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Attorneys for Plaintiff
German Rodriguez

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

GERMAN RODRIGUEZ, on behalf of himself
and all aggrieved employees,

Plaintiffs,

v.

MODERN PARKING, INC., and DOES 1 to 100,

Defendants.

Case No.: 23STCV00936

**DECLARATION OF MANNY STARR
IN SUPPORT OF STIPULATION FOR
APPROVAL OF PAGA SETTLEMENT**

I, Manny Starr, declare and state as follows:

1. I am one of the attorneys for the plaintiff. I have personal knowledge of the facts in this declaration and if called on to testify about the facts I would competently do so.

2. I am experienced in handling employment law matters and specifically wage and hour cases, including PAGA claims. I have been practicing law since 2018. In my

1 representation of employees, I have handled several individual and representative cases on
2 behalf of employees with claims of minimum wages, overtime violations, as well as other wage
3 claims, including meal breaks and rest breaks.

4 ***Factual and Procedural Background***

5 3. The case was filed on January 17, 2023 in the Superior Court for the State of
6 California, County of Los Angeles, Case No. 23STCV00936 with one cause of action for
7 penalties under PAGA under the following legal theories: (a) failure to pay all minimum wages
8 owed; (b) failure to pay all overtime and/or double time wages owed; (c) failure to pay all
9 overtime and/or double time wages owed at the correct rate(s) of pay; (d) failure to provide
10 compliant meal periods, or premium pay for non-compliant meal periods; (e) failure to
11 authorize and permit complaint rest periods, or provide premium pay for non-complaint rest
12 periods; (f) failure to provide accurate, itemized wage statements and/or otherwise maintain
13 accurate records; (g) failure to timely pay wages upon separation of employment; (h) failure to
14 indemnify and/or reimburse for all reasonable and necessary business expenses; and (i) failure
15 to pay sick pay at the correct rate.

16 4. According to Defendant's records, it estimates that it has employed 391
17 Aggrieved Employees from November 13, 2021, through about May 17, 2023, and that there
18 are a total of approximately 8,355 pay periods worked for that same time period

19 5. On May 17, 2023, the Parties attended a full day mediation session with
20 experienced wage-and-hour mediator Gig Kyriacou. At the mediation, the Parties agreed to
21 settle the entire action, including the Representative PAGA claim. Before agreeing to the terms
22 of the Settlement, the Parties engaged in informal discovery regarding Defendant's policies,
23 practices, operations, time and payroll information and other topics. Defendant produced
24 Plaintiff's personnel file, including time and payroll data for Plaintiff and produced the time
25 records and payroll records for a sampling 15% of the aggrieved employees.

26 6. I am of the opinion that the Settlement for the consideration and on the terms set
27 forth in this Stipulation is fair, reasonable and adequate.

28 7. The Parties further recognize that the issues presented in the Representative

1 PAGA Claim are likely only to be resolved with extensive and costly pretrial and trial
2 proceedings, and that further litigation will cause inconvenience, distraction, disruption, delay,
3 and expense disproportionate to the maximum potential benefits.

4 ***Settlement Terms and Reasonableness***

5 8. A true and correct copy of the settlement agreement is attached as **Exhibit A**.
6 Also, a true and correct copy of the proposed letter to the aggrieved employees with their
7 settlement payments is attached as **Exhibit B**. A true and correct copy of Plaintiff's November
8 11, 2022 letter to Defendant and the Labor and Workforce Development Agency providing
9 notice pursuant to Labor Code section 2699.3, subd. (a) is attached as **Exhibit C**.

10 9. Plaintiff estimated a maximum exposure of approximately **\$3,914,390.00**
11 (\$502,109 for meal period violations, \$557,898 for rest period violations, \$50,991 for regular
12 rate violations, \$557,898 for unpaid wages, \$1,115,797 for failure to reimburse, \$1,115,797 for
13 wage statement penalties, and \$13,900 for waiting time violations) in civil penalties for
14 Plaintiff's disputed claims. Plaintiff's analysis, which Defendant disputes, revealed a 90%
15 violation rate for meal breaks with at least 1 late, short, or interrupted meal period. Plaintiff
16 extrapolated the same 90% for rest break violations. Likewise, the regular rate claim is based
17 on the theory that Defendant did not include "car allowance" payments into the regular rate of
18 pay for overtime and sick pay. Plaintiff's disputed analysis showed that these car allowance
19 payments coincided with overtime and/or sick pay on 9% of the pay periods in the sampling.

20 10. This maximum exposure should be reduced on the below factors. First, it
21 assumed each pay period in which there was no adjustment for meal period penalties included
22 meal period violations, as Plaintiff stated he was locked out from clocking back in and reported
23 having a shortened meal period approximately once per week. However, Defendant disputed
24 Plaintiff's "clock lockout" allegations and contended the 30-minute clock lockout was not in
25 place for some or all of the PAGA period. Plaintiff's revised analysis, which assumes this is
26 true, then estimated that approximately 25% of pay periods had break violations. Further,
27 Defendant contended that the car allowance was an expense reimbursement that should be
28 excluded from the regular rate calculations. Defendant also contended the cell phone claim had

1 no merit, as they provided over 130 cell phones, covering all employees in a position requiring
2 them to have one. Even assuming some employees did not receive a company cell phone, only
3 about 10% of the Aggrieved Employees were in a position that required cell phone.

4 Recalculating penalties based on these new assumptions and rates, the maximum likely
5 exposure for Defendant, prior to any reduction for being unjust, arbitrary and oppressive, or
6 confiscatory, is about **\$1,305,331**.

7 11. In addition, Defendant would make an argument under *Naranjo v. Spectrum*
8 *Security Services, Inc.* (2019) 40 Cal. App. 5th 444 which at the time of this settlement, held
9 that meal or rest period violations are not a predicate for civil penalties for improper wage
10 statements and untimely final wages under Labor Code sections 201-203, 226, 226.3, and 2699.
11 Defendant also adamantly disputed all of Plaintiff's allegations in the operative Complaint.

12 12. Thus, the settlement of PAGA penalties in the gross sum of \$150,000, is
13 reasonable and appropriate under the circumstances.¹

14 ***Attorneys' Fees and Costs***

15 13. I represent the Plaintiff on a straight contingency basis. My firm's request for
16 \$52,500.00 in attorney fees and \$10,500.00 in litigation costs is fair and reasonable. "Empirical
17 studies show that, regardless of whether the percentage method or the lodestar method is used,
18 fee awards in class actions average around one-third of the recovery. *See Chavez v. Netflix, Inc.*
19 (2008) 162 Cal.App.4th 43, 47 fn. 11 (quoting *Shaw v. Toshiba America Information Systems,*
20 *Inc.* (E.D. Tex. 2000) 91 F.Supp.2d 942, 972; *See also Lafitte v. Robert Half Int'l Inc.* (Cal.
21 Aug. 11, 2016) 1 Cal.5th 480, 503, 376 P.3d 672, 686 (holding that courts can use the percentage
22 method for the calculation of attorneys' fees). This is also consistent with my (and my team's)
23 experience in cases involving PAGA claims. This award is justified here because Plaintiff's
24 counsel achieved a strong result for the Aggrieved Employees and the State while bearing the
25 substantial burdens of contingency representation.

26 _____
27 ¹ We are claiming \$2,000 less in costs than the allowance under the settlement agreement, as
28 our costs ended up being less than we estimated. If the net settlement is adjusted to read these
amounts, the recoveries are \$56,062.50 to the LWDA and \$18,687.50 to the Aggrieved
Employees respectively.

1 14. Crossing the percentage with our lodestar, the fee is still reasonable. Our firm
 2 has spent a combined 84.7 hours and counting on litigating this case. Even though we took the
 3 case on a pure contingency basis, we have established rates for purposes of recording our time
 4 and lodestars. Using these rates, our firm's lodestar amount is at least \$50,140 at the time of
 5 this declaration. In terms of my experience in this field, I have been named as Class Counsel in
 6 several Class Actions, and have been lead counsel in numerous representative PAGA
 7 settlements that have been granted approval, including the following:

- 8 i. *Joshua Albright, et al. v. Loma Linda Shared Services*, Case No.
 9 CIVDS1818361: Class action and PAGA case involving failure to pay wages,
 10 meal and rest break violations, and failure to indemnify work related expenses;
 11 \$600,000.00 settlement; final approval granted;
- 12 ii. *Tri Nguyen v First Alarm Security & Patrol, Inc.*, Case No. 18CV332369: class
 13 action and PAGA case on behalf of security guards involving various wage and
 14 hour issues; \$7,250,000 settlement; final approval granted;
- 15 iii. *Ronnie McNeal v. Platinum Security, Inc.*, Case No. 19STCV05709: PAGA
 16 action on behalf of security guards involving meal and rest break violations and
 17 failure to pay wages in a timely manner; \$300,000 settlement; PAGA settlement
 18 approved;
- 19 iv. *Adolph Cruz, et al v. Holder Construction Group, LLC*, Case No. 19CV341862:
 20 PAGA action on behalf of construction workers involving off the clock work
 21 and meal and rest break violations; \$500,000 settlement; PAGA settlement
 22 approved;
- 23 v. *Mervyn Cole v. Saucey, Inc.* Case No. BC707895: class action and PAGA case
 24 involving misclassification of employees and other wage and hour issues;
 25 \$590,000 settlement; final approval granted;
- 26 vi. *Kevin Hernandez v. Contemporary Services Corporation*, Case No. BC684206:
 27 PAGA action on behalf of security guards involving various wage and hour
 28 issues; \$795,000 settlement; PAGA settlement approved;

- vii. *Keosia Green v. American Guard Services, Inc.* Case No. BC688437: PAGA action on behalf of security guards involving wage and hour issues; \$315,000 settlement; PAGA settlement approved;
- viii. *James Rushing v. Security Intelligence Specialist Corporation*, Case No. 18-civ-1808, class action and PAGA case on behalf of security guards for breaks and wage statement violations; \$480,000 settlement; final approval granted;
- ix. *Veronica Espinoza v. Sharp HealthCare*, Case No. 37-2018-00034031-CU-OE-CTL, class action and PAGA case on behalf of hospital employees relating to meal and rest break violations, among other things; \$2,125,000 settlement; final approval granted; and
- x. *Anthony Gaines, et al. v. Triple Canopy, Inc.*, Case No. 19CV345169, class action and PAGA case on behalf of approximately 550 security guards relating to meal and rest break violations and other wage and hour issues; \$2,300,000 settlement; final approval granted;

15. The litigation costs expended to aid in the representation of the Aggrieved Employees include the following: Certified Mail costs of \$7.82 for the PAGA notice to Defendant, \$75 filing fee for filing the PAGA notice with the LWDA, \$465.03 filing fee for filing the complaint with the court, a mediation fee of \$9,750.00 (for Plaintiff's portion of the mediation); and other filing fees of \$35.32. The total of this is \$10,333.17. I anticipate additional costs, including filing this stipulation and any supplement required by the Court, may be as high as \$175. All of these costs are documented and reasonably incurred.

Plaintiff's Additional Released Claims

16. Plaintiff is bound by an additional release under the terms of the settlement as follows:

5.1 Plaintiff's Release. Plaintiff and his or her respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the PAGA Period, including, but not limited to: (a) all claims that were,

1 or reasonably could have been, alleged, based on the facts contained in the
2 Operative Complaint and the PAGA Notice ("Plaintiff's Release"). Plaintiff's
3 Release does not extend to any claims or actions to enforce this Agreement, or
4 to any claims for vested benefits, unemployment benefits, disability benefits,
5 social security benefits, workers' compensation benefits that arose at any time,
6 or based on occurrences outside the PAGA Period. Plaintiff acknowledges that
7 Plaintiff may discover facts or law different from, or in addition to, the facts or
8 law that Plaintiff now knows or believes to be true but agrees, nonetheless, that
9 Plaintiff's Release shall be and remain effective in all respects, notwithstanding
10 such different or additional facts or Plaintiff's discovery of them.

11 5.1.1. Plaintiff's Waiver of Rights Under California Civil Code Section 1542.

12 For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes
13 the provisions, rights, and benefits, if any, of section 1542 of the California Civil
14 Code, which reads:

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

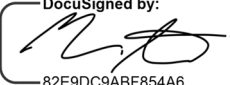
19 (Settlement Agreement § 5.1)

20 ***Notice of Settlement to the LWDA***

21 17. Pursuant to Lab. Code § 2699(1)(2), Plaintiff submitted a copy of the Settlement
22 with the LWDA at the same time the Settlement is being filed with the Court. I uploaded a
23 copy of the settlement to the LWDA's website at [https://www.dir.ca.gov/Private-Attorneys-](https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html)
24 [General-Act/Private-Attorneys-General-Act.html](https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html).

25 I declare under the penalty of perjury of the laws of the State of California that the
26 foregoing is true and correct to the best of my knowledge.

27 Executed on August 11, 2023, at Calabasas, California.

28 DocuSigned by:

82E9DC9ABF854A6...

Manny Starr

Exhibit A

PAGA SETTLEMENT AGREEMENT

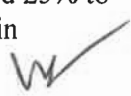
This PAGA Settlement Agreement ("Agreement") is made by and between plaintiff German Rodriguez ("Plaintiff") and defendant Modern Parking, Inc. ("MP, Inc. or "Defendant"). The Agreement refers to Plaintiff and MP, Inc. collectively as "Parties," or individually as "Party."

1. DEFINITIONS.

- 1.1. "Action" means the Plaintiff's PAGA lawsuit alleging wage and hour violations against MP, Inc. captioned "*German Rodriguez v. Modern Parking, Inc.*," Los Angeles County Superior Court number 23STCV00936, initiated on January 17, 2023, and pending in Superior Court of the State of California, County of Los Angeles.
- 1.2. "Administrator" means Phoenix Class Action Settlement Solutions, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. "Administration Expenses Payment" means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator's "not to exceed" bid submitted to the Court in connection with approval of this Settlement.
- 1.4. "Aggrieved Employee" means a person employed by Defendant in California and classified as an hourly, non-exempt employee who worked for Defendant during the PAGA Period.
- 1.5. "Aggrieved Employee Data" means Aggrieved Employee identifying information in MP, Inc.'s possession including the Aggrieved Employee's name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.
- 1.6. "Aggrieved Employee Address Search" means the Administrator's investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.
- 1.7. "Court" means the Superior Court of California, County of Los Angeles.
- 1.8. "Defense Counsel" means Landegger Verano & Davis, ALC.
- 1.9. "Effective Date" means the date by when the Court enters a Judgment on its Order Approving the PAGA Settlement.
- 1.10. "Gross Settlement Amount" means \$150,000 which is the total amount MP, Inc. agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA

Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator's Expenses Payment.

- 1.11. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.
- 1.12. "Judgment" means the judgment entered by the Court based upon the Final Approval.
- 1.13. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.14. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.15. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees as Individual PAGA Payments.
- 1.16. "PAGA Counsel" means Frontier Law Center, the attorneys representing the Plaintiff in the Action.
- 1.17. "PAGA Counsel Fees Payment" and "PAGA Counsel Litigation Expenses Payment" mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.
- 1.18. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for MP, Inc. for at least one day during the PAGA Period.
- 1.19. "PAGA Period" means the period from November 13, 2021 through the earlier of final approval or July 20, 2023.
- 1.20. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.21. "PAGA Notice" means Plaintiff's November 11, 2022 letter to MP, Inc. and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.22. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Net Settlement Amount in the estimated amount of \$72,750, allocated 25% to the Aggrieved Employees (\$18,187.50) and the 75% to LWDA (\$54,562.50) in settlement of PAGA claims.



- 1.23. "Plaintiff" means German Rodriguez, the named plaintiff in the Action.
- 1.24. "Approval Order" means the proposed Court Order Granting Approval of PAGA Settlement.
- 1.25. "Released PAGA Claims" means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.
- 1.26. "Released Parties" means: MP, Inc. and each of its agents, attorneys, insurers, former, future and present divisions, affiliates, DBAs, predecessors, successors, directors, managers, employees, trustees, representatives, administrators, fiduciaries, executors, partners, officers, shareholders, owners, predecessors, successors, assigns, subsidiaries, affiliates, and/or any and all persons and/or corporate entities acting by, through and in concert with any of them.
- 1.27. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.
- 1.28. "MP, Inc." means named Defendant Modern Parking, Inc.

2. RECITALS.

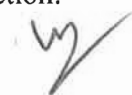
2.1. On January 17, 2023, Plaintiff commenced this Action by filing a Complaint alleging a single cause of action against MP, Inc. for PAGA penalties for alleged violations under the following Labor Code sections:

- Cal. Lab. Code §§ 1197.1 and 2699 (for pre-shift violations)
- Cal. Lab. Code §§ 558, 1197.1 and 2699 (for post-shift violations)
- Cal. Lab. Code §§ 558 and 2699 (for meal break violations)
- Cal. Lab. Code § 2699 (for rest break violations)
- Cal. Lab. Code § 2699 (for unreimbursed expenses violations)
- Cal. Lab. Code § 2699 (for sick pay violations)

The Complaint is the operative complaint in the Action (the "Operative Complaint.") MP, Inc. denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.

2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to MP, Inc. and the LWDA by sending the PAGA Notice.

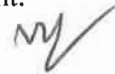
2.3. On May 17, 2023, the Parties participated in an all-day mediation presided over by mediator Gig Kyriacou which led to this Agreement to settle the Action.



- 2.4. Prior to mediation, Plaintiff obtained, through informal discovery, the number of comparable employees, the number of payroll periods, average rates of pay, sample time and payroll records, written policies, and related information.
- 2.5. The Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement

3. MONETARY TERMS

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, MP, Inc. promises to pay \$150,000 and no more as the Gross Settlement Amount. MP, Inc. has no obligation to pay the Gross Settlement Amount prior to twenty (20) days following final approval. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to MP, Inc.
- 3.2. Enhancement Award. Defendant will not object up to \$7,500 for the PAGA representative German Rodriguez.
- 3.3. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:
- 3.4. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than 35% which is currently estimated to be \$52,500 and PAGA Counsel Litigation Expenses Payment of not more than \$12,500. MP, Inc. will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds MP, Inc. harmless, and indemnifies MP, Inc., from any dispute or controversy regarding any division or sharing of any of these Payments.
- 3.5. To the Administrator: An Administrator Expenses Payment not to exceed \$4,750 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$4,750, the Administrator will retain the remainder in the Net Settlement Amount.



3.6. To the LWDA and Aggrieved Employees: PAGA Penalties to be paid from the Net Settlement Amount, with 75% allocated to the LWDA PAGA Payment and 25% allocated to the Individual PAGA Payments as set forth in paragraph 1.22 above.

3.7. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.8. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Aggrieved Employee Pay Periods. Based on a review of its records as of May 17, 2023, MP, Inc. estimates there are 391 Aggrieved Employees who worked a total 8,515 of PAGA Pay Periods.

4.2. Aggrieved Employee Data. Within 30 days, MP, Inc. will simultaneously deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employee' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. MP, Inc. has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which MP, Inc. must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

4.3. Funding of Gross Settlement Amount. MP, Inc. shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than 30 days after the Effective Date. If Defendant fails to timely make the payment as set forth in this Agreement, Defendant shall have ten (10) calendar days to cure the untimely payment. Defendant's payment obligations with respect to the Gross Settlement Amount are satisfied upon initiating the electronic transfer of the Gross Settlement Amount pursuant to the Administrator's electronic transfer instructions, provided, however, that any unsuccessful electronic transfer of funds be of no fault of Defendant. In the event of an unsuccessful electronic transfer of funds, the Parties agree to cooperate in good faith to resolve the issues.



4.4. Payments from the Gross Settlement Amount. Within 14 days after MP, Inc. funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Expenses Payment. Disbursement of the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.

4.4.4. The payment of Individual PAGA Payments shall not obligate MP, Inc. to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS. Effective on the date when MP, Inc. fully funds the entire Gross Settlement Amount Plaintiff and PAGA Counsel will release claims against all Released Parties as follows:

5.1. Plaintiff's Release. Plaintiff, individually and on behalf of his or her respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns, generally releases and discharges Released Parties from all claims, transactions, or occurrences of any nature whatsoever, whether known or unknown, from the beginning of time through Plaintiff's date of execution of this Agreement, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint and



the PAGA Notice ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to those rights that as a matter of law cannot be waived, including, but not limited to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences after Plaintiff's date of execution of this Agreement. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

5.1.1. Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

5.2. Release by Aggrieved Employees:

All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

5.3. Release by PAGA Counsel:

PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for PAGA Fees incurred in connection with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

6. **MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT.** The Parties agree to jointly prepare and file an application or motion for approval of this Settlement.

6.1. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2)) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or other

misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; (iii) a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (iv) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (v) all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In their Declarations, Plaintiff and PAGA shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

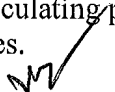
6.2. Responsibilities of PAGA Counsel. PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than 30 days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

7.1. Selection of Administrator. The Parties have jointly selected Phoenix Class Action Administration Solutions to serve as the Administrator and verified that, as a condition of appointment, Phoenix Class Action Administration Solutions agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.



7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

7.4. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8. **AGGRIEVED EMPLOYEE SIZE ESTIMATES and ESCALATOR CLAUSE** As of May 17, 2023, based on its records, MP, Inc. estimates that there are 391 Aggrieved Employees who worked 8,515 Pay Periods during the PAGA Period (i.e., as of the date the Parties participated in mediation). To the extent the total number of PAGA Pay Periods exceeds 110% (i.e., 9,367 Pay Periods), Defendant shall increase the Gross Settlement Amount on a pro-rata basis equal to the percentage increase in the number of Pay Periods worked by Aggrieved Employees. Alternatively, defendant can choose to move up the release period to the expiration of 9,367 Pay Periods.

9. **CONTINUING JURISDICTION OF THE COURT.** The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9.1. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10. ADDITIONAL PROVISIONS.

10.1. No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by MP, Inc. that any of the allegations in the Operative Complaint have merit or that MP, Inc. has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that MP, Inc.'s defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, MP, Inc. reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest MP, Inc.'s defenses. The Settlement, this Agreement and Parties' willingness to settle the Action

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will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

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

- 10.10. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 10.11. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 10.12. Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by MP, Inc. in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data received from MP, Inc. unless, prior to the Administrator's payment of all Settlement Funds, MP, Inc. makes a written request to PAGA Counsel for the return, rather than the destructions, of Aggrieved Employee Data.
- 10.13. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only.
- 10.14. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 10.15. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Adam Rose (adam@frontierlawcenter.com)
Manny Starr (manny@frontierlawcenter.com)
Frontier Law Center
23901 Calabasas Road, #2074
Calabasas, CA 91302



To MP, Inc.:

Alfred Landegger, Esq. (alfred@landeggeresq.com)
Kristina Kourasis, Esq. (kristina@landeggeresq.com)
Evelyn Zarraga, Esq. (evelyn@landeggeresq.com)
LANDEGGER VERANO & DAVIS, ALC
15760 Ventura Boulevard, Suite 1200
Encino, California 91436
Telephone: (818) 986-7561
Facsimile: (818) 986-5147

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

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

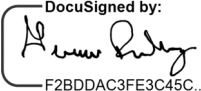
10.18 Conditional Settlement: The Parties' Settlement, inclusive of the Gross Settlement Amount and Plaintiff's Individual Settlement Amount, are conditioned upon the Court's approval of the PAGA Settlement. If the Court requires additional sums be allocated to the Gross Settlement Amount, such sums will come from the Individual Settlement Amount. Subject to the Escalator Clause in Paragraph 8, under no circumstances shall Defendant be required to pay more than \$150,000.00 in settlement of the PAGA Action and Plaintiff's Individual Claims. Defendant makes no admission of wrongdoing.

10.19 Termination of Settlement: If the Court does not approve the PAGA Settlement, if the Court does not enter judgment, as provided for in this Agreement, or if appellate review is sought and, on such review, the Court's decision is materially modified or reversed, or if one or more of the terms of the PAGA Settlement is not approved or is materially modified or reversed or found to be invalid, then either Plaintiff or Defendant shall have the right within 14 calendar days of written notice thereof to elect to terminate the entire Settlement, in which case the Settlement shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of the Term Sheet executed by the Parties on May 17, 2023.

 [SIGNATURE PAGE FOLLOWS]

PLAINTIFF

Dated: August 4, 2023

By: 
German Rodriguez

COMPANY

Dated: August ____, 2023 By: _____
Modern Parking, Inc.

COUNSEL FOR PLAINTIFF

08/04/23 | 6:40 PDT
Dated: August ____, 2023 By: 
Adam Rose, Esq.
Manny Star, Esq.
Frontier Law Group

COUNSEL FOR DEFENDANT

Dated: August ____, 2023 By: _____
Alfred J. Landegger, Esq.
Kristina Kourasis, Esq.
Evelyn Zarraga, Esq.
Landegger, Verano & Davis, ALC

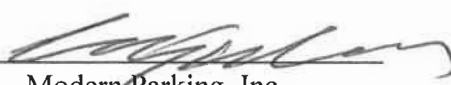
PLAINTIFF

Dated: August 4, 2023

By: _____
German Rodriguez

COMPANY

Dated: August 7th, 2023

By: 
Modern Parking, Inc.

COUNSEL FOR PLAINTIFF

Dated: August _____, 2023

By: _____
Adam Rose, Esq.
Manny Star, Esq.
Frontier Law Group

COUNSEL FOR DEFENDANT

Dated: August 7, 2023

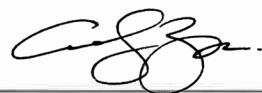
By: 
Alfred J. Landegger, Esq.
Kristina Kourasis, Esq.
Evelyn Zarraga, Esq.
Landegger, Verano & Davis, ALC

Exhibit B

To: <<First Name>><<Last Name>>
<<Address>>
<<City>> <<State>> <<Zip>>

Re: Individual Settlement Payment from *German Rodriguez v. Modern Parking, Inc.*
Los Angeles County Superior Court, Case No. 23STCV00936

Dear <<First Name>><<Last Name>>:

Please find enclosed a check in the amount of <<amount of payment>> (“Individual Settlement Check”). This check is your payment from the settlement of a lawsuit entitled *German Rodriguez v. Modern Parking, Inc.*, Case No. 23STCV00936 (“Action”), pending in the Superior Court of California for the County of Los Angeles (“Court”).

The lawsuit was filed by German Rodriguez (“Plaintiff”), a former employee of Modern Parking Inc. (“Defendant”), on behalf of the State of California with respect to himself and other alleged aggrieved employees, to seek recovery of civil penalties pursuant to the California Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA”). Plaintiff alleged that Defendant violated multiple provisions of the California Labor Code and Industrial Welfare Commission Wage Orders by failing to properly pay for all hours worked, pay all minimum wages, pay all overtime wages, provide lawful meal periods, authorize or permit lawful rest breaks, reimburse necessary business expenses, provide sick pay pursuant to Labor Code section 246 at the correct rate of pay, timely pay all wages during employment and upon separation of employment, and provide compliant wage statements. Defendant denies these allegations and denies any wrongdoing of any kind associated with these allegations.

A settlement was reached between Plaintiff and Defendant, on behalf of Plaintiff, the State of California, and the following aggrieved employees: all current and former non-exempt employees who worked for Defendant within the State of California between November 13, 2021, through July 20, 2023 (“PAGA Employees”).

On <<Approval Date>>, the settlement was approved by the Court, with a portion to be paid to the State of California and a portion to be paid to the PAGA Employees. You are receiving a portion of the settlement (the enclosed Individual Settlement Check) because you have been identified as a PAGA Employee. Your Individual Settlement Check is based on the total number of pay periods that you worked as a PAGA Employee during the period between November 13, 2021, through July 20, 2023 (“PAGA Period”). The Individual Settlement Check is considered to be 100% penalties, which will be reported on an IRS Form 1099. You are responsible for paying any and all taxes that may be due as a result of any payment issued to you under the settlement and should consult a tax advisor regarding the tax consequences of such payment.

By way of the settlement, you are deemed to fully release and forever discharge the Released Parties from the Released Claims. The “Released Parties” means and refers to Modern Parking, Inc. and each of its agents, attorneys, insurers, former, future and present divisions, affiliates, DBAs, predecessors, successors, directors, managers, employees, trustees, representatives, administrators, fiduciaries, executors, partners, officers, shareholders, owners, predecessors, successors, assigns, subsidiaries, affiliates, and/or any and all persons and/or corporate entities

acting by, through and in concert with any of them. The “Released Claims” means and refers to any and all claims, all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice. **By cashing your Individual Settlement Check, you are not giving up any right to sue for damages arising out of any individual claims that you may have against Defendant.**

Your Individual Settlement Check is valid for 180 calendar days from the date of issuance, and if you do not cash, deposit, or otherwise negotiate the check within the 180-day timeframe, your Individual Settlement Check will be cancelled, and the funds will be transmitted to the State Controller’s Office Unclaimed Property Fund in the name of the PAGA Employee whose check is voided.

Do not call or write the Court or Office of the Clerk of the Court to ask questions about the settlement. If you have any questions concerning the settlement, you may contact the Settlement Administrator at <<INSERT CONTACT INFORMATION>>.

Exhibit C



November 11, 2022

Via Online Filing

<http://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>

Via Certified Mail

Modern Parking Inc.
303 S Union Ave
Floor 1
Los Angeles, CA 90017

Subject: *German Rodriguez v. Modern Parking Inc.*

Dear Representative:

This office represents German Rodriguez ("Plaintiff") in connection with Labor Code violation claims related to his employment with Modern Parking Inc. ("Employer"). Employer can be contacted at:

Modern Parking Inc.
303 S Union Ave
Floor 1
Los Angeles, CA 90017

Plaintiff was subjected to at least one of the Labor Code violations alleged in this letter while employed by Employer. As such, Plaintiff intends to seek PAGA penalties on behalf of himself and all other non-exempt employees of Employer employed in California and who were subjected to any or all of the Labor Code violations referenced herein during the PAGA Period ("Aggrieved Employees"). The PAGA Period begins one year prior to the date of this letter and, because the violations alleged herein are ongoing, the PAGA Period extends beyond the date of this letter.

This letter is sent pursuant to the requirements of Labor Code section 2699.3. The Labor Code violations being alleged are as follows:

Minimum Wage Violations

Labor Code section 1197 and the applicable Wage Order requires an employer to pay an employee no less than the minimum wage for all hours worked.

Employer failed to pay the Aggrieved Employees the minimum wage for all hours worked because the Aggrieved Employees were required to perform work while off the clock. Specifically, Employer's time clock did not allow the Aggrieved Employees to clock in prior to the scheduled start time of their shift, even when they were required to arrive early and begin working. This resulted in pre-shift time not being recorded, and the Aggrieved Employees not being paid for that time. Additionally, the time clock did not allow employees to clock back in from meal breaks prior to 30 minutes elapsing. This resulting in the Aggrieved Employees having to remain clocked out during meal breaks, even when their meal breaks were cut short.

This resulted in unpaid time, because the entire 30 minute meal period was unpaid, even if the meal period was less than 30 minutes.

Civil Penalties Applicable to Minimum Wage Violations

As a result of the above minimum wage violations, Employer is subject to the civil penalties listed in Labor Code sections 1197.1 and 2699.

Derivative Wage Statement Penalties

Labor Code section 226 requires an employer to provide wage statements to its employees which include, among other things, gross and net wages earned, total hours worked, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate. As a result of the minimum wage violations set forth above, Employer failed to provide the Aggrieved Employees with wage statements which accurately listed all minimum wages earned and all hours worked. Employer is therefore subject to the civil penalties listed in Labor Code sections 226.3 and 2699.

Derivative Waiting Time Penalties

Labor Code sections 201 and 202 require that an employer provide an employee with all wages due and payable either: (a) immediately upon termination, or (b) within 3 days of the employee's resignation. When an employer fails to comply with the above, the employee is entitled to the equivalent of a day's wage at their regular rate of pay for each day the employer is late, for up to 30 days. (Labor Code section 203).

Because Employer did not pay the Aggrieved Employees all minimum wages owed during their employment, it follows that the Aggrieved Employees were also never paid these wages after the conclusion of their employment. Thus, Employer had an obligation to pay waiting time penalties, but intentionally failed to do so, and is therefore subject to the civil penalties listed in Labor Code section 2699.

Overtime Violations

Labor Code section 510 and the applicable Wage Order provides that an employee shall be paid one and one-half times their regular rate of pay for any work in excess of eight hours in one workday or 40 hours in any one workweek. Labor Code section 510 and the applicable Wage Order further provides that an employee shall be paid twice their regular rate of pay for any work in excess of 12 hours in one day.

Unpaid Overtime Due to Off the Clock Work

The Aggrieved Employees regularly worked in excess of eight hours in a day and 40 hours in a workweek. Since the Aggrieved Employees were required to perform work off the clock, it follows that this time was often overtime. Thus, the Aggrieved Employees were not paid all overtime wages owed.

Overtime Paid at the Wrong Regular Rate

Overtime must be paid based off an employee's regular rate of pay. Here, Employer failed to incorporate all remunerations, including "car allowances" and other non-discretionary pay, into the calculation of the regular rate of pay for purposes of calculating the Aggrieved Employees overtime rates. This resulted in the underpayment of overtime to the Aggrieved Employees.

Civil Penalties Applicable to Overtime Violations

As a result of the above overtime violations, Employer is subject to the civil penalties listed in Labor Code sections 558, 1197.1, and 2699.

Derivative Wage Statement Penalties

Labor Code section 226 requires an employer to provide wage statements to its employees which include, among other things, gross and net wages earned, total hours worked, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate. As a result of the overtime violations set forth above, Employer failed to provide the Aggrieved Employees with wage statements which accurately listed all overtime wages earned. Employer is therefore subject to the civil penalties listed in Labor Code sections 226.3 and 2699.

Derivative Waiting Time Penalties

Labor Code sections 201 and 202 require that an employer provide an employee with all wages due and payable either: (a) immediately upon termination, or (b) within 3 days of the employee's resignation. When an employer fails to comply with the above, the employee is entitled to the equivalent of a day's wage at their regular rate of pay for each day the employer is late, for up to 30 days. (Labor Code section 203).

Because Employer did not pay the Aggrieved Employees all overtime wages owed during their employment, it follows that the Aggrieved Employees were also never paid these wages after the conclusion of their employment. Thus, Employer had an obligation to pay waiting time penalties, but intentionally failed to do so, and is therefore subject to the civil penalties listed in Labor Code section 2699.

Meal Break Violations

Labor Code section 512 and the applicable Wage Order provides that an employer shall not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, or more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes. Meal periods must be uninterrupted, and the employee must be relieved of all duty.

Labor Code section 226.7 further provides that an employee is entitled to one hour of pay at their regular rate of pay for each day that a compliant meal period was not provided.

Missed, Late, or Short Meal Breaks

The Aggrieved Employees' meal breaks were regularly missed, late, and short due to the workload placed on the Aggrieved Employees. Furthermore, when the Aggrieved Employees meal breaks were cut short, Employer's time clock system did not allow them to clock back in prior to the 30-minute lockout period. This resulting in short meal breaks that artificially appeared compliant but were really short.

Premium Pay Paid at the Wrong Regular Rate

Premium pay for missed meal breaks must be paid at the employees' regular rate of pay. (*Ferra v. Loews Hollywood Hotel, LLC*, 11 Cal. 5th 858 (2021)). The regular rate of pay includes all remunerations, including shift differentials, incentive pay, and other non-discretionary bonuses. Here, the Aggrieved Employees received non-discretionary pay, however, this pay was not included in the calculation of premium pay paid for missed meal breaks (if premium pay was paid at all).

Civil Penalties Applicable to Meal Break Violations

As a result of the above meal break violations, Employer is subject to the civil penalties listed in Labor Code sections 558 and 2699.

Derivative Wage Statement Penalties

Labor Code section 226 requires an employer to provide wage statements to its employees which include, among other things, gross and net wages earned. As a result of Employers failure to pay all premium pay for missed meal breaks as set forth above, Employer failed to provide the Aggrieved Employees with wage statements which accurately listed all wages earned. Employer is therefore subject to the civil penalties listed in Labor Code sections 226.3 and 2699.

Derivative Waiting Time Penalties

Labor Code sections 201 and 202 require that an employer provide an employee with all wages due and payable either: (a) immediately upon termination, or (b) within 3 days of the employee's resignation. When an employer fails to comply with the above, the employee is entitled to the equivalent of a day's wage at their regular rate of pay for each day the employer is late, for up to 30 days. (Labor Code section 203).

Because Employer did not pay the Aggrieved Employees all premium pay owed during their employment, it follows that the Aggrieved Employees were also never paid these wages after the conclusion of their employment. Thus, Employer had an obligation to pay waiting time

penalties, but intentionally failed to do so, and is therefore subject to the civil penalties listed in Labor Code section 2699.

Rest Break Violations

Labor Code section 226.7 and the applicable Wage Order requires employers to authorize and permit its employees to take rest periods based on the total hours worked daily at the rate of 10 minutes net per four hours or major fraction thereof. Employees must be relieved of all duties during their rest breaks.

Labor Code section 226.7 further provides that an employee is entitled to one hour of pay at their regular rate of pay for each day that a compliant rest break was not provided.

Missed or Short Rest Breaks

The Aggrieved Employees' rest breaks were regularly missed or short due to the workload placed on them by Employer. However, Employer regularly failed to pay the Aggrieved Employees premium pay owed for missed rest breaks.

Premium Pay Paid at the Wrong Regular Rate

Premium pay for missed rest breaks must be paid at the employees' regular rate of pay. (*Ferra v. Loews Hollywood Hotel, LLC*, 11 Cal. 5th 858 (2021)). The regular rate of pay includes all remunerations, including shift differentials, incentive pay, and other non-discretionary bonuses. Here, the Aggrieved Employees received non-discretionary bonuses, however, this pay was not included in the calculation of premium pay paid for missed rest breaks (if premium pay was paid at all).

Civil Penalties Applicable to Rest Break Violations

As a result of the above rest break violations, Employer is subject to the civil penalties listed in Labor Code section 2699.

Derivative Wage Statement Penalties

Labor Code section 226 requires an employer to provide wage statements to its employees which include, among other things, gross and net wages earned. As a result of Employers failure to pay all premium pay for missed rest breaks as set forth above, Employer failed to provide the Aggrieved Employees with wage statements which accurately listed all wages earned. Employer is therefore subject to the civil penalties listed in Labor Code sections 226.3 and 2699.

Derivative Waiting Time Penalties

Labor Code sections 201 and 202 require that an employer provide an employee with all wages due and payable either: (a) immediately upon termination, or (b) within 3 days of the

employee's resignation. When an employer fails to comply with the above, the employee is entitled to the equivalent of a day's wage at their regular rate of pay for each day the employer is late, for up to 30 days. (Labor Code section 203).

Because Employer did not pay the Aggrieved Employees all premium pay owed during their employment, it follows that the Aggrieved Employees were also never paid these wages after the conclusion of their employment. Thus, Employer had an obligation to pay waiting time penalties, but intentionally failed to do so, and is therefore subject to the civil penalties listed in Labor Code section 2699.

Unreimbursed Work Expenses

Labor Code section 2802 requires an employer to "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"

Here, the Aggrieved Employees incurred out of pocket expenses in connection with their employment, but these expenses were not reimbursed by Employer. Employer required the Aggrieved Employees to use their personal cell phones for work related purposes, but did not provide them with reimbursement.

Civil Penalties Applicable to Work Expense Violations

As a result of Employer's failure to reimburse all work-related expenses, Employer is subject to the civil penalties listed in Labor Code section 2699.

Sick Pay Violation

Labor Code section 246 requires that employers pay sick pay at an employee's regular rate of pay. The regular rate of pay includes all remunerations, including shift differentials, incentive pay, and other non-discretionary bonuses.

Here, the Aggrieved Employees received non-discretionary pay, however, this pay was not included in the calculation of their sick pay in violation of Labor Code section 246. Furthermore, since the Aggrieved Employees did not receive all sick pay during their employment, it follows that they also did not receive these wages at the conclusion of their employment in violation of Labor Code sections 201 and 202.

Civil Penalties Applicable to Sick Pay Violations

As a result of the sick pay violations detailed above, Employer is subject to the civil penalties listed in Labor Code section 2699.

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Reservation of Rights

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Plaintiff becomes aware of additional facts or theories of liability, they expressly reserve the right to revise these facts and/or add any new claims by amending and/or supplementing this letter or by adding applicable causes of action to the complaint which will relate back to the date of this letter.

Sincerely,

/s/

Manny Starr

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Modern Parking
303 S. Union Ave
Floor 1
LA CA 90017



9590 9402 6567 1028 4255 30

2. Article Number (Transfer from service label)

7022 0410 0002 3552 9356

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

- D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery

- ☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Delivery Restricted Delivery
all
Restricted Delivery
(over \$500)

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL®



7022 0410 0002 3552 9356

U.S. Postal Service™

CERTIFIED MAIL® RECEIPT

Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

- ☐ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage

\$

Total Postage and Fees

\$

Sent To

Street and Apt. No., or PO Box No.

City, State, ZIP+4®

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

Postmark
Here

Rodriguez
PAC

8.00
modern Parking
303 S. Union
LA CA