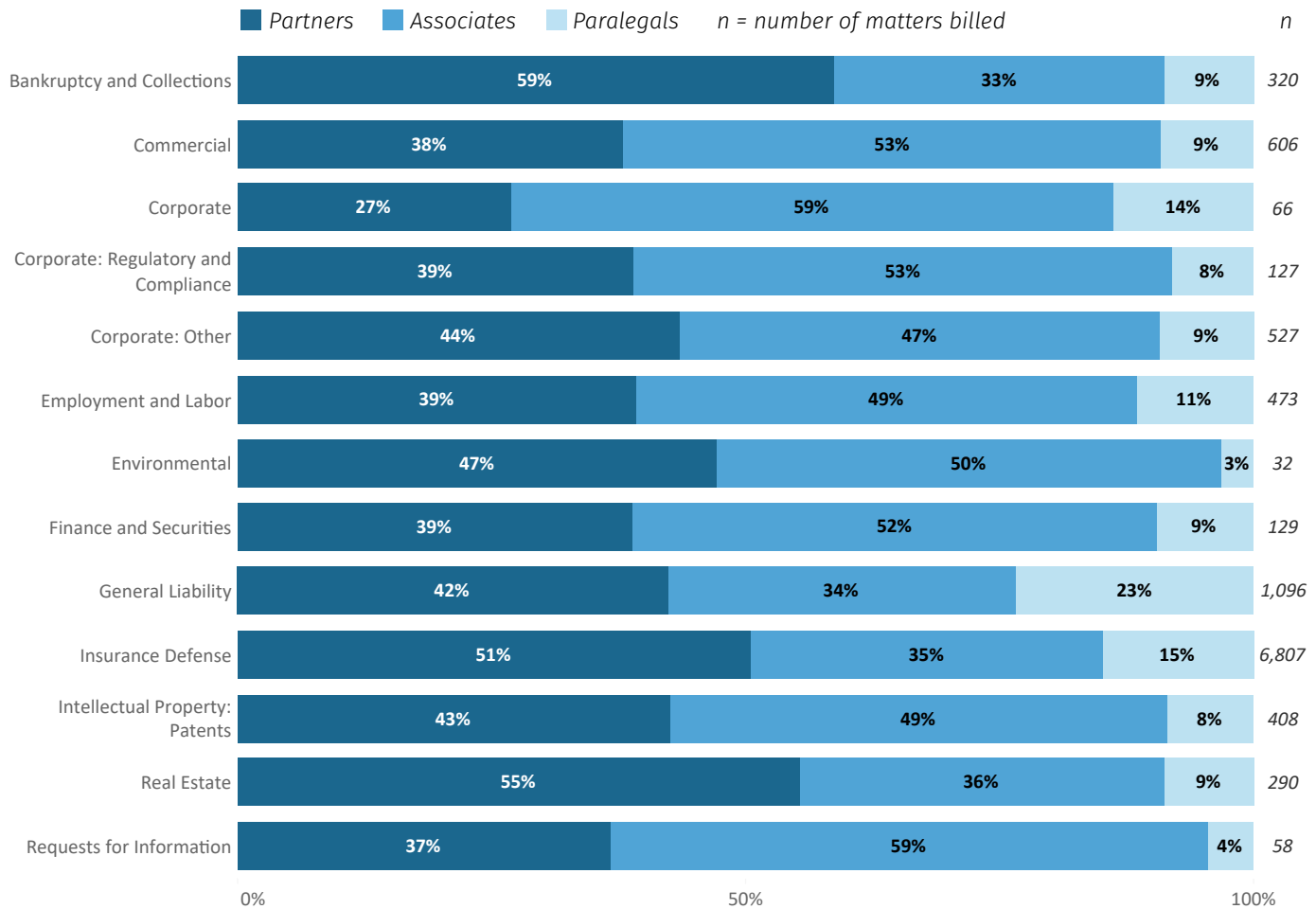
Section VI: Matter Staffing Analysis

All data and analysis based on
data collected thru Q2 2022

Section VI: Matter Staffing Analysis

Long Litigation Matters, More Than 100 Total Hours Billed

2019 to 2022 -- Percentage of Hours Billed per Matter



Section VII: Data Methodology

All data and analysis based on
data collected thru Q2 2022

Appendix: Data Methodology

Invoice Information

Data in Wolters Kluwer ELM Solutions' reference database and the 2022 Real Rate Report were taken from invoice line-item entries contained in invoices received and approved by participating companies.

Invoice data were received in the Legal Electronic Data Exchange Standard (LEDES) format (LEDES.org). The following information was extracted from those invoices and their line items:

- Law firm (which exists as a random number in the ELM Solutions reference database)
- Timekeeper ID (which exists as a random number in the ELM Solutions reference database)
- Matter ID (which exists as a random number in the ELM Solutions reference database)
- Timekeeper's position (role) within the law firm (partner, associate, paralegal, etc.)
- Uniform Task-Based Management System Code Set, Task Codes, and Activity Codes (UTBMS.com)
- Date of service
- Hours billed
- Hourly rate billed
- Fees billed

Non-Invoice Information

To capture practice area details, the matter ID within each invoice was associated with matter profiles containing areas of work in the systems of each company. The areas of work were then systematically categorized into legal practice areas. Normalization of practice areas was done based on company mappings to system-level practice areas available in the ELM Solutions system and by naming convention.

The majority of analyses included in this report have been mapped to one of 11 practice areas, further divided into sub-areas and litigation/non-litigation (for more information on practice areas and sub-areas, please refer to pages 232-234).

To capture location and jurisdiction details, law firms and timekeepers were systematically mapped to the existing profiles within ELM Solutions systems, as well as with publicly available data sources for further validation and normalization. Where city location information is provided, it includes any address within that city's defined Core-Based Statistical Area (CBSA) as defined by the Office of Management and Budget (OMB). The CBSAs are urban centers with populations of 10,000 or more and include all adjacent counties that are economically integrated with that urban center.

Where the analyses focus on partners, associates, and paralegals, the underlying data occasionally included some sub-roles, such as "senior partner" or "junior associate." In such instances, those timekeeper sub-roles were placed within the broader partner, associate, and paralegal segments.

Demographics regarding law firm size, location, and lawyer years of experience were augmented by incorporating publicly available information.

Appendix: Data Methodology

A Note on US Cities

Principal City	CBSA Name
Hartford, CT	Hartford-East Hartford-Middletown, CT
Honolulu, HI	Urban Honolulu HI
Houston, TX	Houston-The Woodlands-Sugar Land, TX
Indianapolis, IN	Indianapolis-Carmel-Anderson, IN
Jackson, MS	Jackson, MS
Jacksonville, FL	Jacksonville, FL
Kansas City, MO	Kansas City, MO-KS
Lafayette, LA	Lafayette, LA
Las Vegas, NV	Las Vegas-Henderson-Paradise, NV
Lexington, KY	Lexington-Fayette, KY
Little Rock, AR	Little Rock-North Little Rock-Conway, AR
Los Angeles, CA	Los Angeles-Long Beach-Anaheim, CA
Louisville, KY	Louisville/Jefferson County, KY-IN
Madison, WI	Madison, WI
Memphis, TN	Memphis-Forrest City, TN-MS-AR
Miami, FL	Miami-Fort Lauderdale-Pompano Beach, FL
Milwaukee, WI	Milwaukee-Waukesha, WI
Minneapolis, MN	Minneapolis-St. Paul-Bloomington, MN-WI
Nashville, TN	Nashville-Davidson-Murfreesboro-Franklin, TN
New Haven, CT	New Haven-Milford, CT
New Orleans, LA	New Orleans-Metairie, LA
New York, NY	New York-Newark-Jersey City, NY-NJ-PA
Oklahoma City, OK	Oklahoma City, OK
Omaha, NE	Omaha-Council Bluffs, NE-IA
Orlando, FL	Orlando-Kissimmee-Sanford, FL
Philadelphia, PA	Philadelphia-Camden-Wilmington, PA-NJ-DE-MD
Phoenix, AZ	Phoenix-Mesa-Chandler, AZ
Pittsburgh, PA	Pittsburgh, PA
Portland, ME	Portland-South Portland, ME
Portland, OR	Portland-Vancouver-Hillsboro, OR-WA
Providence, RI	Providence-Warwick, RI-MA
Raleigh, NC	Raleigh-Cary, NC
Reno, NV	Reno-Carson City-Fernley, NV

Appendix: Data Methodology

Bankruptcy and Collections

Chapter 11
Collections

General/Other
Workouts and Restructuring

Commercial (Commercial Transactions and Agreements)

Contract Breach or Dispute
General, Drafting, and Review
General/Other

Corporate¹

Antitrust and Competition
Corporate Development
General/Other
Governance
Information and Technology
Mergers, Acquisitions, and Divestitures

Partnerships and Joint Ventures
Regulatory and Compliance
Tax
Treasury
White Collar/Fraud/Abuse

Employment and Labor

ADA
Agreements
Compensation and Benefits
Discrimination, Retaliation, and Harassment/EEO
Employee Dishonesty/Misconduct
ERISA

General/Other
Immigration
Union Relations and Negotiations/NLRB
Wages, Tips, and Overtime
Wrongful Termination

Environmental

General/Other
Health and Safety

Superfund
Waste/Remediation

Finance and Securities

Commercial Loans and Financing
Debt/Equity Offerings
Fiduciary Services
General/Other

Investments and Other Financial Instruments
Loans and Financing
SEC Filings and Financial Reporting
Securities and Banking Regulations

General Liability

Asbestos/Mesothelioma
Auto and Transportation
Consumer Related Claims
Crime, Dishonesty and Fraud
General/Other

Personal Injury/Wrongful Death
Premises
Product and Product Liability
Property Damage
Toxic Tort

¹ All references to “Corporate: General/Other” in the Real Rate Report are the aggregation of all Corporate sub-areas excluding the Mergers, Acquisitions, and Divestitures sub-area and the Regulatory and Compliance sub-area.

Exhibit 4

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Business & Practice

Big Law Rates Topping \$2,000 Leave Value ‘In Eye of Beholder’

By Roy Strom

Column

June 9, 2022, 2:30 AM

Welcome back to the Big Law Business column on the changing legal marketplace written by me, Roy Strom. Today, we look at a new threshold for lawyers' billing rates and why it's so difficult to put a price on high-powered attorneys. Sign up to receive this column in your inbox on Thursday mornings. Programming note: Big Law Business will be off next week.

Some of the nation's top law firms are charging more than \$2,000 an hour, setting a new pinnacle after a two-year burst in demand.

Partners at Hogan Lovells and Latham & Watkins have crossed the threshold, according to court documents in bankruptcy cases filed within the past year.

Other firms came close to the mark, billing more than \$1,900, according to the documents. They include Kirkland & Ellis, Simpson Thacher & Bartlett, Boies Schiller Flexner, and Sidley Austin.

Simpson Thacher & Bartlett litigator Bryce Friedman, who helps big-name clients out of jams, especially when they're accused of fraud, charges \$1,965 every 60 minutes, according to a court document.

In need of a former acting US Solicitor General? Hogan Lovells partner Neal Katyal bills time at \$2,465 an hour. Want to hire famous litigator David Boies? That'll cost \$1,950 an hour (at least). Reuters was first to report their fees.

Eye-watering rates are nothing new for Big Law firms, which typically ask clients to pay higher prices at least once a year, regardless of broader market conditions.

"Value is in the eye of the beholder," said John O'Connor, a San Francisco-based expert on legal fees. "The perceived value of a good lawyer can reach into the multi-billions of dollars."

Kirkland & Ellis declined to comment on its billing rates. None of the other firms responded to requests to comment.

Charge It Up

Big Law firms are crossing the \$2,000-an-hour threshold after two years of surging rates driven by an increase in demand for lawyers.

Firm	Highest Billing Rate
Hogan Lovells	\$2,465
Latham & Watkins	\$2,075
Kirkland & Ellis	\$1,995
Simpson Thacher & Bartlett	\$1,965
Boies Schiller Flexner	\$1,950
Sidley Austin	\$1,900

Source: Court documents

Bloomberg Law

Law firms have been more successful raising rates than most other businesses over the past 15 years.

Law firm rates rose by roughly 40 percent from 2007 to 2020, or just short of 3 percent per year, Thomson Reuters Peer Monitor data show. US inflation rose by about 28% during that time.

The 100 largest law firms in the past two years achieved their largest rate increases in more than a decade, Peer Monitor says. The rates surged more than 6% in 2020 and grew another 5.6% through November of last year. Neither level had been breached since 2008.

The price hikes occurred during a once-in-a-decade surge in demand for law services, which propelled profits at firms to new levels. Fourteen law firms reported average profits per equity partner in 2021 over \$5 million, according to data from The American Lawyer. That was up from six the previous year.

The highest-performing firms, where lawyers charge the highest prices, have outperformed their smaller peers. Firms with leading practices in markets such as mergers and acquisitions, capital markets, and real estate were forced to turn away work at some points during the pandemic-fueled surge.

Firms receive relatively tepid pushback from their giant corporate clients, especially when advising on bet-the-company litigation or billion-dollar deals.

The portion of bills law firms collected—a sign of how willingly clients pay full-freight—rose during the previous two years after drifting lower following the Great Financial Crisis. Collection rates last year breached 90% for the first time since 2009, Peer Monitor data show.

Professional rules prohibit lawyers from charging “unconscionable” or “unreasonable” rates. But that doesn’t preclude clients from paying any price they perceive as valuable, said Jacqueline Vinaccia, a San Diego-based lawyer who testifies on lawyer fee disputes.

Lawyers’ fees are usually only contested when they will be paid by a third party.

That happened recently with Hogan Lovells’ Katyal, whose nearly \$2,500 an hour fee was contested in May by a US trustee overseeing a bankruptcy case involving a Johnson & Johnson unit facing claims its talc-based powders caused cancer.

The trustee, who protects the financial interests of bankruptcy estates, argued Katyal’s fee was more than \$1,000 an hour higher than rates charged by lawyers in the same case at Jones Day and Skadden Arps Slate Meagher & Flom.

A hearing on the trustee’s objection is scheduled for next week. Hogan Lovells did not respond to a request for comment on the objection.

Vinaccia said the firm’s options will be to reduce its fee, withdraw from the case, or argue the levy is reasonable, most likely based on Katyal’s extensive experience arguing appeals.

Still, the hourly rate shows just how valuable the most prestigious lawyers’ time can be—even compared to their highly compensated competitors.

“If the argument is that Jones Day and Skadden Arps are less expensive, then you’re already talking about the cream of the crop, the top-of-the-barrel law firms,” Vinaccia said. “I can’t imagine a case in which I might argue those two firms are more reasonable than the rates I’m dealing with.”

Worth Your Time

On Cravath: Cravath Swaine & Moore is heading to Washington, opening its first new office since 1973 by hiring former heads of the U.S. Securities and Exchange Commission and Federal Deposit Insurance Corporation. Meghan Tribe reports the move comes as Big Law firms are looking to add federal government expertise as clients face more regulatory scrutiny.

On Big Law Promotions: It’s rare that associates get promotions to partner in June, but Camille Vasquez is now a Brown Rudnick partner after she shot to fame representing Johnny Depp in his defamation trial against ex-wife Amber Heard.

On Working From Home: I spoke this week with Quinn Emanuel’s John Quinn about why he thinks law firm life is never going back to the office-first culture that was upset by the pandemic. Listen to the podcast [here](#).



That's it for this week! Thanks for reading and please send me your thoughts, critiques, and tips.

To contact the reporter on this story: Roy Strom in Chicago at rstrom@bloomberglaw.com

To contact the editors responsible for this story: Chris Opfer at copfer@bloomberglaw.com; John Hughes at jhughes@bloombergindustry.com

Documents

[Trustee's Objection](#)

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[illegible]

I, Rebecca Padilla, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12th Floor, Los Angeles, California 90010. My electronic service address is rpadilla@wilshirelawfirm.com.

On July 17, 2024, I served the foregoing **DECLARATION OF JUSTIN MARQUEZ IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**, on the interested parties by placing a true copy thereof, enclosed in a sealed envelope by following one of the methods of service as follows:

Nina Huerta (SBN 229070)
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Attorneys for Defendant

- (X) **BY UPLOAD:** I hereby certify that the documents were uploaded by my office to the State of California Labor and Workforce Development Agency Online Filing Site.
- (X) **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known email address or e-mail of record in this action.

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

Executed on July 17, 2024, at Los Angeles, California.


Rebecca Padilla