

EXHIBIT “A”

Brian J. Mankin, Esq. [CSB No. 216228]
brian@lmlfirm.com
Peter J. Carlson, Esq. [CSB No. 295611]
peter@lmlfirm.com
LAUBY, MANKIN & LAUBY LLP
5198 Arlington Avenue, PMB 513
Riverside, CA 92504
Tel: (951) 320-1444 | Fax: (951) 320-1445

Michael Nourmand, Esq. (SBN 198439)
James A. De Sario, Esq. (SBN 262552)
THE NOURMAND LAW FIRM, APC
8822 West Olympic Boulevard
Beverly Hills, California 90211
Telephone (310) 553-3600
Facsimile (310) 553-3603

Attorneys for Plaintiffs, on a representative basis and on behalf of all others similarly situated

[Attorneys for Defendants on next page]

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

TIANA WILLIAMSON and HARPREET
AUJLA, individually, on a representative
basis, and on behalf of all others similarly
situated;

Plaintiffs,

vs.

KAL FREIGHT, INC., a Texas Corporation;
SPG TRANSPORTATION INC., a California
Corporation; PRO TEC INC., a California
Corporation; and DOES 1 through 20,
inclusive;

Defendants.

Case No.: CVRI2204960
*[Assigned to Hon. Judge Harold Hopp, Dept.
10, for all purposes]*

**CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT AND
RELEASE OF CLAIMS**

1 Nicole M. Shaffer (SBN 244366)
2 *Nicole.Shaffer@jacksonlewis.com*
3 JACKSON LEWIS P.C.
4 3390 University Avenue, Suite 110
5 Riverside, CA 92501
6 Telephone: (951) 848-7940
7 Facsimile: (951) 848-0009

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Attorneys for Defendants
KAL FREIGHT INC., SPG TRANSPORTATION INC., and PRO TEC INC.

1 This Class Action and PAGA Settlement Agreement and Release of Claims is entered
2 into by and between Plaintiffs Tiana Williamson and Harpreet Aujla, individually and on behalf
3 of all others similarly situated, and on behalf of the State of California, and Defendants KAL
4 Freight, Inc., SPG Transportation Inc., and Pro Tec Inc., and is approved by their respective
5 counsel of record, subject to the terms and conditions hereof and the Court's approval.

6 **A. Definitions**

7 1. "Action" or "Lawsuit" means and refers to the case entitled *Williamson, et al. v.*
8 *KAL Freight, Inc., et al.*, Riverside County Superior Court, Case No. CVRI2204960.

9 2. "Aggrieved Employee(s)" means all current and former California resident truck
10 drivers who performed services for Defendants in the State of California and who were classified
11 by Defendants as independent contractors during the PAGA Period.

12 3. "Agreement" or "Settlement Agreement" or "Settlement" shall mean this Class
13 Action and PAGA Settlement Agreement and Release of Claims.

14 4. "Class" is defined all current and former California resident truck drivers who
15 performed services for Defendants in the State of California and who were classified by
16 Defendants as independent contractors during the Class Period.

17 5. "Class Member(s)" refers to individual members of the Class.

18 6. "Class Counsel" refers to Brian Mankin and Peter Carlson of Lauby, Mankin &
19 Lauby LLP and Michael Nourmand and James De Sario of The Nourmand Law Firm APC.

20 7. "Class Data" means a complete list that Defendants will diligently and in good
21 faith compile from their records and provide to the Settlement Administrator on one spreadsheet
22 which shall include, for each Class Member: the individual's full name; last known address;
23 Social Security Number; total Weeks Worked during the PAGA Period and the Class Period.

24 8. "Class Period" is deemed to be any time during the period of November 14, 2018,
25 through May 19, 2024.

26 9. "Class Representatives" or "Plaintiffs" means and refers to Plaintiffs Tiana
27 Williamson and Harpreet Aujla.

28 10. "Complaint" refers to the operative second amended complaint, which pleads

1 class action and PAGA representative claims.

2 11. “Court” (or “Judge”) means the California Superior Court, County of Riverside.

3 12. “Defendants” means and refers to Defendants KAL Freight, Inc., SPG
4 Transportation Inc., and Pro Tec Inc.

5 13. “Defendants’ Counsel” or “Defense Counsel” means and refers to Jackson Lewis
6 P.C.

7 14. “Effective Date” means the date by when all of the following have occurred: (i) a
8 long form settlement agreement has been executed by all Parties and their respective counsel; (ii)
9 the Court has given preliminary approval to the Settlement; (iii) the Class Notice has been given
10 to the Class Members, providing them with an opportunity to dispute information contained in
11 the Class Notice, to opt out of the Settlement, or to object to the Settlement; (iv) the Court has
12 held a Final Approval hearing and entered a final order and judgment certifying the Class and
13 approving this Settlement; and (v) the later of the following events: 60 calendar days following
14 entry of the Court’s final order approving the settlement; or if any appeal, writ or other appellate
15 proceeding opposing this Settlement has been filed within 60 calendar days following entry of
16 the Court’s final order approving the Settlement, then when any appeal, writ or other appellate
17 proceeding opposing the settlement has been resolved finally and conclusively with no right to
18 pursue further remedies or relief. In this regard, it is the intention of the Parties that the
19 Settlement shall not become effective until the Court’s order approving the Settlement is
20 completely final, there is no further recourse by an appellant or objector who seeks to contest the
21 Settlement.

22 15. “Escalator Clause:” Defendants represent that there are approximately 808 Class
23 Members, who collectively worked a total of approximately 20,037 Workweeks during the Class
24 Period. If the total count of Workweeks (as contained in the Class Data) exceeds 22,040 (10%
25 more than Defendants’ representation), then Defendants shall have the option to either: (i)
26 increase the Settlement Amount by \$69.87 (Settlement Amount divided by 20,037) for each
27 additional Workweek above 22,040, or (ii) change the end date of the Class Period to a date
28 which results in no more than 22,040 total Workweeks. However, if Defendants elect to change

the end date of the Class Period, then: (i) Defendants must make the election at least 10 days prior to Plaintiffs filing the motion for preliminary approval, and (ii) in no event shall Defendants be permitted to change the end date to a date prior to April 8, 2024 (the date of mediation).

16. “Final Approval” refers to the order of the Court granting final approval of this Settlement Agreement and entering a judgment approving this Agreement on substantially the terms provided herein or as may be modified by subsequent agreement of the Parties.

17. “Individual Class Payment” refers to each Participating Class Members share of the Net Settlement Amount, as further discussed in Paragraph 47(c) below.

18. “Individual PAGA Payment” refers to each Aggrieved Employees share of the PAGA Penalties, as further discussed in Paragraph 47(c) below.

19. “Net Settlement Amount” shall have the meaning ascribed to it in Paragraph 47(b) below.

20. “Notice” means the notice of proposed class settlement that will be sent to the Class Members, and which will advise each Class Member of the settlement and his or her estimated “Individual Settlement Amount” and will further advise of the setting of a Final Approval Hearing.

21. “Notice Packet” means the Notice, Request for Exclusion Form, the Objection Form, and the Dispute Form to be sent to all Class Members.

22. “Objecting Class Member” means a Class Member, other than Plaintiffs, who submits a valid and timely objection to the terms of this Agreement, pursuant to Paragraph 68(c) below.

23. “PAGA Penalties” means the amount that the Parties have agreed to pay to the Labor and Workforce Development Agency (“LWDA”) in connection with the California Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, “PAGA”), as well as the individual PAGA payment allocated to each Aggrieved Employee.

24. “PAGA Period” is deemed to be any time during the period of November 14, 2021, through May 19, 2024.

25. “Participating Class Member” means any and all Class Members who are deemed

1 to participate and receive an Individual Settlement Payment and do not opt-out by submitting
2 timely valid Requests for Exclusion.

3 26. “Parties” or “Settling Parties” mean Plaintiffs and Defendants, collectively.

4 27. “Preliminary Approval Date” means the date the Court approves the Settlement
5 Agreement and enters the Preliminary Approval Order.

6 28. “Preliminary Approval Order” means the judicial Order to be entered by the
7 Court, upon the application or motion of the Plaintiffs, preliminarily approving this Settlement
8 and providing for the issuance of the Notice Packet to the Class, an opportunity to opt out of the
9 Settlement, an opportunity to submit timely objections to the Settlement, and setting a final
10 approval hearing on the fairness of the terms of Settlement, including approval of attorneys’ fees
11 and costs. Provided that the motion is consistent with the terms herein, Defendants will not
12 object to Plaintiffs’ motion for preliminary approval but will be provided with an opportunity to
13 review and comment upon the motion before it is filed.

14 29. “QSF” means the Qualified Settlement Fund set up by the Settlement
15 Administrator for the benefit of the Participating Class Members and Aggrieved Employees, and
16 from which the settlement payments shall be made.

17 30. “Released Class Claims” or “Class Claims” by the Participating Class Members
18 upon Final Approval of the Settlement will include all claims stated in the operative Complaint
19 and those based solely upon the facts in the Complaint, including: (1) failure to pay minimum
20 wages, (2) failure to pay for nonproductive time under Labor Code § 226.2, (3) failure to
21 reimburse business expenses, (4) failure to timely pay final wages, (5) failure to provide accurate
22 itemized wage statements, and (6) unfair and unlawful competition. The time period governing
23 the Released Class Claims shall be any time during the Class Period.

24 31. “Released PAGA Claims” means any and all PAGA claims that Plaintiffs alleged
25 against the Released Parties based on the facts stated in the relevant LWDA notice letters and
26 only to the extent that they are alleged in the operative Complaint, including all PAGA claims
27 seeking civil penalties premised upon: (1) willful misclassification, (2) failure to pay minimum
28 wages, (3) failure to pay for nonproductive time under Labor Code § 226.2, (4) failure to

1 reimburse business expenses, (5) failure to timely pay wages each period, (6) failure to timely
2 pay wages upon separation of employment, (7) failure to provide accurate itemized wage
3 statements, and (8) all other claims for civil penalties recoverable under the Private Attorneys
4 General Act, Labor Code §§ 2698 *et seq.* based on the facts or claims alleged in the LWDA
5 notice letters and operative Complaint. The time period governing the Released PAGA Claims
6 shall be any time during the PAGA Period.

7 32. “Released Parties” means Defendants and their officers, directors, employees, and
8 agents.

9 33. “Response Deadline” is 45 calendar days from the date the Notice is mailed to the
10 Class Members.

11 34. “Request for Exclusion” shall have the meaning ascribed to it in Paragraph 68(a)
12 below.

13 35. “Settlement Amount” is \$1,400,000, subject to the Escalator Clause, as further
14 discussed in Paragraph 47(c) below.

15 36. “Service Payment(s)” or “Service Award(s)” means the amounts approved by the
16 Court to be paid to Class Representatives Tiana Williamson and Harpreet Aujla in addition to
17 their Individual Settlement Payments as Participating Class Members and Individual PAGA
18 Payments as Aggrieved Employees.

19 37. “Settlement Administrator” means Phoenix Settlement Administrators, the third-
20 party class action settlement administrator agreed to by the Parties, that will provide the Notice
21 Packet to the Class Members and distribute the settlement amounts described in this Agreement.

22 38. “Settlement Administration Costs” means the costs payable from the Settlement
23 Amount to the Settlement Administrator for administering this Settlement, including, but not
24 limited to, printing, distributing, and tracking documents for this Settlement, tax reporting, and
25 deposit of the employee and employer share of payroll taxes, unclaimed property due diligence,
26 reporting and remittance obligations, distributing the Settlement Amount, and providing
27 necessary reports and declarations, as requested by the Parties. The Settlement Administration
28 Costs shall be paid from the Settlement Amount, and shall not exceed the amount approved by

1 the Court, regardless of any additional costs that the Settlement Administrator may request or
2 feel is necessary to administer the Settlement.

3 39. “Work Weeks” or “Weeks Worked” in the context of a Class Members means all
4 work weeks during the Class Period during which the Class Member performed work for
5 Defendants. Likewise, in the context of Aggrieved Employees, it means all weeks worked
6 during the PAGA Period during which the Aggrieved Employee performed work for Defendants.

7 **B. General Terms**

8 40. On November 14, 2022, Plaintiff Tiana Williamson filed the instant class action,
9 alleging that Defendants violated various sections of the Labor Code. On the same day, Plaintiff
10 Tiana Williamson gave written notice by online filing to the Labor and Workforce Development
11 Agency (“LWDA”) and by certified mail to Defendants of the specific provisions of the Labor
12 Code alleged to have been violated, including the facts and theories to support the alleged
13 violations. Then, on about May 23, 2023, Plaintiff Tiana Williamson filed a First Amended
14 Complaint adding causes of action under PAGA. Defendants filed their Answer to the First
15 Amended Complaint on June 15, 2023. Per the parties executed joint stipulation, on June 20,
16 2024, Plaintiffs requested the Court to file a Second Amended Complaint adding Plaintiff
17 Harpeet Aujla to the class and PAGA action. Plaintiffs later filed the operative second amended
18 complaint on July 8, 2024.

19 41. Defendants deny Plaintiffs’ claims and allegations and contend that the Action is
20 not suitable for class certification.

21 42. The Class Representatives believe they can proceed with the representative and
22 class claims, that the Action is meritorious, and that class certification is appropriate.

23 43. The Parties have conducted a thorough investigation into the facts of the Action.
24 This includes conducting formal discovery, completing the Belaire Notice process and
25 exchanging class contact information, and an extensive exchange of informal discovery. Class
26 Counsel is both knowledgeable about and has done extensive research with respect to the
27 applicable law and potential defenses to the claims of the Class. Class Counsel has diligently
28 pursued an investigation of the Class Members’ claims against Defendants. Based on the

1 foregoing data and on their own independent investigation and evaluation, Class Counsel is of
2 the opinion that the settlement with Defendants for the consideration and on the terms set forth in
3 this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Class
4 Members in light of all known facts and circumstances, including the risk of significant delay
5 and uncertainty associated with litigation, various defenses asserted by Defendants, and
6 numerous potential appellate issues.

7 44. On April 8, 2024, Plaintiffs and Defendants participated in a full-day mediation
8 with Hon. Daniel Buckley (Ret.), a well-respected wage-and-hour mediator. At the conclusion
9 of mediation and extensive arms-length negotiations, Judge Buckley issued a mediator's
10 proposal which was ultimately accepted by the Parties.

11 45. The Parties agree that neither the Parties' Settlement, this Agreement, nor the acts
12 to be performed or judgment to be entered pursuant to the terms of the Settlement and
13 Agreement, shall be construed as an admission by Defendants of any wrongdoing or violation of
14 any statute or law or liability on the claims or allegations in the Action.

15 46. Stipulation for Class Certification. For settlement purposes only, Defendants will
16 stipulate that the Class Members described herein who do not Request Exclusion from the Class
17 may be conditionally certified as a Class. This stipulation to certification is in no way an
18 admission that class action certification is proper and shall not be admissible in this action except
19 for the sole purposes of enforcing this Agreement. Should, for whatever reason, the Court fail to
20 issue Final Approval, the Parties' stipulation to class certification as part of the Settlement shall
21 become null and void ab initio and shall have no bearing on, and shall not be admissible in this
22 Action in connection with, the issue of whether certification would be appropriate in a non-
23 settlement context. Defendants expressly reserve their rights and declare that they would
24 continue to oppose class certification and the substantive merits of the case should the Court fail
25 to issue Final Approval. Plaintiffs expressly reserve their rights and declares that they will
26 continue to pursue class certification and a trial should the Court fail to issue Final Approval.

27 **C. Terms of Settlement**

28 47. The financial terms of the Settlement are as follows:

1 (a) Settlement Amount: The Parties agree to settle this Action for the
2 Settlement Amount, which is the maximum amount that will be paid by Defendants (unless the
3 Escalator Clause is triggered), which includes payments to the Participating Class Members,
4 PAGA Penalties (to the Aggrieved Employees and LWDA), Attorneys' Fees and Costs Award,
5 the Service Payments to the Class Representatives, and Settlement Administration Costs.

6 (b) Net Settlement Amount: The "Net Settlement Amount" is defined as the
7 Settlement Amount less the Attorneys' Fees and Costs Award, the Service Payments to the Class
8 Representatives as awarded by the Court, the Settlement Administration Costs, and PAGA
9 Penalties. If the Court reduces the Attorneys' Fees and Costs Award, Service Award, or
10 Settlement Administrator Costs, or either increases or decreases the amount allocated to the
11 PAGA Penalties, the difference shall be placed in the Net Settlement Amount and allocated to
12 the Participating Class Members.

13 (c) Individual Class Payments for the Class will be calculated and apportioned
14 from the Net Settlement Amount based on the number of Weeks Worked by a Class Member
15 during the Class Period. Each specific Individual Class Payment will be calculated by: (a)
16 dividing the Net Settlement Amount by the total number of Weeks Worked by all Participating
17 Class Members during the Class Period, and (b) multiplying the result by each Participating
18 Class Members' Weeks Worked. The entire Net Settlement Amount will be disbursed to all
19 Participating Class Members. If there are any valid and timely Requests for Exclusion, the
20 Settlement Administrator shall proportionally increase the Individual Class Payment for each
21 Participating Class Member according to the number of Weeks Worked, so that the amount
22 actually distributed to Participating Class Members equals one hundred percent (100%) of the
23 Net Settlement Amount.

24 (d) Allocation of Individual Class Payments: Because the Class Members
25 performed contract services for Defendants as independent contractors, rather than as employees,
26 and because Defendants fully dispute the allegations alleged herein, the Parties agree that the
27 settlement funds paid to Class members will be allocated and paid as contract compensation,
28 interest, and penalties from which no state or federal taxes will be withheld or deducted.

1 (e) Service Payments to Class Representatives: The amount, if any, awarded
2 to the Class Representatives as Service Payments will be set by the Court in its discretion, not to
3 exceed \$10,000 for Plaintiff Tiana Williamson and \$5,000 for Plaintiff Harpreet Aujla, in
4 exchange for the services that Plaintiffs performed on behalf of the Class. Defendants agree not
5 to oppose these requests. The Service Payments to Plaintiffs will be paid out of the Settlement
6 Amount. The Class Representatives will be issued an IRS Form 1099 in connection with this
7 payment. Plaintiffs shall be solely and legally responsible to pay any and all applicable taxes on
8 these payments. The Parties agree that any amount awarded as the Service Payments to
9 Plaintiffs less than the requested amount shall not be a basis for Class Counsel to void this
10 Settlement Agreement. Should the Court approve a lesser amount for the Service Payments, the
11 difference shall be added to the Net Settlement Amount to be distributed to the Participating
12 Class Members.

13 (f) Attorneys' Fees and Costs Award: Defendants agree to not oppose a
14 request by Class Counsel to the Court for an award of attorneys' fees of one-third of the
15 Settlement Amount, plus reasonable litigation costs not to exceed \$25,000 ("Attorney's Fees and
16 Cost Award"). Defendants agree not to oppose any contention by Class Counsel that attorneys'
17 fees should be based on the common fund theory. The Attorneys' Fee and Cost Award shall be
18 paid from the Settlement Amount, and, except for this award, Defendants shall have no further
19 obligation to pay any attorneys' fees, costs or expenses to Class Counsel. Should the Court
20 approve a lesser amount than what is sought by Class Counsel, the difference shall be added to
21 the Net Settlement Amount to be distributed to the Participating Class Members. Any Court
22 order awarding less than the amount sought by Class Counsel shall not be grounds to rescind the
23 Settlement Agreement or otherwise void the Settlement. The Settlement Administrator shall
24 issue to Class Counsel an IRS Form 1099 reflecting the amount of attorneys' fees and costs
25 awarded by the Court.

26 (g) Settlement Administration Costs: The fees and other charges of the
27 Settlement Administrator will be paid from the Settlement Amount, not to exceed \$11,000 unless
28 (1) the Escalator Clause is triggered (whereby any reasonable increase in Settlement

Administration Costs shall be paid from the increased Settlement Amount, subject to Court approval), or (2) as otherwise approved by all Parties and the Court.

(h) PAGA Penalties: The Parties agree that \$50,000 is allocated to PAGA Penalties, and is to be paid from the Settlement Amount, subject to Court approval. Of this amount, \$37,500 (75%) shall be paid to the LWDA in satisfaction of civil penalties under the Private Attorney General Act of 2004 (“PAGA”) and \$12,500 (25%) will form the Individual PAGA Payments to the Aggrieved Employees, which shall be calculated and allocated pro-rata on a Work Week basis, which will be treated as civil penalties and shall be reported as required on an IRS Form 1099. Class Counsel shall give proper notice to the LWDA of the Settlement.

(i) Tax Liability: Class Counsel and Defendants make no representations as to the tax treatment or legal effect of settlement amounts called for hereunder, and Plaintiffs and the Class Members are not relying on any statement or representation by Class Counsel or Defendants in this regard. Plaintiffs, Participating Class Members, and Aggrieved Employees understand and agree that they will be solely responsible for the payment of any taxes and penalties assessed on their respective Individual Class Payments and Individual PAGA Payments, described herein. Forms 1099 will be distributed in the manner required by the Internal Revenue Code of 1986 (the “Code”) and consistent with this Agreement. If the Code, the regulations promulgated thereunder, or other applicable tax law, is changed after the date of this Agreement, the processes set forth in this Section may be modified in a manner to bring Defendants into compliance with any such changes. Plaintiffs, Participating Class Members, and Aggrieved Employees understand and agree that they will be solely responsible for the payment of any taxes and penalties assessed on their respective payments described herein.

(j) CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND

1 OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH
2 COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE
3 RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
4 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
5 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS
6 OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX
7 ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO
8 THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY
9 OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT
10 ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY
11 ATTORNEY OR ADVISOR TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY
12 THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO
13 ATTORNEY OR ADVISOR TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION
14 THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR
15 ADVISOR'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS
16 LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF
17 THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING
18 ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

19 (k) "Non-Reversionary" Settlement. This is a "non-reversionary" settlement.
20 Under no circumstances will any portion of the Settlement Amount revert to Defendants.
21 Participating Class Members and Aggrieved Employees will not have to make a claim to receive
22 an Individual Class Payment or Individual PAGA Payment. Distributions, in the form of
23 Individual Class Payment or Individual PAGA Payments will be made directly to each
24 Participating Class Member and Aggrieved Employee. The Settlement Administrator shall be
25 responsible for accurately and timely reporting and remittance obligations with respect to
26 unclaimed funds as a result of a Participating Class Member and/or Aggrieved Employee not
27 cashing any checks delivered pursuant to the Settlement by the check cashing deadline, as set
28 forth herein.

1 (1) Class Counsel and Plaintiffs believe that the Settlement is fair and
2 reasonable and will so represent same to the Court.
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4 **D. Release by the Participating Class Members**

5 48. Upon entry of the Final Approval Order and Defendants' funding of the
6 Settlement Amount, and except as to such rights or claims as may be created by this Agreement,
7 Plaintiffs and the Participating Class Members will forever completely release and discharge the
8 Released Parties from the Released Class Claims for the Class Period.

9 49. Each Participating Class Member will be deemed to have made the foregoing
10 Release as if by manually signing it.

11 50. Class Representatives, on behalf of themselves and the Class, acknowledge and
12 agree that the claims for unpaid wages and untimely payment of wages in the Action are
13 disputed, and that the payments set forth herein constitute payment of all sums allegedly due to
14 them. Class Representatives, on behalf of themselves and the Class, acknowledge and agree that
15 California Labor Code Section 206.5 is not applicable to the Parties or Settlement. Labor Code §
16 206.5 provides in pertinent part as follows: "An employer shall not require the execution of any
17 release of any claim or right on account of wages due, or to become due, or made as an advance
18 on wages to be earned, unless payment of those wages has been made."

19 **E. Release of PAGA Claims**

20 51. Upon entry of the Final Approval Order and Defendants' funding of the
21 Settlement Amount, Plaintiffs – in their individual capacity and on behalf of the State of
22 California and LWDA – shall completely release and discharge the Released Parties from the
23 Released PAGA Claims for the PAGA Period.

24 52. Regardless of submitting a valid Request for Exclusion, neither Plaintiffs nor any
25 Aggrieved Employee shall have the right to opt-out or otherwise exclude themselves from
26 releasing the Released PAGA Claims.

27 53. It is the intent of the Parties that the Final Approval Order shall have full
28 equitable and collateral estoppel and res judicata effect to the fullest extent permitted by law.

1 **F. Release by Plaintiffs and Class Representatives**

2 54. The Class Representatives do hereby, for themselves and their spouses, heirs,
3 successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators,
4 guardians, personal representatives, and assigns forever and completely release and discharge the
5 Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises,
6 agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs,
7 losses, debts, and expenses (including back wages, statutory penalties, civil penalties, liquidated
8 damages, exemplary damages, interest, attorneys' fees, and costs) of any nature whatsoever,
9 from the beginning of time through the execution of this Stipulation, whether known or
10 unknown, suspected or unsuspected, including but not limited to all claims arising out of, based
11 upon, or relating to Class Representatives' work performed for Defendants or the remuneration
12 for or termination of such work (the "Class Representatives' Claims").

13 55. Without limiting the generality of the foregoing, this general release by Plaintiffs
14 includes all federal, state and local statutory claims, federal and state common law claims
15 (including but not limited to those for contract, tort and equity), including without limitation any
16 claims for breach of any implied or express contract or covenant; claims for promissory estoppel;
17 claims of entitlement to any pay; claims of wrongful denial of insurance and employee benefits
18 (except workers' compensation benefits); claims for failure to hire, public policy violations,
19 defamation, invasion of privacy, fraud, misrepresentation, emotional distress, assault/battery, or
20 other common law or tort matters; claims of harassment, retaliation or discrimination based on
21 age, race, color, religion, sex, national origin, ancestry, physical or mental disability, protected
22 activity, medical condition, marital status, sexual preference, union activity, or veteran status;
23 claims under the Americans with Disabilities Act, Age Discrimination in Employment Act, Title
24 VII of the Civil Rights Act of 1964 (as amended), the Civil Rights Act of 1991; 42 USC sec.
25 1981, 42 USC sec. 1983, the Older Workers Benefit Protection Act, the Family and Medical
26 Leave Act; claims for unfair competition; claims based on legal restrictions on Defendants' right
27 to terminate, not to hire or promote employees, or to change an employee's compensation; and
28 claims based on any federal, state or other governmental statute, regulation or ordinance, all

1 statutory, constitutional, contractual or common law claims for wages, damages, unpaid costs or
2 expenses, penalties, liquidated damages, punitive damages, interest, attorneys' fees, litigation
3 costs, restitution, or equitable relief, or any other claims arising under the Fair Labor Standards
4 Act, the Employment Retirement Security Income Act of 1974, the California Constitution, the
5 California Fair Employment and Housing Act, the California Unfair Competition Act (California
6 Business and Professions Code section 17200 et seq.), the California Labor Code, or Industrial
7 Welfare Commission Wage Orders, or arising out of or based upon the following categories of
8 allegations regardless of the forum in which they may be brought, to the fullest extent such
9 claims are releasable by law: (i) all claims for unpaid overtime; (ii) all claims for unpaid wages;
10 (iii) all claims for meal break violations; (iv) all claims for rest period violations; (v) all claims
11 for paid sick leave violations; (vi) all claims for the failure to timely pay wages upon
12 termination; (vii) all claims for the failure to timely pay wages during employment; (viii) all
13 claims for wage statement violations; (ix) all claims for reporting time pay; and (x) all other
14 penalties recoverable for such claims under PAGA.

15 56. Plaintiffs agree that there is a risk that any injury that they may have suffered by
16 reason of the Released Parties' relationship with them might not now be known, and there is a
17 further risk that said injuries, whether known or unknown at the date of this Settlement
18 Agreement, might possibly become progressively worse, and that as a result thereof further
19 damages may be sustained. Nevertheless, Plaintiffs agree to forever and fully release and
20 discharge the Released Parties, and understands that by the execution of this Settlement
21 Agreement no further claims for any such injuries that existed at the time of the execution of this
22 Settlement Agreement may ever be asserted by Plaintiffs with respect to claims arising in the
23 time period from the beginning of time to the execution of this Settlement Agreement.

24 57. Plaintiffs expressly waive and relinquish all rights and benefits afforded by
25 Section 1542 of the Civil Code of the State of California and do so understanding and
26 acknowledging the significance of the waiver of Section 1542. Section 1542 of the Civil Code
27 of the State of California states:

28 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
 THAT THE CREDITOR OR RELEASING PARTY DOES NOT

1 KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT
2 THE TIME OF EXECUTING THE RELEASE AND THAT, IF
3 KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
4 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR
OR RELEASED PARTY.

5 Notwithstanding the provisions of Section 1542, and for the purpose of implementing a
6 full and complete release and discharge of all parties, the Class Representatives expressly
7 acknowledge that this Settlement Agreement is intended to include in its effect, without
8 limitation, all claims that Class Representatives knew of, as well as all claims that they do not
9 know or suspect to exist in their favor against the Released Parties, or any of them, for the time
10 period from the beginning of time to the execution of this Settlement Agreement, and that this
11 Settlement Agreement contemplates the extinguishment of any such Class Representatives'
12 claims. Notwithstanding the above, the general release by Class Representatives shall not extend
13 to claims for workers' compensation benefits, claims for unemployment benefits, or other claims
14 that may not be released by law.

15 **G. Interim Stay of Proceedings**

16 58. Pending completion of all prerequisites necessary to effectuate this Settlement,
17 the Parties agree, subject to Court approval, to a stay of all proceedings in the Action except such
18 as are necessary to effectuate the Settlement.

19 **H. Notice Process**

20 59. Appointment of Settlement Administrator. The Parties have agreed to the
21 appointment of the Settlement Administrator to perform the duties of a settlement administrator,
22 including mailing the Notice Packet, using standard devices to obtain forwarding addresses,
23 independently reviewing and verifying documentation associated with any claims or opt-out
24 requests, resolving any disputes regarding the calculation or application of the formula for
25 determining the Individual Settlement Amounts, drafting and mailing the settlement checks to
26 Participating Class Members and Aggrieved Employees, issuing all necessary tax forms, and
27 performing such other tasks as set forth herein or as the Parties mutually agree or that the Court
28 orders.

60. Disputes Regarding Settlement Administration. Any and all disputes relating to

1 administration of the Settlement by the Settlement Administrator (except for disputes regarding
2 Class Data) shall be referred to the Court, if necessary, which will have continuing jurisdiction
3 over the terms and conditions of this Agreement, until Plaintiffs and Defendants notify the Court
4 that all payments and obligations contemplated by this Agreement have been fully carried out.
5 Prior to presenting any issue to the Court, counsel for the Parties will confer in good faith to
6 resolve the dispute without the necessity of Court intervention. The Settlement Administrator
7 shall also be responsible for issuing to Plaintiffs, Participating Class Members, and Aggrieved
8 Employees, and Class Counsel any Tax Forms as may be required by law for all amounts paid
9 pursuant to this Agreement.

10 61. Class Data. Within fourteen (14) calendar days after entry of the Preliminary
11 Approval Order, Defendants shall provide the Class Data to the Settlement Administrator. The
12 Settlement Administrator will run a check of the Class Members' addresses against those on file
13 with the U.S. Postal Service's National Change of Address List. The Class Data provided to the
14 Settlement Administrator will remain confidential and will not be used or disclosed to anyone,
15 except as required by applicable tax authorities, pursuant to Defendants' express written consent,
16 or by order of the Court. Although Class Counsel will not be provided with the list of Class Data,
17 nothing herein shall prevent Class Counsel from communicating with Class Members regarding
18 the Action and Settlement.

19 62. Total Workweeks. At least five (5) calendar days prior to mailing the Notice
20 Packet, the Settlement Administrator shall provide a spreadsheet to Class Counsel and Defense
21 Counsel containing a preliminary calculation of all payments to be paid from the Settlement
22 Amount, including the estimated Individual Class Payments to each Class Member and
23 Individual PAGA Payments to each Aggrieved Employee (a person's name shall be redacted and
24 a control number used in place of the name). In the event that the total Workweeks worked by
25 all Class Members triggers the Escalator Clause, the Settlement Administrator shall notify the
26 Parties of the increased Settlement Amount, and related increased payments from the Settlement
27 Amount, including increased Attorneys' Fees and Costs and any increased Settlement
28 Administration Costs, all of which shall be subject to Court approval.

1 63. Notice Packet. The Notice Packet, as approved by the Court, shall be sent by the
2 Settlement Administrator to the Class Members, by first class mail, in English and Spanish,
3 within ten (10) calendar days following the Settlement Administrator's receipt of the Class Data.
4 For all Class Members, the Notice Packet will include the Notice, a Request for Exclusion Form,
5 an Objection Form, and a Dispute Form. The Settlement Administrator shall use standard
6 devices, including a skip trace, to obtain forwarding addresses of Class Members if any
7 envelopes are returned.

8 64. Returned Notice Packets. The Settlement Administrator will take steps to ensure
9 that the Notice Packet is received by all Class Members, including utilization of the National
10 Change of Address Database maintained by the United States Postal Service to review the
11 accuracy of and, if possible, update a mailing address. Notices will be re-mailed to any Class
12 Member for whom an updated address is located within ten (10) calendar days following both
13 the Settlement Administrator learning of the failed mailing and its receipt of the updated address.
14 The Notice Packet shall be identical to the original Notice Packet, except that it shall notify the
15 Class Member that the exclusion (opt-out) request or objection must be returned by the later of
16 the Response Deadline or fifteen (15) calendar days after the remailing of the Notice Packet.

17 65. Presumption Regarding Receipt of Notice Packet. It will be conclusively
18 presumed that if an envelope has not been returned to Settlement Administrator by the Response
19 Deadline that the Class Member received the Notice Packet.

20 66. Disputes Regarding Class Data. Class Members are deemed to participate in the
21 Settlement unless they opt-out, and Aggrieved Employees may not opt out of the Released
22 PAGA Claims. The Notice will inform Class Members of his/her estimated Individual Class
23 Payment and Individual PAGA Payment, as well as the number of Weeks Worked during the
24 Class Period and the PAGA Period. Class Members may dispute their Weeks Worked if they
25 feel they should be credited with more Work Weeks in the Class Period and the PAGA Period
26 than Defendants' records show by timely submitting evidence to the Settlement Administrator.
27 Defendants' records will be presumed determinative absent reliable evidence to rebut
28 Defendants' records, but the Settlement Administrator will evaluate the evidence submitted by

1 the Class Member and provide the evidence submitted to Class Counsel and Defense Counsel
2 who agree to meet and confer in good faith about the evidence to determine the Class Member's
3 actual number of Work Weeks, and estimated Individual Class and PAGA Payments. If Class
4 Counsel and Defense Counsel are unable to agree, they agree to submit the dispute to the
5 Settlement Administrator to render a final decision. Class Members and Aggrieved Employees
6 will have until the Response Deadline to dispute Weeks Worked, object or opt out, unless
7 extended by the Court. In the event that the Settlement Administrator increases the number of
8 Weeks Worked for any Settlement Class Member, then the Settlement Administrator will
9 recalculate the Individual Settlement Payments; accordingly to assess if the Escalator Clause is
10 triggered to provide information to the Defendants.

11 67. Declaration of Due Diligence. The Settlement Administrator shall provide
12 counsel for the Parties, at least five (5) days after the initial Response Deadline, a declaration of
13 due diligence and proof of mailing with regard to the mailing of the Notice Packet.

14 68. Class Members' Rights. Each Class Member will be fully advised of the
15 Settlement, the ability to object to the settlement, and the ability to opt-out or request exclusion
16 from the Class Claims portion of the Settlement. All Parties, signatories and their counsel shall
17 not encourage opt-outs or objections to this Agreement. The Parties specifically agree not to
18 solicit opt-outs, directly or indirectly, through any means. The Notice Packet will inform the
19 Class Members of the Court-established deadlines for filing objections or requesting exclusion
20 from the Settlement in accordance with the following guidelines:

21 (a) Requests for Exclusion from Class. Any Class Member, other than
22 Plaintiffs, may request to be excluded from the Class by completing the Request for Exclusion
23 Form provided within the Notice Packet. The Request for Exclusion Form must be mailed to the
24 Settlement Administrator and postmarked on or before the Response Deadline in order to be
25 timely, unless the Parties otherwise agree in writing. Any such Request must be made in
26 accordance with the terms set forth in the Notice Packet. The Settlement Administrator shall
27 attach each Request for Exclusion to its declaration of due diligence and file with the Court prior
28 to the Final Approval Hearing. Any Class Member who timely requests exclusion in compliance

1 with these requirements: (i) will not have any rights under this Agreement, including the right to
2 object, appeal or comment on the Settlement; (ii) will not be entitled to receive any payments
3 under this Agreement; and (iii) will not be bound by this Agreement, or the Judgment. Any
4 Class Member who is an Aggrieved Employee who requests timely exclusion will still be subject
5 to the Released PAGA Claims to the fullest extent permitted by law and receive an Individual
6 PAGA Payment. All Parties and their counsel, including Defendants and their agents and
7 employees, shall not encourage or solicit opt-outs or objections, directly or indirectly, through
8 any means.

9 (b) Binding Effect on Participating Class Members. All Participating Class
10 Members will: (i) be bound by the terms and conditions of this Agreement, the Judgment, and
11 the releases set forth herein; and (ii) except as otherwise provided herein, will be deemed to have
12 waived all objections and oppositions to the fairness, reasonableness, and adequacy of the
13 Settlement.

14 (c) Objections to Settlement. Any Class Member, other than Plaintiffs, who
15 does not submit a valid and timely Request for Exclusion may object to the terms of this
16 Agreement by completing the Objection Form provided within the Notice Packet. Any Class
17 Member that intends to object must mail the Objection Form to the Settlement Administrator.
18 The Objection Form must be postmarked on or before the Response Deadline in order to be
19 timely, unless the Parties otherwise agree in writing. Additionally, any objection must be made
20 in accordance with the terms set forth in the Notice Packet. The Settlement Administrator shall
21 provide any objections to Class Counsel and Defense Counsel within three (3) days of receipt,
22 and the Settlement Administrator shall attach the same to its declaration of due diligence and file
23 with the Court prior to the Final Approval Hearing. Any Participating Class Member who files
24 an objection remains eligible to receive monetary compensation from the Settlement. Plaintiffs
25 and Defendants shall not be responsible for any fees, costs, or expenses incurred by any Class
26 Member and/or his or her counsel related to any objections to the Settlement. Submitting an
27 objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is
28 preserved by becoming a party of record by timely and properly intervening or filing a motion to

1 vacate the judgment under Code of Civil Procedure § 663.

2 (d) Failure to Object. Any Class Member who does not timely and properly
3 become a party of record by intervening or filing a motion to vacate the judgment waives any
4 and all rights to appeal from the Judgment, including all rights to any post-judgment proceeding
5 and appellate proceeding, such as a motion to vacate judgment, motion for new trial, a motion
6 under California Code of Civil Procedure § 473, and extraordinary writs.

7 (e) Responses to Objections. Counsel for the Parties may file a response to
8 any objections submitted by Objecting Class Members at least five (5) court days before the date
9 of the Final Approval Hearing.

10 (f) Class Members will have until the Response Deadline to object or submit
11 a Request for Exclusion to the Settlement Administrator by U.S. Mail. The Settlement
12 Administrator shall disclose jointly to Class Counsel and Defense Counsel what objections or
13 Requests for Exclusion were timely submitted on a weekly basis, and upon the request of Class
14 Counsel or Defense Counsel.

15 69. Funding of the Settlement Amount. Defendants shall deposit the Settlement
16 Amount with the Settlement Administrator within fifteen (15) calendar days after the Effective
17 Date. Once Defendants have complied with its obligation set forth in this paragraph, they shall
18 be deemed to have satisfied all of the funding terms and conditions of this Agreement, shall be
19 entitled to all the protections afforded it under the Agreement, and shall have no further funding
20 obligations under the Agreement, regardless of what occurs with respect to the further
21 administration of the Settlement. The Settlement Administrator (and not Defendants) shall issue
22 the applicable IRS Form 1099 reflecting all payments to the Class Members.

23 70. Distribution of Funds. No later than ten (10) calendar days after the deposit of the
24 Settlement Amount by Defendants, the Settlement Administrator shall mail the Individual Class
25 Payments to the Participating Class Members, the Individual PAGA Payments to the Aggrieved
26 Employees, the payment to Class Counsel for the Attorneys' Fees and Costs Award, any Service
27 Payments to the Class Representatives, the payment to the LWDA for PAGA Penalties, mail to
28 the Aggrieved Employees their portion of the PAGA Penalties, and will pay itself the Settlement

Administration Costs.

71. Deadline for Cashing Settlement Checks. Participating Class Members and Aggrieved Employees shall have 180 calendar days after mailing by the Settlement Administrator to cash their settlement checks. The release will be binding upon all Participating Class Members who do not cash their checks within the 180-day period. In the event that any settlement check is returned to the Settlement Administrator within 180 days of mailing, the Settlement Administrator will, within five (5) business days of receipt of the returned settlement check, perform a skip trace to locate the individual, and notify Defense Counsel and Class Counsel of the results. If a new address is located by these means, the Administrator will have ten (10) business days to re-issue the check. Neither Defendants, Defense Counsel, Class Counsel, Plaintiffs, nor the Settlement Administrator will have any liability for lost or stolen settlement checks, forged signatures on settlement checks, or unauthorized negotiation of settlement checks. Without limiting the foregoing, in the event a Participating Class Member and/or Aggrieved Employee notifies the Settlement Administrator that he or she believes that a settlement check has been lost or stolen, the Settlement Administrator shall immediately stop payment on such check. If the check in question has not been negotiated prior to the stop payment order, the Settlement Administrator will issue a replacement check.

a. If any Participating Class Member's check is not cashed within the time periods noted above, the check will be void and a stop-payment will be issued, and the Settlement Administrator shall issue the unclaimed funds to the California State Controller's Office in the name of the Class Member.

b. If any Aggrieved Employee's check is not cashed within the time periods noted above, the check will be void and a stop-payment will be issued, and the Settlement Administrator shall issue the unclaimed funds to the California State Controller's Office in the name of the Aggrieved Employee.

I. Duties of the Parties Prior to the Court's Approval

72. Promptly after execution of this Agreement, Plaintiffs will move the Court for Preliminary Approval of this Settlement and entry of the Preliminary Approval Order

1 accomplishing the following:

2 (a) Scheduling the Final Approval Hearing on the issue of whether this
3 Settlement should be finally approved as fair, reasonable and adequate as to the Class Members
4 and a hearing on fees, costs and the Service Payments;

5 (b) Approving as to form and content the proposed Notice Packet;

6 (c) Directing the mailing of the Notice Packet by first class mail to the Class
7 Members;

8 (d) Preliminarily approving this Settlement;

9 (e) Preliminarily certifying the class for purposes of this Settlement; and

10 (f) Advising the LWDA of the proposed Settlement.

11 **J. Duties of the Parties Following Court's Final Approval**

12 73. In connection with the Final Approval Hearing provided for in this Agreement,
13 Class Counsel shall submit a proposed Final Approval Order:

14 (a) Approving the Settlement, adjudging the terms thereof to be fair,
15 reasonable and adequate, and directing consummation of its terms and provisions;

16 (b) Approving Class Counsel's application for an award of attorneys' fees and
17 reimbursement of litigation costs and expenses, the Service Payments to the Class
18 Representatives, and the payment to the Settlement Administrator for costs of administering the
19 settlement; and

20 (c) Entering judgment approving settlement.

21 **K. Voiding the Agreement**

22 74. If the Court fails or refuses to issue the Final Approval Order or fails to approve
23 any material condition of this Agreement which effects a fundamental change of the Settlement,
24 the entire Agreement shall be rendered voidable and unenforceable as to all Parties herein at the
25 option of either Party.

26 75. If the Settlement is voided or fails for any reason, Plaintiffs and Defendants will
27 have no further obligations under the Settlement, including any obligation by Defendants to pay
28

1 the Settlement Amount, or any amounts that otherwise would have been owed under this
2 Settlement.

3 76. If the Settlement is voided or fails for any reason, any costs incurred by the
4 Settlement Administrator shall be borne equally by Defendants and Plaintiffs, unless otherwise
5 specified in this Agreement.

6 **L. Other Terms**

7 77. Waiver. The waiver by one Party of any breach of this Agreement by another
8 Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

9 78. Parties' Authority. The signatories hereto represent that they are fully authorized
10 to enter into this Agreement and bind the Parties hereto to the terms and conditions hereof.

11 79. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to
12 accomplish the terms of this Agreement, including but not limited to, execution of such
13 documents and to take such other action as may reasonably be necessary to implement the terms
14 of this Agreement. The Parties to this Agreement shall use their best efforts, including all efforts
15 contemplated by this Agreement and any other efforts that may become necessary by order of the
16 Court, or otherwise, to effectuate this Agreement and the terms set forth herein. As soon as
17 practicable after execution of this Agreement, Class Counsel shall, with the assistance and
18 cooperation of Defendants and Defense Counsel, take all necessary steps to secure the Court's
19 preliminary and final approval of the settlement, and the final entry of judgment. Class Counsel
20 shall provide Defendant's Counsel with copies of the Preliminary Approval Motion and Final
21 Approval Motion for review at least three business days prior to the filing deadline.

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

26 81. No Admission. Defendants deny any and all liability to Plaintiffs and/or any Class
27 Member and/or Aggrieved Employee in this Action, as to any and all causes of action that were
28 asserted or that might have been asserted in this Action. Nonetheless, Defendants wish to settle

1 and compromise the matters at issue in the Complaint to avoid further substantial expense and
2 the inconvenience and distraction of protracted and burdensome litigation. Defendants have
3 taken into account the uncertainty and risks inherent in litigation, and without conceding any
4 infirmity in the defenses that they have asserted or could assert against Plaintiffs, have
5 determined that it is desirable and beneficial that Plaintiffs' claims be settled in the manner and
6 upon the terms and conditions set forth in this Agreement.

7 82. Inadmissibility of Agreement. Whether or not the Court issues the Final Approval
8 Order, nothing contained herein, nor the consummation of this Agreement, is to be construed or
9 deemed an admission of liability, culpability, negligence, or wrongdoing on the part of
10 Defendants or any of the other Released Parties. Each of the Parties hereto has entered into this
11 Agreement with the intention of avoiding further disputes and litigation with the attendant
12 inconvenience and expenses. This Agreement is a settlement document, and it, along with all
13 related documents such as the notices, and motions for preliminary and final approval, shall,
14 pursuant to California Evidence Code § 1152 and/or Federal Rule of Evidence 408, be
15 inadmissible in evidence in any proceeding, except an action or proceeding to approve the
16 settlement, and/or interpret or enforce this Agreement. The stipulation for class certification as
17 part of this Agreement is for settlement purposes only and if, for any reason the settlement is not
18 approved, the stipulation will be of no force or effect.

19 83. No Publicity. The Parties will not publicize the Settlement or disclose it to third
20 parties prior to the Court granting Preliminary Approval, except as required or necessary to
21 effectuate its terms and comply with law. After the Final Approval Date, Class Counsel and
22 Class Representatives agree that they will not discuss the Settlement with the media, any
23 settlement and verdict reporting service, any social media postings or other Internet postings.
24 Nothing herein shall be construed to prevent Class Counsel from the public filing of motions or
25 other case materials in the Action related to seeking and obtaining Court approval of this
26 Settlement and the related awards of attorneys' fees and costs, or to communications with Class
27 Members or their representatives about this Settlement, including through the posting of Court-
28 filed documents on Class Counsel's websites for access solely by the Class Members, or to

1 prevent the Parties or their representatives from communicating with financial or legal advisors
2 regarding the Settlement. In response to any media inquiry, Class Counsel may state only that
3 the Action has been settled on terms mutually agreeable to the Parties.

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

8 *To the Class:*

9 Brian J. Mankin
10 *brian@lmlfirm.com*
11 Peter J. Carlson
12 *peter@lmlfirm.com*
13 Lauby, Mankin & Lauby LLP
14 5198 Arlington Ave, PMB 513
15 Riverside, CA 92504
16 Tel: (951) 320-1444 | Fax: (951) 320-1445

17 Michael Nourmand
18 *mnourmand@nourmandlawfirm.com*
19 James De Sario
20 *jdesario@nourmandlawfirm.com*
21 The Nourmand Law Firm, APC
22 8822 West Olympic Boulevard
23 Beverly Hills, California 90211
24 Tel: (310) 553-3600 | Fax: (310) 553-3603

25 *To Defendant:*

26 Nicole M. Shaffer, Esq.
27 *Nicole.Shaffer@jacksonlewis.com*
28 Jackson Lewis P.C.
3390 University Avenue, Suite 110
Riverside, CA 92501
Tel: (951) 848-7940 | Fax: (951) 848-0009

85. Construction. The Parties hereto agree that the terms and conditions of this
Agreement are the result of lengthy, intensive arms' length negotiations between the Parties and
that this Agreement shall not be construed in favor of or against any Party by reason of the extent
to which any Party or his or its counsel participated in the drafting of this Agreement. Plaintiffs
and Defendants expressly waive the common-law and statutory rule of construction that

1 ambiguities should be construed against the drafter of an agreement and further agree, covenant,
2 and represent that the language in all parts of this Agreement shall be in all cases construed as a
3 whole, according to its fair meaning.

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

8 87. Modification. This Agreement may not be changed, altered, or modified, except
9 in writing and signed by the Parties hereto, and approved by the Court. This Settlement
10 Agreement may not be discharged except by performance in accordance with its terms or by a
11 writing signed by all of the Parties hereto.

12 88. Dispute Resolution. Prior to instituting legal action to enforce the provisions of
13 this Agreement or to declare rights and/or obligations under this Agreement, a Party shall
14 provide written notice to the other Party and allow an opportunity to cure the alleged
15 deficiencies, and Plaintiffs and Defendants may agree to seek the help of the Mediator to resolve
16 any dispute they are unable to resolve informally. During this period, the Parties shall bear their
17 own attorneys' fees and costs. This provision shall not apply to any legal action or other
18 proceeding instituted by any person or entity other than Plaintiffs or Defendants.

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

22 90. Integration Clause. This Settlement Agreement contains the entire agreement
23 between the Parties relating to the settlement and transaction contemplated hereby, and all prior
24 or contemporaneous agreements, understandings, representations, and statements, whether oral
25 or written and whether by a Party or such Party's legal counsel, are merged herein. No rights
26 hereunder may be waived except in writing.
27
28

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

92. Signatures of All Class Members Unnecessary to be Binding. It is agreed that, because the members of the Class are numerous, it is impossible or impractical to have each Class Member execute this Agreement. The Notice Packet will advise all Class Members of the binding nature of the release provided herein and such shall have the same force and effect as if this Agreement were executed by each Class Member.

93. Counterparts. This Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully signed Agreement, which shall be binding upon and effective as to all Parties. Electronic signatures shall have the same force and effect as an original.

Dated: Sep 6, 2024

PLAINTIFF AND CLASS REPRESENTATIVE


Tiana Williamson (Sep 6, 2024 08:44 PDT)

Tiana Williamson

Dated: _____

PLAINTIFF AND CLASS REPRESENTATIVE

Harpreet Aujla

Dated: _____

DEFENDANT KAL FREIGHT, INC.

By: _____

Title: _____

Dated: _____

DEFENDANT SPG TRANSPORTATION INC.

By: _____

Title: _____

1 91. Binding On Assigns. This Agreement shall be binding upon and inure to the
2 benefit of the Parties hereto and their respective heirs, trustees, executors, administrators,
3 successors and assigns.

4 92. Signatures of All Class Members Unnecessary to be Binding. It is agreed that,
5 because the members of the Class are numerous, it is impossible or impractical to have each
6 Class Member execute this Agreement. The Notice Packet will advise all Class Members of the
7 binding nature of the release provided herein and such shall have the same force and effect as if
8 this Agreement were executed by each Class Member.

9 93. Counterparts. This Agreement may be executed in counterparts, and when each
10 Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an
11 original, and, when taken together with other signed counterparts, shall constitute one fully
12 signed Agreement, which shall be binding upon and effective as to all Parties. Electronic
13 signatures shall have the same force and effect as an original.

14 Dated: _____ **PLAINTIFF AND CLASS REPRESENTATIVE**

15
16 _____
Tiana Williamson

17 Dated: Sep 6, 2024 **PLAINTIFF AND CLASS REPRESENTATIVE**

18 _____
Harpreet Aujla (Sep 6, 2024 12:26 PDT)
19 Harpreet Aujla

20 Dated: 10-17-2024 **DEFENDANT KAL FREIGHT, INC.**

21 _____
22 By: KALVINDER SINGH
23 Title: PRESIDENT
24

25 Dated: 10-17-2024 **DEFENDANT SPG TRANSPORTATION INC.**

26 _____
27 By: KERNAIL SINGH
28 Title: PRESIDENT

1 Dated: 10-17-2024

DEFENDANT PRO TEC INC.

Bachittar Singh

By: BACHITTAR SINGH

Title: PRESIDENT

6 **APPROVED AS TO FORM:**

7 Dated: 9/6/2024

8 **CLASS COUNSEL**
LAUBY, MANKIN & LAUBY LLP

9 Brian J. Mankin
10 Brian J. Mankin
11 Attorneys for Plaintiff

12 Dated: _____

13 **CLASS COUNSEL**
THE NOURMAND LAW FIRM, APC

14 Michael Nourmand
15 Michael Nourmand
Attorneys for Plaintiff

16 Dated: 10/22/2024

17 **DEFENSE COUNSEL:**
JACKSON LEWIS P.C.

18 Nicole M. Shaffer, Esq.
19 Nicole M. Shaffer, Esq.
20 Attorneys for Defendant

1 Dated: _____

DEFENDANT PRO TEC INC.

3
4 By: _____

5 Title: _____

6 **APPROVED AS TO FORM:**

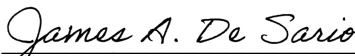
7
8 Dated: 9/6/2024

CLASS COUNSEL
LAUBY, MANKIN & LAUBY LLP

9
10 
11 Brian J. Mankin
Attorneys for Plaintiff

12 Dated: 10/7/2024

CLASS COUNSEL
THE NOURMAND LAW FIRM, APC

13
14 
15 Michael Nourmand
Attorneys for Plaintiff

16 Dated: _____

DEFENSE COUNSEL:
JACKSON LEWIS P.C.

17
18
19 _____
20 Nicole M. Shaffer, Esq.
Attorneys for Defendant

EXHIBIT “B”

COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT

Williamson and Aujla v. KAL Freight, SPG Transportation, and Pro Tec

(Riverside Superior Court, Case No. CVRI2204960)

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

You may be eligible to receive money from a class action lawsuit (“Action”) filed by Plaintiffs Tiana Williamson and Harpreet Aujla (“Plaintiffs”) against Defendants KAL Freight, Inc., SPG Transportation Inc., and Pro Tec Inc. (“Defendants”) for alleged violations of the California Labor Code. In the Action, Plaintiffs pursue claims against Defendants and seeks payment of:

(1) Unpaid wages, statutory damages and penalties, interest, and attorneys’ fees on behalf of the “Class Members” who are defined as “all current and former California resident truck drivers who performed services for Defendants in the State of California and who were classified by Defendants as independent contractors during the Class Period (which is November 14, 2018, through May 19, 2024)” and

(2) Penalties under the California Private Attorneys General Act of 2004 (“PAGA”) for the “Aggrieved Employees” who are defined as “all current and former California resident truck drivers who performed services for Defendants in the State of California and who were classified by Defendants as independent contractors during the PAGA Period (which is November 14, 2021, through May 19, 2024).” PAGA is California law that allows employees to bring claims for civil penalties on behalf of the California Labor and Workforce Development Agency (“LWDA”) and all Aggrieved Employees for alleged violations of the Labor Code, and any payment for PAGA penalties shall be paid 75% to the LWDA and 25% to all Aggrieved Employees as civil penalties (rather than wages).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendants to fund Individual Class Payments to Class Members, and (2) a PAGA Settlement requiring Defendants to fund Individual PAGA Payments to Aggrieved Employees and pay penalties to the LWDA. Based on Defendants’ records, and the Parties’ current assumptions, your Individual Class and PAGA Payments are shown in the charts below, along with the applicable data points from which these estimates are derived.

[CLASS MEMBER NAME] [ID/CONTROL NUMBER]

	Weeks Worked	Your Estimated Share
Class Member	INSERT (During Class Period)	\$INSERT (Individual Class Payment)
Aggrieved Employee	INSERT (During PAGA Period)	\$INSERT (Individual PAGA Payment)

Please note that the actual amount you receive may be different from the above and will depend on several factors. (If no amount is stated for your Individual PAGA Payment then, according to Defendants’ records, you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.) Also, while the range of recovery will differ for Class Members, it is estimated that the average payment will be **\$XXXX**, the high payment will be **\$XXXX**, and the low payment will be **\$XXXX**. If you believe that you worked more weeks during the periods discussed above in the State of California, you can submit a challenge by **DATE**, 2024 (“**Response Deadline**”). See **Section 4** of this Notice.

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

certain claims against Defendants.

If you worked for Defendants during the Class Period and/or the PAGA Period, you have a few options as shown in the Chart below:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE A SETTLEMENT PAYMENT	If you want to receive your full settlement payment, then no further action is required on your part. You will automatically receive a settlement payment if the Settlement receives final approval by the Court. You will be bound by the terms of the Settlement Agreement and will give up your right to sue on the Released Class Claims described in Section 3 .
EXCLUDE YOURSELF	If you do not wish to participate in the settlement of the Class Claims, you may “opt-out” of the settlement of the Class Claims. If you choose to opt-out, you must submit a Request for Exclusion Form by [REDACTED], 2024 (see Section 6 for more details on how to opt-out). If you opt-out, you will no longer be a Class Member, and you will (1) <u>not</u> receive an Individual Class Payment, but you will preserve your right to pursue the Released Class Claims described below subject to applicable statutes of limitations, and (2) be barred from filing an objection to the settlement. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendants must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released PAGA Claims. See Section 6 of this Notice.
OBJECT	If you decide to object to the settlement with respect to the Class Claims because you find it unfair or unreasonable, you must submit an Objection Form stating why you object to the settlement by [REDACTED], 2024 (see Section 7 for more details on how to object).
DISPUTE THE NUMBER OF WEEKS WORKED	If you believe the number of workweeks that you were credited with working in the chart above is incorrect, you may submit the enclosed Dispute Form with any supporting evidence to Phoenix Settlement Administrators (the “Settlement Administrator”), a third party that is responsible for sending this Notice) (see Section 4 for more details on how to submit a Dispute Form). Defendants’ records will be presumed correct, but you may provide evidence to the Settlement Administrator showing how many Work Weeks you believe you should be credited.

YOU MAY ATTEND THE FINAL APPROVAL HEARING, BUT IT’S NOT REQUIRED	
DATE: [REDACTED], 2024 TIME: 8:30 A.M.	At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. See Section 8 of this Notice.

1. WHAT IS THE ACTION ABOUT?

In the Action, Plaintiffs allege that Defendants violated California labor laws by misclassifying the Class Members as independent contractors, rather than as employees. Plaintiffs further allege that Defendants failed to pay all required minimum wages, failed to pay for nonproductive time, failed to reimburse business expenses, failed to timely pay wages each period and upon separation of employment, and failed to provide accurate itemized wage statements. Based on the same claims, Plaintiffs have also asserted a claim for civil penalties under the PAGA.

Defendants argues that the Class Members were properly classified as independent contractors and, thus, strongly deny violating any laws or failing to pay any wages. Defendants contend that they complied with all applicable laws.

Both Parties are represented by attorneys in the Action. See Section 9 below for their contact information.

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

Plaintiffs and Defendants hired an experienced, neutral mediator in an effort to resolve the Action by negotiating to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”), Plaintiffs and Defendants have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants do not admit any violations or concede the merit of any claims.

Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendants have agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. So far, the Court has made no determination whether Defendants or Plaintiffs are correct on the merits, and has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at final hearing. The Court preliminarily approved the proposed Settlement, authorized this Notice, and scheduled a hearing to determine Final Approval.

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

1. Defendants Will Pay \$1,400,000 as the “Settlement Amount.” Defendants have agreed to pay a total Settlement Amount of \$1,400,000 and will deposit the Settlement Amount into an account controlled by Settlement Administrator. The Settlement Administrator will use the Settlement Amount to pay the Individual Class Payments, Individual PAGA Payments, Class Representatives’ Service Payments, Class Counsel’s attorney’s fees and expenses, the Administrator’s Costs, and PAGA Penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Defendants will fund the Settlement Amount approximately 15 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if the Judgment is appealed.

2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Settlement Amount, the amounts of which will be decided by the Court at the Final Approval Hearing:

A. Up to one-third of the Settlement Amount (\$466,666.66) to Class Counsel for attorneys' fees and up to \$25,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

B. Up to \$10,000 for Class Representative Tiana Williamson and up to \$5,000 for Class Representative Harpreet Aujla as Service Payments for litigating the Action, working with Class Counsel and representing the Class. The Class Representatives' Service Payment will be the only monies Plaintiffs will receive other than Plaintiffs' Individual Class Payments and any Individual PAGA Payments.

C. \$11,000 to the Settlement Administrator for services administering the Settlement.

D. Up to \$50,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their share of Weeks Worked during the PAGA Period.

E. Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the remainder (the “Net Settlement Amount”) by making Individual Class Payments to Participating Class Members based on their pro rata share of total Weeks Worked during the Class

Period.

4. Taxes Owed on Payments to Class Members. Because the Class Members performed contract services for Defendants as independent contractors, rather than as employees, and because Defendants fully dispute the allegations alleged herein, the Parties have requested that the Court approve the plan to have the settlement funds paid to Class members as contract compensation, interest, and penalties from which no state or federal taxes will be withheld or deducted.

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

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name. If the monies represented by your check is sent to the Controller's Unclaimed Property Fund, you should consult the rules of the Fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Settlement, unless you opt-out of the Settlement, not later than the Response Deadline. See Section 6 of this Notice for details on how to Opt-Out.

7. The Proposed Settlement Will be Void If the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and Defendants have agreed that, in either case, the Settlement will be void; Defendants will not pay any money and Class Members will not release any claims against Defendants.

8. Settlement Administrator. The Court has appointed a neutral company, Phoenix Settlement Administrators (the “Settlement Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Settlement Administrator will also decide any Disputes over weeks worked, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Settlement Administrator’s contact information is contained in Section 9 of this Notice.

9. Participating Class Members' Release. After the Judgment is final and Defendants have fully funded the Settlement Amount, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or related entities for wages based on the facts alleged in the Action for the duration of the Class Period, which are resolved by this Settlement. The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective representatives, agents, heirs, and assigns, release the Released Parties (which includes Defendants, and their officers, directors, employees and agents) from all claims stated in the operative Complaint and those based solely upon the facts in the Complaint, including: (1) failure to pay minimum wages, (2) failure to pay for nonproductive time under Labor Code § 226.2, (3) failure to reimburse business expenses, (4) failure to timely pay final wages, (5) failure to provide accurate itemized wage statements, and (6) unfair and unlawful competition. The operative release period for the Released Class Claims is the Class Period. Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

10. Release of Released PAGA Claims. After the Court's judgment is final, and Defendants have paid the Settlement Amount, Plaintiffs on behalf of themselves, the State of California and the LWDA shall release the Released

Parties (which includes Defendants, and their officers, directors, employees and agents) from all PAGA claims seeking civil penalties premised upon: (1) willful misclassification, (2) failure to pay minimum wages, (3) failure to pay for nonproductive time under Labor Code § 226.2, (4) failure to reimburse business expenses, (5) failure to timely pay wages each period, (6) failure to timely pay wages upon separation of employment, (7) failure to provide accurate itemized wage statements, and (8) all other claims for civil penalties recoverable under the Private Attorneys General Act, Labor Code §§ 2698 et seq. based on the facts or claims alleged in the LWDA notice letters and operative Complaint. The time period governing the Released PAGA Claims shall be any time during the PAGA Period.

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

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Weeks Worked by all Participating Class Members during the Class Period, and (b) multiplying the result by the number of Weeks Worked by each individual Participating Class Member during the Class Period.

2. Individual PAGA Payments. The Settlement Administrator will calculate Individual PAGA Payments by (a) dividing \$12,500 by the total number of Weeks Worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by the number of Weeks Worked by each individual Aggrieved Employee during the PAGA Period.

3. Disputing Weeks Worked. The number of weeks you worked during the Class Period and PAGA Period, as recorded in Defendants' records, are stated in the tables on page 1 of this Notice. You have until **DATE** ("Response Deadline") to dispute the number of Workweeks credited to you by mailing the enclosed Dispute Form to the Settlement Administrator on or before **[INSERT DATE 45 Days After Mailing]**. Section 9 of this Notice has the Administrator's contact information.

You need to support your dispute by sending copies of the applicable documents or other records. The Settlement Administrator will accept Defendants' calculation of weeks worked based on Defendants' records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Settlement Administrator will resolve challenges based on your submission and on input from Class Counsel and Defendants' Counsel. The Settlement Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members and Aggrieved Employees. The Settlement Administrator will send, by U.S. mail, a single check to every Participating Class Member (which includes every Class Member who doesn't opt-out) and Aggrieved Employee. The single check will combine the Individual Class Payment and the Individual PAGA Payment.

2. Aggrieved Employees Only. If you opted out of the Class settlement, but qualify as an Aggrieved Employee, then the Settlement Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee, including those who opt out of the Class Settlement.

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Settlement Administrator as soon as possible. Section 9 of this Notice has the Settlement Administrator's contact information.

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

You will be treated as a Participating Class Member, participating fully in the Settlement, unless you opt-out of the Settlement, not later than the Response Deadline. To opt-out, you must complete, sign, and mail the accompanying Request for Exclusion Form to the Settlement Administrator, postmarked on or before the Response Deadline (as a reminder, **the "Response Deadline" is DATE, 2024**). Any person who submits a timely Request for Exclusion from the Class Claims (1) will not have any rights under this Settlement, including the right to object, appeal or comment on the Settlement; (2) will not be entitled to receive an Individual Class Payment; (3) will preserve the right to pursue the Released Class Claims,

and (4) will not be bound by this Settlement, or the Judgment.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Claims remain eligible to receive an Individual PAGA Payment.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. A Participating Class Member who disagrees with any aspect of the Settlement may wish to object. If you wish to object to the proposed Settlement, you or your own attorney must submit a written objection, on the enclosed Objection Form and include any and all evidence and supporting papers. The Objection Form and any accompanying evidence and papers must be sent to the Settlement Administrator at the address listed in Section 9 on the Objection Form, **postmarked** on or before the Response Deadline. If you do not comply with these procedures and the deadline for objections, the Court may not consider your objection at the Final Approval Hearing, and you may lose the right to contest the approval of the Settlement. You are still eligible to receive a settlement payment should the settlement become Final even if you object to the settlement. Submitting an objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is preserved by becoming a party of record by timely and properly intervening or filing a motion to vacate the judgment before entry of judgment.

8. WHEN IS THE FINAL APPROVAL HEARING?

On **INSERT DATE**, the Court will hold a public hearing in Department 1 of the Superior Court for the State of California, County of Riverside, 4050 Main St, Riverside, CA 92501, for the purposes of determining whether the proposed Settlement is fair, adequate and reasonable and should be approved, whether to approve Class Counsel's applications for attorneys' fees and costs, whether to approve the payments to the LWDA, and whether to approve Plaintiffs' request for the service awards. This hearing may be continued or rescheduled by the Court. Objectors to the proposed settlement will be provided notice in the event that the Final Approval Hearing is continued to a later date. Class Members who support the proposed Settlement do not need to appear at the hearing and do not need to take any other action to indicate their approval. Class Members who object to the proposed Settlement are not required to attend the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

If you have questions about this Notice, the enclosed Request for Exclusion Form, Dispute Form, or Objection Form, or the Settlement itself, or if you did not receive this Notice in the mail and you believe that you are or may be a member of the Class, you should contact the Administrator for more information or to request that a copy of this Notice and request for Exclusion, Objection, and Dispute Forms be sent to you in the mail. If you wish to communicate directly with Class Counsel, you may contact them at the information below. You may also seek advice and guidance from your own private attorney at your own expense if you so desire.

This Notice is only a summary. For more detailed information, you may review the Settlement Agreement, containing the complete terms of the proposed Settlement, which is on file with the Court and attached to the Declaration of Brian J. Mankin in Support of Motion for Preliminary Approval of Class Action Settlement filed on **INSERT DATE HERE** and available to be inspected at any time during regular business hours at the Clerk's Office, Superior Court for the State of California, County of Riverside, 4050 Main St, Riverside, CA 92501. You may also review the pleadings, records, and other papers on file in this lawsuit at the Clerk's Office or online at <https://epublic-access.riverside.courts.ca.gov/public-portal/>. To access the case file, click on "Case Number Search," then create a free online account, then type in the case number (CVRI2300287) where requested, and click "Search." You may also email Class Counsel and request a copy of the Settlement Agreement.

DO NOT TELEPHONE THE COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT

The contact information for Class Counsel and the Settlement Administrator are below:

Class Counsel	Settlement Administrator
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Brian Mankin, Esq. <i>brian@LMLfirm.com</i> Peter Carlson, Esq. <i>peter@LMLfirm.com</i> Lauby Mankin Lauby LLP 5198 Arlington Ave, PMB 513 Riverside, CA 92504 Tel: (951) 320-1444	Michael Nourmand, Esq. <i>mnourmand@nourmandlawfirm.com</i> James De Sario, Esq. <i>jdesario@nourmandlawfirm.com.com</i> The Nourmand Law Firm, APC 8822 West Olympic Boulevard Beverly Hills, CA 90211 Tel: (310) 553-3600	Name Mailing Address Telephone Number
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10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Settlement Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

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

EXHIBIT “C”

REQUEST FOR EXCLUSION FORM

Williamson and Auila v. KAL Freight, SPG Transportation, and Pro Tec
(Riverside Superior Court, Case No. CVRI2204960)

[NAME]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

DO YOU WANT TO PARTICIPATE IN THE SETTLEMENT AND RECEIVE A SETTLEMENT CHECK? (check the box that applies)

☐

YES: STOP HERE -- DO NOT RETURN THIS FORM. NO FURTHER ACTION IS NEEDED TO PARTICIPATE IN THE SETTLEMENT.

☐

NO: SIGN, DATE AND RETURN THIS FORM TO EXCLUDE YOURSELF FROM THE SETTLEMENT.

By signing below, I am excluding myself from the Settlement:

I do NOT want to participate in the settlement in *Williamson, et al. v. KAL Freight, Inc., SPG Transportation, Inc., and Pro Tec Inc.* (Riverside Superior Court Case No. CVRI2204960). I understand by excluding myself that I will no longer be a Class Member, and I will not receive an Individual Class Payment. I further understand that I cannot opt-out of the PAGA portion of the Settlement, and that if I qualify as an Aggrieved Employee (see first page of the Notice), I will receive an Individual PAGA Payment and give up my rights to pursue the Released PAGA Claims even if I exclude myself.

Signed on _____, 2024

[NAME]

MAIL TO THE SETTLEMENT ADMINISTRATOR, BY U.S. MAIL, POSTMARKED NO LATER THAN [INSERT DEADLINE]:

Settlement Administrator:

Name

Mailing Address

Telephone Number

EXHIBIT “D”

OBJECTION FORM

Williamson and Aujla v. KAL Freight, SPG Transportation, and Pro Tec
(Riverside Superior Court, Case No. CVRI2204960)

Please verify and/or complete any missing identifying information:

[NAME]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

DO YOU OBJECT TO THE SETTLEMENT? (check the box that applies)

☐

NO: STOP HERE -- DO NOT RETURN THIS FORM

☐

YES: COMPLETE THE REVERSE SIDE AND RETURN THIS FORM

I OBJECT to the Settlement in the case of *Williamson, et al. v. KAL Freight, Inc., SPG Transportation, Inc., and Pro Tec Inc.* (Riverside Superior Court Case No. CVRI2204960) on the following grounds (if additional space is necessary, please include additional sheets of paper):

[NAME]

Name
Mailing Address
Telephone Number

EXHIBIT “E”

DISPUTE FORM

Williamson and Aujla v. KAL Freight, SPG Transportation, and Pro Tec
(Riverside Superior Court, Case No. CVRI2204960)

Please verify and/or complete any missing identifying information:

[NAME]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

The following charts are based on the records of Defendants KAL Freight, Inc., SPG Transportation Inc., and Pro Tec Inc. (“Defendants”) and reflect the number of weeks that you performed work for Defendants in the State of California during the applicable periods:

<i>Data Points for Calculations of Individual Class Payment</i>	
Weeks Worked from 11/14/2018 to 5/19/2024	INSERT

<i>Data Points for Calculations of Individual PAGA Payment</i>	
Weeks Worked from 11/14/2021 to 5/19/2024	INSERT

**DO YOU DISAGREE WITH THE INFORMATION ABOVE AND WANT THE
PARTIES AND ADMINISTRATOR TO INVESTIGATE FURTHER?**

☐

NO: STOP HERE -- *DO NOT RETURN THIS FORM.*

☐

YES: COMPLETE THE REVERSE SIDE AND RETURN THIS FORM.

Please state why you believe that you should be credited with more Weeks Worked than shown in the chart and attach copies (not originals) of supporting documentation. The Parties and Settlement Administrator will consider your challenge and make a determination as to these issues.

Signed on _____, 2024

[NAME]

MAIL TO THE SETTLEMENT ADMINISTRATOR, BY U.S. MAIL, POSTMARKED NO LATER THAN [INSERT DEADLINE]:

Settlement Administrator:

Name
Mailing Address
Telephone Number

EXHIBIT “F”



LAUBY, MANKIN & LAUBY LLP

November 14, 2022

Submitted Via Online Filing to the LWDA

Sent Via U.S. Mail and Certified Mail

California LWDA
Attn: PAGA Administrator
455 Golden Gate Ave., 9th Fl.
San Francisco, CA 94102

Please See Attached Service List

Re: PAGA Civil Penalty Claim
Jane Doe v. KAL Freight, Inc., et al.

To the Labor and Workforce Development Agency, KAL Freight, Inc., SPG Transportation Inc., Pro Tec Inc., Mr. Kalvinder Singh, Mr. Kernail Singh, and Mr. Nirmaljit Kaur:

Pursuant to the Private Attorneys General Act of 2004 (“PAGA”), Labor Code §§ 2699, *et seq.*, this letter shall serve as notification of the PAGA civil penalty claim of aggrieved employee Jane Doe¹ (“Claimant”), on behalf of the State of California and all Aggrieved Employees, against her employer(s), KAL Freight, Inc., SPG Transportation Inc., Pro Tec Inc., as well as its owner(s) Mr. Kalvinder Singh, Mr. Kernail Singh, and Mr. Nirmaljit Kaur, and others (the “Owners”) (collectively, the “Company”), for violations of Labor Code §§ 200, 201, 202, 203, 204, 208, 210, 218.6, 226, 226.2, 226.3, 226.7, 226.8, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, 1199, and 2802 among possibly other sections inadvertently omitted, and/or sections of the applicable IWC Wage Order(s).

FACTUAL BACKGROUND

Claimant was employed by the Company during 2022 as a truck driver. However, at all relevant times, the Company engaged in a practice of willfully misclassifying Claimant as an independent contractor. Claimant alleges that she and all other truck drivers employed by the Company (the “Aggrieved Employees”) were subjected to the same policies, working conditions, and corresponding wage and hour violations to Claimant was subjected during her employment.

Notably, at all relevant times, the Company engaged in a practice of willfully misclassifying the Aggrieved Employees as independent contractors when they are/were employees of the Company because they (A) are/were subject to the control and direction of the Company in connection with the performance of their work, both under contract and in fact, (B) performed work that was the core business of the company (e.g., cargo pickup and delivery, etc.), and therefore the tasks were not outside the usual course of the

¹ Claimant sends this notice using the pseudonym “Jane Doe” to protect her privacy and to protect the interests of the other Aggrieved Employees by ensuring that Defendants cannot attempt to settle directly with Claimant. See *Doe v. Lincoln Unified School Dist.* (2010) 187 Cal.App.4th 1286, 1291 (California law does not require that a party sue in his or her own name). However, after adequate protective orders are entered by this Court, Claimant agrees to disclose her identity.

Mailing Address

5198 Arlington Avenue, PMB 513, Riverside, CA 92504



Toll Free
888.959.8508

Physical Address

11801 Pierce Street, Suite 200, Riverside, CA 92505

Company's business, and (C) were not customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed by the Company.

Also, at all relevant times, Claimant and the Aggrieved Employees were subject to the direction and control of the Company in regard to work assignments, scheduling requirements, and days of work. Furthermore, the Company directly and indirectly exercised control over the wages, hours, and working conditions of Claimant and the Aggrieved Employees. At all relevant times, the daily schedule for Claimant and the Aggrieved Employees was controlled solely by the Company, and the Company told them the exact time and location for all daily appointments. Furthermore, through the performance of their job duties, Claimant and the Aggrieved Employees performed an integral and entirely essential aspect of the Company's business. In fact, Claimant and the Aggrieved Employees were tasked to perform the one and only service that the Company provided: cargo pickup and delivery. In this role, Claimant and the Aggrieved Employees drove trucks owned by the Company that were plastered with the Company's logo and information and operated under the Company's Department of Transportation authority (while using the Company's insurance). Additionally, the customers are and/or were the Company's customers, not those of Claimant or the Aggrieved Employees. Claimant and the Aggrieved Employees were also prohibited from performing similar services for other companies and, thus, were not engaged in an independently established trade, occupation or business of the same nature as the work performed by the Company. And, perhaps most importantly, the Company retained the right to terminate Claimant and the Aggrieved Employees' working relationship without cause and at its discretion. Despite these facts, the Company misclassified Claimant and the Aggrieved Employees as independent contractors.

In addition to the misclassification claims, Claimant and the Aggrieved Employees were subjected to a multitude of Labor Code violations. For instance, during employment, Claimant and the Aggrieved Employees were not provided proper minimum and regular wages due to the Company's failure to accurately record and compensate for all hours worked. For example, Claimant and the Aggrieved Employees were often required to clock out for meal periods and/or breaks yet were under the Company's control and required to perform duties for the Company while off the clock. As a result of this policy and practice, Claimant and the Aggrieved Employees were required to perform off-the-clock work that Defendants either knew or should have known they were performing. Additionally, Claimant and the Aggrieved Employees were only paid on a piece-rate (per-mile) but did not receive separate hourly compensation at no less than the minimum wage for unpaid, on-duty, time including tasks such as pre-trip and post-trip inspections, detention time, loading and unloading time, completing paperwork, refueling or repair, and downtime between runs. Furthermore, Claimant and the Aggrieved Employees were not provided proper minimum due to the Company's failure to accurately record and compensate for all hours worked.

Claimant was also not provided 30-minute off-duty meal periods, as mandated by California law, during employment with the Company. As a result of the Company's policies and practices, Claimant was subjected to meal period violations when Claimant was: (1) unable to take a meal period due to workload, (2) forced to take an on-duty meal period while under the control of the Company, (3) forced to take a meal period after the 5th hour of work, and (4) not provided a mandated second meal period on occasions for shifts in excess of 10 hours.

The Company also failed to provide Claimant with 10 minutes of net rest break time for every 4 hours worked, or major fraction thereof, as mandated by California law. The Company did not schedule Claimant's rest breaks, Claimant was unable to leave the premises for breaks, and Claimant was often not authorized and/or permitted to take mandated rest breaks due to being overwhelmed by the hectic workload.

Mailing Address

5198 Arlington Avenue, PMB 513, Riverside, CA 92504



Toll Free
888.959.8508

Physical Address

11801 Pierce Street, Suite 200, Riverside, CA 92505

Furthermore, on occasions when Claimant worked in excess of 10 hours in a shift, the Company failed to authorize and/or permit a third mandated rest break.

Furthermore, at all relevant times, Claimant and the Aggrieved Employees were denied paid rest breaks by virtue of the Company's policy that only paid its truck drivers for miles driven. As Claimant and the Aggrieved Employees could not accrue miles during a rest break, Claimant and the Aggrieved Employees were illegally denied paid rest breaks. Claimant and the Aggrieved Employees were also not provided mandated 30-minute off-duty meal periods. Claimant and the Aggrieved Employees were not paid the mandatory one-hour wage premium for each such meal period or rest break denied. Also, the Company failed to pay Claimant and the Aggrieved Employees for rest and recovery periods and other nonproductive time as required by Labor Code § 226.2.

Also, the Company required Claimant and the Aggrieved Employees to incur necessary business-related expenses and costs without reimbursement, including, but not limited to, acquiring and maintaining a smart phone and related monthly data plan to communicate with the Company via phone and text message.

The Company also failed to comply with the mandates of Labor Code § 204 regarding the timing of the payment of wages to its employees each period, including meal and rest period premiums. Additionally, the Company failed to pay Claimant and the Aggrieved Employees their final wages within the timeframe required by Labor Code §§ 201 – 203. Finally, during employment with the Company, Claimant and the Aggrieved Employees received inaccurate and incomplete wage statements that failed to accurately state all necessary items required under Labor Code § 226(a).

Claimant alleges that she worked under the joint direction and control of the entities listed herein and their Owners and is informed and believes that each of them acted in all respects pertinent to this action as the agent of the others, carried out a joint scheme, business plan or policy in all respect pertinent hereto, and the acts of each are legally attributable to the others. On information and belief, a unity of interest and ownership between each exists such that the entities listed herein and the Owners acted as a single employer of Claimant and the Aggrieved Employees. Furthermore, on information and belief, the entities listed herein and their Owners are an integrated enterprise and should be treated as a single employer because the entities and their Owners share an interrelation of operations, with common human resources and personnel policies and shared common offices and facilities. Upon information and belief, the entities listed herein and their Owners share common management, a centralized control of labor operations, and common ownership or financial control.

Furthermore, Claimant alleges that the Owners are now and at all relevant times were the owners of the entities listed herein and were Claimant's and the Aggrieved Employees' actual employer or, in the alternative, were individuals employed by the Company as managerial and/or supervisory employees and/or agents. In addition, Claimant alleges that at all relevant times the Owners had the authority, in the interest of the entities listed herein to exercise independent judgment to hire, transfer, promote, discharge, assign, discipline, or take other similar actions against Claimant and the Aggrieved Employees, and were in Claimant's chain of command at the time of and direct participants in the wrongful conduct which constitutes the basis of Claimant's complaint herein. Claimant also alleges that the entities listed herein and the Owners are the agents, servants, employees, partners, affiliates, and/or representatives of each other, and were, at all times herein mentioned, acting within the course, scope, and purpose of such relationship(s) and with the knowledge, consent and/or ratification of each other. Furthermore, in conducting themselves in the manner

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11801 Pierce Street, Suite 200, Riverside, CA 92505

described herein, the entities listed herein and the Owners were acting in active concert with on another such that the acts of each were fully attributable to the other in all material respects.

Claimant also alleges the entities listed herein and the Owners were merely the alter-ego of the others in that there existed a unity of interest and ownership such that any separateness between them ceased to exist and each exercised undue dominance, control, influence, and management over the others. Claimant further alleges that, at all relevant times, the entities listed herein have been inadequately capitalized to conduct business, have failed to follow appropriate corporate formalities, and have simply been a shell and instrumentality through which the Owners have conducted their personal affairs. Adherence to the fiction of the separate existence of the entities listed herein would permit abuse of the corporate privilege, thereby sanctioning fraud and promoting injustice. Accordingly, the corporate veil should be pierced, and any liability attached to the entities listed herein should be imposed jointly and severally against the Owners.

Finally, in an additional separate, but not necessarily mutually exclusive, alternative theory of liability, the Owners are liable for PAGA civil penalties under Labor Code § 558 as “other person(s)” who caused the violations regarding minimum wage among other claims. See *Atempa v. Pedrazzani* (2018) 27 Cal.App.5th 809, 820 (“if there is evidence and a finding that a party other than the employer ‘violates, or causes to be violated’ the overtime laws (§ 558(a)) or ‘pays or causes to be paid to any employee’ less than minimum wage (§ 1197.1(a)), then that party is liable for certain civil penalties regardless of the identity or business structure of the employer”); *Moua v. IBM* (N.D. Cal. 2019) 2019 U.S.Dist.LEXIS 40851 (same).

As a result of these violations, and others described below, Claimant alleges that she and other Aggrieved Employees were denied specific rights to which they are/were entitled under California law and the rules promulgated by the IWC Wage Orders, including the following:

PAGA ASSESSMENT FOR WILLFUL MISCLASSIFICATION
(Labor Code § 226.8)

Labor Code § 226.8(a) states “It is unlawful for any person or employer to engage in any of the following activities: (1) Willful misclassification of an individual as an independent contractor” and/or “(2) Charging an individual who has been willfully misclassified as an independent contractor a fee, or making any deductions from compensation, for any purpose, including for goods, materials, space rental, services, government licenses, repairs, equipment maintenance, or fines arising from the individual's employment where any of the acts described in this paragraph would have violated the law if the individual had not been misclassified.” Labor Code § 226.8(b) states that if “a person or employer has engaged in any of the enumerated violations of subdivision (a), the person or employer shall be subject to a civil penalty of not less than five thousand dollars (\$5,000) and not more than fifteen thousand dollars (\$15,000) for each violation, in addition to any other penalties or fines permitted by law.” Labor Code § 226.8(c) further states that if “a person or employer has engaged in any of the enumerated violations of subdivision (a) and the person or employer has engaged in or is engaging in a pattern or practice of these violations, the person or employer shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than twenty-five thousand dollars (\$25,000) for each violation, in addition to any other penalties or fines permitted by law.

In this matter, the Company willfully and knowingly misclassified Claimant and all Aggrieved Employees as independent contractors. Therefore, in addition to recovering the amount of attorneys’ fees

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and cost incurred herein, Claimant is entitled to the assessment of civil penalties in accordance with Labor Code § 226.8.

PAGA ASSESSMENT FOR FAILURE TO PAY WAGES

(Labor Code §§ 204, 221-223, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198; IWC Wage Order §§ 3, 4(B))

During their employment, Claimant and the Aggrieved Employees were paid on a piece-rate basis and did not receive separate hourly compensation at no less than the minimum wage for unpaid, on-duty, time including tasks such as mandatory paid rest breaks, pre-trip and post-trip inspections, detention time, loading and unloading time, completing paperwork, refueling or repair, and downtime between runs. Additionally, the piece-rate compensation paid to Claimant and the Aggrieved Employees often resulted in a payment of wages at less than the required California minimum wages for all hours worked. Therefore, this resulted in earned, but unpaid, minimum and regular wages due and owing to Claimant and the Aggrieved Employees. Accordingly, Labor Code §§ 210, 558, 1194.2, 1197.1, and 2699, among possibly others, impose various penalties upon the Company for each employee and each pay period in which it failed to pay all wages.

PAGA ASSESSMENT FOR FAILURE TO PROVIDE SEPARATE PAYMENT FOR REST AND RECOVERY PERIODS AND OTHER NONPRODUCTIVE TIME

(Labor Code § 226.2)

Labor Code § 226.2 requires employers that pay their employees on a piece-rate basis to provide separate payment for rest and recovery periods and other nonproductive time. Claimant and the Aggrieved Employees are and/or were employees of the Company who were paid on a piece-rate/flat-rate basis, yet the Company did not comply with the requirements of Labor Code § 226.2 for its piece-rate employees. As a result of these violations, penalties may be assessed pursuant to Labor Code § 2699, among possibly other sections.

PAGA ASSESSMENT FOR DENIAL OF MEAL PERIODS, REST BREAKS, AND WAGE PREMIUMS

(Labor Code §§ 226.7(b) & (c), 512, 558; Cal. Admin. Code, Title 8, § 11090)

Labor Code § 226.7(b) states that “[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission ...” Labor Code § 512(a) states in pertinent part: “[A]n employer may not employ an employee for a work period of more than 5 hours per day without providing the employee with an uninterrupted meal period of not less than 30 minutes [...] [a]n employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes.”

Section 12 of applicable IWC Wage Order states in pertinent part: “Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

Here, Claimant and other Aggrieved Employees were regularly not provided compliant mandatory meal periods and paid rest breaks due to the Company’s policies described above. Although the Company was required to pay Claimant and all Aggrieved Employees premium wages equal to an additional hour of

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pay at the employee's regular rate of pay for each violation under Labor Code § 226.7(c), the Company did not pay the mandatory one-hour wage premiums. Labor Code § 558 imposes a penalty for each violation. Additionally, the civil assessment set forth in Labor Code § 2699 applies to these violations.

PAGA ASSESSMENT FOR FAILURE TO REIMBURSE BUSINESS EXPENSES

(Labor Code § 2802; IWC Wage Order § 9(b))

Labor Code § 2802(a) states "An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties." IWC Wage Order § 9(b) states "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer."

Here, the Company required Claimant and the Aggrieved Employees to incur expenses in direct consequence of the discharge of their duties. For example, the Company required Claimant and the Aggrieved Employees to acquire and maintain a smart phone and related monthly data plan to communicate with the Company via phone and text message. Accordingly, Labor Code § 2699 imposes a penalty upon the Company for each such violation of Labor Code § 2802.

**PAGA ASSESSMENT FOR FAILURE TO PAY ALL WAGES DUE AND OWING
EACH PAYROLL PERIOD WITHIN THE TIME REQUIRED BY LAW**

(Labor Code §§ 204, 204.1, 208, 256 and 2699)

Labor Code § 204(a) states that all wages earned by a person are due and payable twice during each calendar month, and further states that wages earned during the first through fifteenth days of the month must be paid no later than the twenty-sixth day of the month, and that wages earned between the sixteenth and last day of the month must be paid by the tenth day of the following month. Labor Code § 204(d) states "[t]he requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period."

As a result of the Company's failure to pay Claimant and the Aggrieved Employees all compensation to which they were entitled, the Company had a pattern and practice of failing to pay all wages due and owing to Claimant and the Aggrieved Employees within the time mandated by Labor Code § 204. As a result of these violations, penalties may be assessed pursuant to Labor Code §§ 203, 210, 256, and/or 2699.

PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY FINAL WAGES

(Labor Code §§ 201, 202, 203, 256 and 2699)

Labor Code § 201(a) provides in pertinent part: "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Labor Code § 202(a) states in pertinent part "If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours' previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting." Labor Code § 203(a) states "If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the

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due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.”

The Company did not pay the Aggrieved Employees all wages that were due and owing within the required time following the end of their employment in accordance with Labor Code §§ 201-202. As a result, all such Aggrieved Employees are entitled to 30 days of wages as a “waiting time penalty.” (Labor Code §§ 203, 256.) Labor Code § 2699 also imposes a penalty.

**PAGA ASSESSMENT FOR FAILURE TO PROVIDE ACCURATE,
ITEMIZED WAGE STATEMENTS**

(Labor Code §§ 226, 226.3, and 1174)

Labor Code § 226(a) requires an employer to provide its employees with itemized wage statements accurately stating gross wages earned, total hours worked, all deductions, net wages earned, the inclusive dates of the pay period, the employee’s name and the last four digits of his or her Social Security number (or employee identification number), the name and address of the legal entity that is the employer, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

Furthermore, Labor Code § 226.2(a) states “[f]or employees compensated on a piece-rate basis during a pay period, the following shall apply for that pay period: [...] (2) the itemized statement required by subdivision (a) of Section 226 shall, in addition to the other items specified in that subdivision, separately state the following, to which the provisions of Section 226 shall also be applicable: (A) the total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those periods during the pay period [and] (B) [...] the total hours of other nonproductive time, [...] the rate of compensation, and the gross wages paid for that time during the pay period.”

Here, the Company failed to provide accurate itemized wage statements due to violations including: failure to accurately state total hours worked on the Aggrieved Employees’ wage statements; failure to accurately state the number of piece-rate units earned by the Aggrieved Employees and any applicable piece-rate; failure to accurately state gross wages earned; failure to accurately state all deductions; failure to accurately state net wages earned; failure to state all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee; failure to state the total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those periods during the pay period; and failure to state the total hours of other nonproductive time, [...] the rate of compensation, and the gross wages paid for that time during the pay period. Accordingly, Labor Code §§ 226.3 and 2699 impose a civil penalty and/or assessment for these violations.

PAGA ASSESSMENT FOR VIOLATIONS OF LABOR CODE § 1199

(Labor Code § 1199)

An employer violates Labor Code § 1199 if said employer: (a) requires or causes an employee to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission; (b) pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission; or, (c) violates or refuses or neglects to comply with any provision of this chapter or any order or ruling of the commission. Labor Code § 2699.5 specifically enumerates Labor Code § 1199 as a

section to which the civil penalties under the PAGA apply. Therefore, as a result of the Company's violations described herein, the Company is subject to civil penalties in accordance with Labor Code § 2699.

ATTORNEYS' FEES, INTEREST, AND PENALTIES

(Labor Code §§ 2699(f)(2), 2699(g)(1), 2699.5)

Labor Code § 2699(g)(1), give employees the right to recover in a civil action the unpaid balance of the full amount of wages, including interest thereon, penalties and other damages, as applicable, reasonable attorneys' fees, and costs of suit. Additionally, Claimants seek the assessment of penalties, including civil penalties, under Labor Code §§ 203, 210, 225.5, 226.3, 1174.5, 1197.1, 2699, and/or § 20 of the IWC Wage Orders, among possibly other provisions inadvertently omitted herein. Furthermore, Claimants is entitled to bring a wage/hour claim on behalf of all current and former similarly situated employees of the Company. Thus, the Company is exposed to these same penalties for violations involving all Aggrieved Employees.

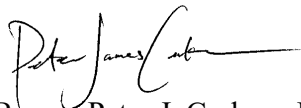
Additionally, Claimant seeks attorney's fees pursuant to C.C.P. § 1021.5. Please construe this correspondence as Claimant's notification of alleged wrongdoing and attempted resolution in accordance with C.C.P. § 1021.5 and *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553.

CONCLUSION

Based on the foregoing, the Company may be liable for penalties related to the foregoing claims and remedies. If Claimant becomes aware of any additional claims for Labor Code violations related to her employment and/or other employees of the Company, he reserves the right to add new claims by amending this claim letter.

Should you have any questions, please feel free to give me a call. In the meantime, I look forward to your response.

Very Truly Yours,



By: Peter J. Carlson, Esq.

E-mail: peter@lmlfirm.com

Mailing Address

5198 Arlington Avenue, PMB 513, Riverside, CA 92504



Toll Free
888.959.8508

Physical Address

11801 Pierce Street, Suite 200, Riverside, CA 92505

SERVICE LIST

KAL Freight, Inc.
10156 Live Oak Ave.
Fontana, CA 92335

KAL Freight, Inc.
600 109th St., Suite B
Arlington, TX 76011

SPG Transportation Inc.
26788 Fir Ave.
Moreno Valley, CA 92555

Pro Tec Inc.
15938 Turtle Bay Place
Fontana, CA 92336

Kalvinder Singh
10192 Jacaranda Ct.
Rancho Cucamonga, CA 91737

Kernail Singh
15938 Turtle Bay Place
Fontana, CA 92336

Nirmaljit Kaur
15938 Turtle Bay Place
Fontana, CA 92336

Mailing Address

5198 Arlington Avenue, PMB 513, Riverside, CA 92504



Toll Free
888.959.8508

Physical Address

11801 Pierce Street, Suite 200, Riverside, CA 92505



LAUBY, MANKIN & LAUBY LLP

May 3, 2023

Submitted Via Online Filing to the LWDA

Sent Via U.S. Mail and Certified Mail

California LWDA
Attn: PAGA Administrator
455 Golden Gate Ave., 9th Fl.
San Francisco, CA 94102

Please See Attached Service List

Re: PAGA Civil Penalty Claim
Tiana Williamson v. KAL Freight, Inc., et al.
LWDA Case No. LWDA-CM-919350-22

To the Labor and Workforce Development Agency, KAL Freight, Inc., SPG Transportation Inc., Pro Tec Inc., Mr. Kalvinder Singh, Mr. Kernail Singh, and Mr. Nirmaljit Kaur:

Pursuant to the Private Attorneys General Act of 2004 (“PAGA”), Labor Code §§ 2699, *et seq.*, this letter shall serve as amended notification of the PAGA civil penalty claim of aggrieved employee Tiana Williamson¹ (“Claimant”), on behalf of the State of California and all Aggrieved Employees, against her employer(s), KAL Freight, Inc., SPG Transportation Inc., Pro Tec Inc., as well as its owner(s) Mr. Kalvinder Singh, Mr. Kernail Singh, and Mr. Nirmaljit Kaur, and others (the “Owners”) (collectively, the “Company”), for violations of Labor Code §§ 200, 201, 202, 203, 204, 208, 210, 218.6, 226, 226.2, 226.3, 226.7, 226.8, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, 1199, and 2802 among possibly other sections inadvertently omitted, and/or sections of the applicable IWC Wage Order(s).

FACTUAL BACKGROUND

Claimant was employed by the Company during 2022 as a truck driver. However, at all relevant times, the Company engaged in a practice of willfully misclassifying Claimant as an independent contractor. Claimant alleges that she and all other truck drivers employed by the Company (the “Aggrieved Employees”) were subjected to the same policies, working conditions, and corresponding wage and hour violations to Claimant was subjected during her employment.

Notably, at all relevant times, the Company engaged in a practice of willfully misclassifying the Aggrieved Employees as independent contractors when they are/were employees of the Company because they (A) are/were subject to the control and direction of the Company in connection with the performance of their work, both under contract and in fact, (B) performed work that was the core business of the company (e.g., cargo pickup and delivery, etc.), and therefore the tasks were not outside the usual course of the

¹ This amended notice is sent to disclose the name of Claimant Tiana Williamson. The initial notice was sent using the pseudonym “Jane Doe” to protect her privacy and to protect the interests of the other Aggrieved Employees by ensuring that Defendants cannot attempt to settle directly with Claimant. However, the Riverside Superior Court has now entered a sufficient protective order, and Claimant now discloses her identity.

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Company's business, and (C) were not customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed by the Company.

Also, at all relevant times, Claimant and the Aggrieved Employees were subject to the direction and control of the Company in regard to work assignments, scheduling requirements, and days of work. Furthermore, the Company directly and indirectly exercised control over the wages, hours, and working conditions of Claimant and the Aggrieved Employees. At all relevant times, the daily schedule for Claimant and the Aggrieved Employees was controlled solely by the Company, and the Company told them the exact time and location for all daily appointments. Furthermore, through the performance of their job duties, Claimant and the Aggrieved Employees performed an integral and entirely essential aspect of the Company's business. In fact, Claimant and the Aggrieved Employees were tasked to perform the one and only service that the Company provided: cargo pickup and delivery. In this role, Claimant and the Aggrieved Employees drove trucks owned by the Company that were plastered with the Company's logo and information and operated under the Company's Department of Transportation authority (while using the Company's insurance). Additionally, the customers are and/or were the Company's customers, not those of Claimant or the Aggrieved Employees. Claimant and the Aggrieved Employees were also prohibited from performing similar services for other companies and, thus, were not engaged in an independently established trade, occupation or business of the same nature as the work performed by the Company. And, perhaps most importantly, the Company retained the right to terminate Claimant and the Aggrieved Employees' working relationship without cause and at its discretion. Despite these facts, the Company misclassified Claimant and the Aggrieved Employees as independent contractors.

In addition to the misclassification claims, Claimant and the Aggrieved Employees were subjected to a multitude of Labor Code violations. For instance, during employment, Claimant and the Aggrieved Employees were not provided proper minimum and regular wages due to the Company's failure to accurately record and compensate for all hours worked. For example, Claimant and the Aggrieved Employees were often required to clock out for meal periods and/or breaks yet were under the Company's control and required to perform duties for the Company while off the clock. As a result of this policy and practice, Claimant and the Aggrieved Employees were required to perform off-the-clock work that Defendants either knew or should have known they were performing. Additionally, Claimant and the Aggrieved Employees were only paid on a piece-rate (per-mile) but did not receive separate hourly compensation at no less than the minimum wage for unpaid, on-duty, time including tasks such as pre-trip and post-trip inspections, detention time, loading and unloading time, completing paperwork, refueling or repair, and downtime between runs. Furthermore, Claimant and the Aggrieved Employees were not provided proper minimum due to the Company's failure to accurately record and compensate for all hours worked.

Claimant was also not provided 30-minute off-duty meal periods, as mandated by California law, during employment with the Company. As a result of the Company's policies and practices, Claimant was subjected to meal period violations when Claimant was: (1) unable to take a meal period due to workload, (2) forced to take an on-duty meal period while under the control of the Company, (3) forced to take a meal period after the 5th hour of work, and (4) not provided a mandated second meal period on occasions for shifts in excess of 10 hours.

The Company also failed to provide Claimant with 10 minutes of net rest break time for every 4 hours worked, or major fraction thereof, as mandated by California law. The Company did not schedule Claimant's rest breaks, Claimant was unable to leave the premises for breaks, and Claimant was often not authorized and/or permitted to take mandated rest breaks due to being overwhelmed by the hectic workload.

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Furthermore, on occasions when Claimant worked in excess of 10 hours in a shift, the Company failed to authorize and/or permit a third mandated rest break.

Furthermore, at all relevant times, Claimant and the Aggrieved Employees were denied paid rest breaks by virtue of the Company's policy that only paid its truck drivers for miles driven. As Claimant and the Aggrieved Employees could not accrue miles during a rest break, Claimant and the Aggrieved Employees were illegally denied paid rest breaks. Claimant and the Aggrieved Employees were also not provided mandated 30-minute off-duty meal periods. Claimant and the Aggrieved Employees were not paid the mandatory one-hour wage premium for each such meal period or rest break denied. Also, the Company failed to pay Claimant and the Aggrieved Employees for rest and recovery periods and other nonproductive time as required by Labor Code § 226.2.

Also, the Company required Claimant and the Aggrieved Employees to incur necessary business-related expenses and costs without reimbursement, including, but not limited to, acquiring and maintaining a smart phone and related monthly data plan to communicate with the Company via phone and text message.

The Company also failed to comply with the mandates of Labor Code § 204 regarding the timing of the payment of wages to its employees each period, including meal and rest period premiums. Additionally, the Company failed to pay Claimant and the Aggrieved Employees their final wages within the timeframe required by Labor Code §§ 201 – 203. Finally, during employment with the Company, Claimant and the Aggrieved Employees received inaccurate and incomplete wage statements that failed to accurately state all necessary items required under Labor Code § 226(a).

Claimant alleges that she worked under the joint direction and control of the entities listed herein and their Owners and is informed and believes that each of them acted in all respects pertinent to this action as the agent of the others, carried out a joint scheme, business plan or policy in all respect pertinent hereto, and the acts of each are legally attributable to the others. On information and belief, a unity of interest and ownership between each exists such that the entities listed herein and the Owners acted as a single employer of Claimant and the Aggrieved Employees. Furthermore, on information and belief, the entities listed herein and their Owners are an integrated enterprise and should be treated as a single employer because the entities and their Owners share an interrelation of operations, with common human resources and personnel policies and shared common offices and facilities. Upon information and belief, the entities listed herein and their Owners share common management, a centralized control of labor operations, and common ownership or financial control.

Furthermore, Claimant alleges that the Owners are now and at all relevant times were the owners of the entities listed herein and were Claimant's and the Aggrieved Employees' actual employer or, in the alternative, were individuals employed by the Company as managerial and/or supervisory employees and/or agents. In addition, Claimant alleges that at all relevant times the Owners had the authority, in the interest of the entities listed herein to exercise independent judgment to hire, transfer, promote, discharge, assign, discipline, or take other similar actions against Claimant and the Aggrieved Employees, and were in Claimant's chain of command at the time of and direct participants in the wrongful conduct which constitutes the basis of Claimant's complaint herein. Claimant also alleges that the entities listed herein and the Owners are the agents, servants, employees, partners, affiliates, and/or representatives of each other, and were, at all times herein mentioned, acting within the course, scope, and purpose of such relationship(s) and with the knowledge, consent and/or ratification of each other. Furthermore, in conducting themselves in the manner

described herein, the entities listed herein and the Owners were acting in active concert with on another such that the acts of each were fully attributable to the other in all material respects.

Claimant also alleges the entities listed herein and the Owners were merely the alter-ego of the others in that there existed a unity of interest and ownership such that any separateness between them ceased to exist and each exercised undue dominance, control, influence, and management over the others. Claimant further alleges that, at all relevant times, the entities listed herein have been inadequately capitalized to conduct business, have failed to follow appropriate corporate formalities, and have simply been a shell and instrumentality through which the Owners have conducted their personal affairs. Adherence to the fiction of the separate existence of the entities listed herein would permit abuse of the corporate privilege, thereby sanctioning fraud and promoting injustice. Accordingly, the corporate veil should be pierced, and any liability attached to the entities listed herein should be imposed jointly and severally against the Owners.

Finally, in an additional separate, but not necessarily mutually exclusive, alternative theory of liability, the Owners are liable for PAGA civil penalties under Labor Code § 558 as “other person(s)” who caused the violations regarding minimum wage among other claims. See *Atempa v. Pedrazzani* (2018) 27 Cal.App.5th 809, 820 (“if there is evidence and a finding that a party other than the employer ‘violates, or causes to be violated’ the overtime laws (§ 558(a)) or ‘pays or causes to be paid to any employee’ less than minimum wage (§ 1197.1(a)), then that party is liable for certain civil penalties regardless of the identity or business structure of the employer”); *Moua v. IBM* (N.D. Cal. 2019) 2019 U.S.Dist.LEXIS 40851 (same).

As a result of these violations, and others described below, Claimant alleges that she and other Aggrieved Employees were denied specific rights to which they are/were entitled under California law and the rules promulgated by the IWC Wage Orders, including the following:

PAGA ASSESSMENT FOR WILLFUL MISCLASSIFICATION
(Labor Code § 226.8)

Labor Code § 226.8(a) states “It is unlawful for any person or employer to engage in any of the following activities: (1) Willful misclassification of an individual as an independent contractor” and/or “(2) Charging an individual who has been willfully misclassified as an independent contractor a fee, or making any deductions from compensation, for any purpose, including for goods, materials, space rental, services, government licenses, repairs, equipment maintenance, or fines arising from the individual's employment where any of the acts described in this paragraph would have violated the law if the individual had not been misclassified.” Labor Code § 226.8(b) states that if “a person or employer has engaged in any of the enumerated violations of subdivision (a), the person or employer shall be subject to a civil penalty of not less than five thousand dollars (\$5,000) and not more than fifteen thousand dollars (\$15,000) for each violation, in addition to any other penalties or fines permitted by law.” Labor Code § 226.8(c) further states that if “a person or employer has engaged in any of the enumerated violations of subdivision (a) and the person or employer has engaged in or is engaging in a pattern or practice of these violations, the person or employer shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than twenty-five thousand dollars (\$25,000) for each violation, in addition to any other penalties or fines permitted by law.

In this matter, the Company willfully and knowingly misclassified Claimant and all Aggrieved Employees as independent contractors. Therefore, in addition to recovering the amount of attorneys’ fees

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888.959.8508

Physical Address

11801 Pierce Street, Suite 200, Riverside, CA 92505

and cost incurred herein, Claimant is entitled to the assessment of civil penalties in accordance with Labor Code § 226.8.

PAGA ASSESSMENT FOR FAILURE TO PAY WAGES

(Labor Code §§ 204, 221-223, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198; IWC Wage Order §§ 3, 4(B))

During their employment, Claimant and the Aggrieved Employees were paid on a piece-rate basis and did not receive separate hourly compensation at no less than the minimum wage for unpaid, on-duty, time including tasks such as mandatory paid rest breaks, pre-trip and post-trip inspections, detention time, loading and unloading time, completing paperwork, refueling or repair, and downtime between runs. Additionally, the piece-rate compensation paid to Claimant and the Aggrieved Employees often resulted in a payment of wages at less than the required California minimum wages for all hours worked. Therefore, this resulted in earned, but unpaid, minimum and regular wages due and owing to Claimant and the Aggrieved Employees. Accordingly, Labor Code §§ 210, 558, 1194.2, 1197.1, and 2699, among possibly others, impose various penalties upon the Company for each employee and each pay period in which it failed to pay all wages.

PAGA ASSESSMENT FOR FAILURE TO PROVIDE SEPARATE PAYMENT FOR REST AND RECOVERY PERIODS AND OTHER NONPRODUCTIVE TIME

(Labor Code § 226.2)

Labor Code § 226.2 requires employers that pay their employees on a piece-rate basis to provide separate payment for rest and recovery periods and other nonproductive time. Claimant and the Aggrieved Employees are and/or were employees of the Company who were paid on a piece-rate/flat-rate basis, yet the Company did not comply with the requirements of Labor Code § 226.2 for its piece-rate employees. As a result of these violations, penalties may be assessed pursuant to Labor Code § 2699, among possibly other sections.

PAGA ASSESSMENT FOR DENIAL OF MEAL PERIODS, REST BREAKS, AND WAGE PREMIUMS

(Labor Code §§ 226.7(b) & (c), 512, 558; Cal. Admin. Code, Title 8, § 11090)

Labor Code § 226.7(b) states that “[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission ...” Labor Code § 512(a) states in pertinent part: “[A]n employer may not employ an employee for a work period of more than 5 hours per day without providing the employee with an uninterrupted meal period of not less than 30 minutes [...] [a]n employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes.”

Section 12 of applicable IWC Wage Order states in pertinent part: “Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

Here, Claimant and other Aggrieved Employees were regularly not provided compliant mandatory meal periods and paid rest breaks due to the Company’s policies described above. Although the Company was required to pay Claimant and all Aggrieved Employees premium wages equal to an additional hour of

Mailing Address

5198 Arlington Avenue, PMB 513, Riverside, CA 92504



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888.959.8508

Physical Address

11801 Pierce Street, Suite 200, Riverside, CA 92505

pay at the employee's regular rate of pay for each violation under Labor Code § 226.7(c), the Company did not pay the mandatory one-hour wage premiums. Labor Code § 558 imposes a penalty for each violation. Additionally, the civil assessment set forth in Labor Code § 2699 applies to these violations.

PAGA ASSESSMENT FOR FAILURE TO REIMBURSE BUSINESS EXPENSES

(Labor Code § 2802; IWC Wage Order § 9(b))

Labor Code § 2802(a) states "An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties." IWC Wage Order § 9(b) states "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer."

Here, the Company required Claimant and the Aggrieved Employees to incur expenses in direct consequence of the discharge of their duties. For example, the Company required Claimant and the Aggrieved Employees to acquire and maintain a smart phone and related monthly data plan to communicate with the Company via phone and text message. Accordingly, Labor Code § 2699 imposes a penalty upon the Company for each such violation of Labor Code § 2802.

**PAGA ASSESSMENT FOR FAILURE TO PAY ALL WAGES DUE AND OWING
EACH PAYROLL PERIOD WITHIN THE TIME REQUIRED BY LAW**

(Labor Code §§ 204, 204.1, 208, 256 and 2699)

Labor Code § 204(a) states that all wages earned by a person are due and payable twice during each calendar month, and further states that wages earned during the first through fifteenth days of the month must be paid no later than the twenty-sixth day of the month, and that wages earned between the sixteenth and last day of the month must be paid by the tenth day of the following month. Labor Code § 204(d) states "[t]he requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period."

As a result of the Company's failure to pay Claimant and the Aggrieved Employees all compensation to which they were entitled, the Company had a pattern and practice of failing to pay all wages due and owing to Claimant and the Aggrieved Employees within the time mandated by Labor Code § 204. As a result of these violations, penalties may be assessed pursuant to Labor Code §§ 203, 210, 256, and/or 2699.

PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY FINAL WAGES

(Labor Code §§ 201, 202, 203, 256 and 2699)

Labor Code § 201(a) provides in pertinent part: "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Labor Code § 202(a) states in pertinent part "If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours' previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting." Labor Code § 203(a) states "If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the

Mailing Address

5198 Arlington Avenue, PMB 513, Riverside, CA 92504



Toll Free
888.959.8508

Physical Address

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due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.”

The Company did not pay the Aggrieved Employees all wages that were due and owing within the required time following the end of their employment in accordance with Labor Code §§ 201-202. As a result, all such Aggrieved Employees are entitled to 30 days of wages as a “waiting time penalty.” (Labor Code §§ 203, 256.) Labor Code § 2699 also imposes a penalty.

**PAGA ASSESSMENT FOR FAILURE TO PROVIDE ACCURATE,
ITEMIZED WAGE STATEMENTS**

(Labor Code §§ 226, 226.3, and 1174)

Labor Code § 226(a) requires an employer to provide its employees with itemized wage statements accurately stating gross wages earned, total hours worked, all deductions, net wages earned, the inclusive dates of the pay period, the employee’s name and the last four digits of his or her Social Security number (or employee identification number), the name and address of the legal entity that is the employer, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

Furthermore, Labor Code § 226.2(a) states “[f]or employees compensated on a piece-rate basis during a pay period, the following shall apply for that pay period: [...] (2) the itemized statement required by subdivision (a) of Section 226 shall, in addition to the other items specified in that subdivision, separately state the following, to which the provisions of Section 226 shall also be applicable: (A) the total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those periods during the pay period [and] (B) [...] the total hours of other nonproductive time, [...] the rate of compensation, and the gross wages paid for that time during the pay period.”

Here, the Company failed to provide accurate itemized wage statements due to violations including: failure to accurately state total hours worked on the Aggrieved Employees’ wage statements; failure to accurately state the number of piece-rate units earned by the Aggrieved Employees and any applicable piece-rate; failure to accurately state gross wages earned; failure to accurately state all deductions; failure to accurately state net wages earned; failure to state all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee; failure to state the total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those periods during the pay period; and failure to state the total hours of other nonproductive time, [...] the rate of compensation, and the gross wages paid for that time during the pay period. Accordingly, Labor Code §§ 226.3 and 2699 impose a civil penalty and/or assessment for these violations.

PAGA ASSESSMENT FOR VIOLATIONS OF LABOR CODE § 1199

(Labor Code § 1199)

An employer violates Labor Code § 1199 if said employer: (a) requires or causes an employee to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission; (b) pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission; or, (c) violates or refuses or neglects to comply with any provision of this chapter or any order or ruling of the commission. Labor Code § 2699.5 specifically enumerates Labor Code § 1199 as a

section to which the civil penalties under the PAGA apply. Therefore, as a result of the Company's violations described herein, the Company is subject to civil penalties in accordance with Labor Code § 2699.

ATTORNEYS' FEES, INTEREST, AND PENALTIES

(Labor Code §§ 2699(f)(2), 2699(g)(1), 2699.5)

Labor Code § 2699(g)(1), give employees the right to recover in a civil action the unpaid balance of the full amount of wages, including interest thereon, penalties and other damages, as applicable, reasonable attorneys' fees, and costs of suit. Additionally, Claimants seek the assessment of penalties, including civil penalties, under Labor Code §§ 203, 210, 225.5, 226.3, 1174.5, 1197.1, 2699, and/or § 20 of the IWC Wage Orders, among possibly other provisions inadvertently omitted herein. Furthermore, Claimants is entitled to bring a wage/hour claim on behalf of all current and former similarly situated employees of the Company. Thus, the Company is exposed to these same penalties for violations involving all Aggrieved Employees.

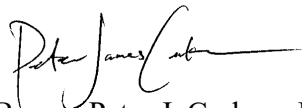
Additionally, Claimant seeks attorney's fees pursuant to C.C.P. § 1021.5. Please construe this correspondence as Claimant's notification of alleged wrongdoing and attempted resolution in accordance with C.C.P. § 1021.5 and *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553.

CONCLUSION

Based on the foregoing, the Company may be liable for penalties related to the foregoing claims and remedies. If Claimant becomes aware of any additional claims for Labor Code violations related to her employment and/or other employees of the Company, he reserves the right to add new claims by amending this claim letter.

Should you have any questions, please feel free to give me a call. In the meantime, I look forward to your response.

Very Truly Yours,



By: Peter J. Carlson, Esq.

E-mail: peter@lmlfirm.com

Mailing Address

5198 Arlington Avenue, PMB 513, Riverside, CA 92504



Toll Free
888.959.8508

Physical Address

11801 Pierce Street, Suite 200, Riverside, CA 92505

SERVICE LIST

KAL Freight, Inc.
10156 Live Oak Ave.
Fontana, CA 92335

KAL Freight, Inc.
600 109th St., Suite B
Arlington, TX 76011

SPG Transportation Inc.
26788 Fir Ave.
Moreno Valley, CA 92555

Pro Tec Inc.
15938 Turtle Bay Place
Fontana, CA 92336

Kalvinder Singh
10192 Jacaranda Ct.
Rancho Cucamonga, CA 91737

Kernail Singh
15938 Turtle Bay Place
Fontana, CA 92336

Nirmaljit Kaur
15938 Turtle Bay Place
Fontana, CA 92336

Mailing Address

5198 Arlington Avenue, PMB 513, Riverside, CA 92504



Toll Free
888.959.8508

Physical Address

11801 Pierce Street, Suite 200, Riverside, CA 92505

EXHIBIT “G”