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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

ANGEL WALDEN, on behalf of the State of
California as the Real Party In Interest;

Plaintiff,

vs.

ADVANCED PAYROLL SOLUTIONS,
INC., a California Corporation; ADVANCED
REAL ESTATE SERVICES, INC., a
California Corporation; and DOES 1 through
20, inclusive;

Defendants.

Case No.: CIVSB2300104

*[Assigned to Hon. Jessica Morgan, Dept S26
for all purposes]*

**DECLARATION OF BRIAN J. MANKIN,
ESQ., IN SUPPORT OF MOTION TO
APPROVE SETTLEMENT PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004**

Hearing

Date: August 1, 2024

Time: 8:30 a.m.

Dept.: S26

Complaint filed: 1/10/2023

FAC filed: 2/29/2024

I, Brian J. Mankin, state and declare:

1. I am an attorney licensed to practice before all of the courts of the State of California. I manage the employment law department and am a partner with the law firm of Lauby Mankin Lauby LLP, which has offices in Orange County and Riverside County. I am thoroughly familiar with and have personal knowledge of all of the facts set forth herein. I submit this declaration in support of Plaintiffs' Motion to Approve Settlement Pursuant to the Private

1 Attorney General Act of 2004 (the "PAGA"). If called as a witness, I could and would
2 competently testify thereto.

3 **COUNSEL'S EXPERIENCE**

4 2. I have been a member, in good standing, of the State Bar of California since 2001.
5 I am admitted to practice in the United States District Courts for the Central and Southern District
6 of California and the Ninth Circuit Court of Appeal and have tried cases in various courts in
7 California.

8 3. I have handled over 500 employee vs. employer litigation matters during my 23
9 years in practice. Over the last 15 years, my practice has almost entirely consisted of
10 representing employees, the majority of which has included class action and representative
11 action wage and hour matters. In total, I have handled over 250 class action and representative
12 action wage/hour cases, and have been appointed by the court as class counsel and have received
13 final court approval and judgment in close to half of those actions to date, and anticipate
14 receiving final approval in many more of those in the future.

15 4. As part of these settlements and judgments, I have recovered in excess of \$250
16 million in damages for my clients and the class members (who often work as nurses, ambulance
17 drivers, technicians, warehouse workers, truck drivers, sales, professional occupations and
18 countless other trades). My team and I once held the record for the largest PAGA-only case in
19 California's history - a \$12.5 million-dollar court approved settlement, which followed extensive
20 litigation, summary adjudication and writs to the CA Supreme Court against a Fortune 50
21 company (*Garcia v. Macy's*, San Bernardino Superior Court).

22 5. I have tried two major class and PAGA cases against Fortune 100 companies over
23 the last few years. I was lead counsel in a PAGA case that my firm tried in the Orange County
24 Superior Court and received a \$425,000 judgment. I was co-counsel in a class action case
25 against Walmart that was tried to the jury in District Court, wherein the jury awarded Plaintiffs
26 over \$6 million. Both cases were appealed, and ultimately the jury trial verdict was affirmed and
27 the PAGA case was reversed and remanded.

6. I was named by the LA Times as one “Southern California Leading Lawyers” in the May 2023 issue of Consumer Attorney’s of Southern California (a recognition given to 17 employment/labor law attorneys in 2023). Additionally, for the last five consecutive years, I have been selected by my peers as a “Super Lawyer” in Employment Litigation, a distinction that only 5% of lawyers receive.

PROCEDURAL BACKGROUND

7. My firm began investigating this matter in 2022. After being retained by Plaintiff Walden, my office submitted letter to the California Labor & Workforce Development Agency (“LWDA”) and to Defendants regarding the alleged violations, a true and correct copy of which is attached as **Exhibit A**. After the 65-day waiting period elapsed without the LWDA asserting jurisdiction, my office filed this PAGA-only complaint on January 10, 2023.

8. Defendants retained counsel and vowed to vehemently oppose the claims. However, after early discussions among counsel, the Parties agreed to attend mediation. In preparation for the mediation, the Parties exchanged documents and information that allowed both sides to calculate the potential damages and evaluate potential risk. During this process, Plaintiff and my firm analyzed, researched, and investigated the potential issues, including matters related to the calculation of total penalties, trial, and appellate issues and risks. During this exchange of information, pursuant to our firm's informal requests, Defendants produced documents and pay records that enabled a full analysis of the alleged unpaid wage, meal/rest break violations and other claims.

9. On August 14, 2023, the Parties mediated with Gail Glick, Esq., but the matter did not settle at mediation. Therefore, on August 31, 2023, Plaintiff Walden demanded arbitration of her “individual PAGA claims” (along with her separate individual statutory claims) pursuant to *Viking River Cruises v. Moriana* (2022) 142 S.Ct. 1906. The Parties also agreed to stay Plaintiff Walden’s “representative” PAGA claim pending in this Court until completion of arbitration for her individual claims (including the “individual” PAGA claim).

10. Additionally, my firm was then retained by Plaintiff Collins regarding alleged Labor Code violations committed by Defendants. On November 17, 2023, Plaintiff Collins

submitted written notice to the LWDA and to Defendants of alleged violation of the Labor Code (a true and correct copy of which is attached as **Exhibit B**) and, once more than 65 days passed since Plaintiff Collins gave notice to the LWDA and to Defendants (without the LWDA asserting jurisdiction over the PAGA claims), the Parties stipulated to the filing of the operative First Amended Complaint, which added Paige Collins as a Plaintiff and PAGA representative. The First Amended Complaint was filed on February 29, 2024. Plaintiff Collins also demanded arbitration of her individual claims, separate and apart from this PAGA-only action.

11. Concurrent with the ongoing arbitrations, the Parties continued settlement discussions of this PAGA action. And, in February 2024, the Parties reached this Settlement, embodied in the PAGA Representative Action Settlement Agreement and Release of Claims (the “Settlement Agreement”, a true and correct copy of which is attached here as **Exhibit C**) which is now presented to this Court for approval.

THE SETTLEMENT IS FAIR, JUST AND REASONABLE

12. The settlement requires Defendants to pay a “Settlement Amount” of \$300,000, inclusive of payments for Plaintiffs’ attorneys’ fees of one-third of the settlement (\$100,000.00), actual litigation costs (\$12,480.28), Settlement Administrator costs (\$6,500), and a \$5,000 service award to each Plaintiff (\$10,000 total). After deducting these amounts, the remainder of approximately \$171,019.72 will form the Net Settlement Amount and, pursuant to Labor Code § 2699(i), 75 percent shall be paid to the LWDA (which shall be used to assist in the enforcement of labor laws and education of employers and employees about their rights and responsibilities under the Labor Code), and the remaining 25 percent being paid to the Aggrieved Employees on a pro rata basis. The following chart reflects the estimated payments:

<i>Settlement Amount</i>	\$ 300,000.00
Attorneys’ Fees (1/3)	\$ 100,000.00
Attorney Litigation Costs	\$ 12,480.28
Administrator Costs	\$ 6,500.00
PAGA Representative Service Awards (\$5,000 each)	\$ 10,000.00
<i>Net Settlement Amount (“NSA”)</i>	\$ 171,019.72
75% of NSA Payable to LWDA	\$ 128,264.79
25% of NSA Payable to Aggrieved Employees	\$ 42,754.93

1 13. As such, the LWDA will receive approximately \$128,264.79 (75% of the Net
2 Settlement Amount) and approximately 600 Aggrieved Employees will collectively share in
3 \$42,754.93 (the remaining 25% of the Net Settlement Amount), which will be paid on a pro-rata
4 basis based on the number of pay periods worked during the PAGA Period. Based on data and
5 information obtained from Defendants, Plaintiffs estimate that the 600 Aggrieved Employees
6 will receive an average payment of \$71.26.

7 14. In exchange for these payments and benefits, the Aggrieved Employees will
8 narrowly release the civil penalties claims alleged under Labor Code § 2699.

9 15. As part of the process in reaching this settlement, my office obtained extensive
10 data and information prior to mediation to investigate the claims and negotiate an appropriate
11 settlement. After evaluation of this information, Plaintiffs' counsel estimated that there were
12 14,339 pay periods worked by the Aggrieved Employees through the date of mediation. From
13 this data, and when applying the various facts, violation rates, and considering all of the risks and
14 defenses to the claims herein, Plaintiffs' counsel formulated detailed damage models as
15 discussed below.

16 16. For instance, first damage model set the potential PAGA penalties against
17 Defendants as \$1,433,900 [14,339 pay periods multiplied by the default \$100 penalty under
18 PAGA]. Defendants took the position that Plaintiffs would not be entitled to "stack" more than
19 one PAGA civil penalty per employee per pay period (regardless of whether there was one Labor
20 Code violation or five). Although we argued "stacking" is not a valid defense and that PAGA
21 civil penalties were available for each and every unique Labor Code violation, we agreed that a
22 valuation of \$100 per pay period was reasonable to assess the claims for settlement purposes.

23 17. Then, for each claim, we calculated the maximum potential damages as follows.
24 *First*, Plaintiffs alleged that they and the Aggrieved Employees were subjected to unpaid wage
25 violations in 80% of all pay periods due to Defendants' failure to pay all wages owed due to a
26 failure to correctly calculate the "regular rate of pay" for overtime, sick pay, and meal premium
27 payments. *Second*, Plaintiffs argued, based on the sampling and other evidence, employees were
28 subjected to meal periods in 25% of pay periods. *Third*, because of the hectic work schedule,

1 Plaintiffs alleged that the Aggrieved Employees were deprived of at least one compliant rest
2 break in 50% of pay periods. *Fourth*, Plaintiffs alleged that every wage statement that
3 Defendants provided to the Aggrieved Employees had some form of “derivative” violation due
4 to the claims discussed above. Based on these metrics, along with other smaller subsets of
5 claims (such as failure to timely pay final wages to an estimated 120 departing employees,
6 leading to only 120 violations), Plaintiffs estimated that there were potentially 36,780 distinct
7 Labor Code violations for all claims combined (ignoring any “stacking” defense), leading to
8 maximum potential PAGA penalties of \$3,678,000 [36,780 x \$100].

9 18. But again, this maximum amount fails to take into account the various risks and
10 defenses to the claims herein, as well as Defendants’ claim that “stacked” penalties is not
11 recoverable. For example, Defendants disputed that there were any unpaid wages. Then, as to the
12 meal and rest break claims, Defendants argued it had fully compliant written policies that
13 specifically authorized its employees to take meal and rest breaks, timesheets specifically
14 showed that breaks occurred, all employees had ample opportunity to take compliant breaks, and
15 Defendants paid meal premiums for alleged violations. Therefore, Defendants asserted that a
16 fact-finder would have to determine for each employee whether a break was recorded on each
17 employees timesheet or if it was missed and why, and why a break was noncompliant or
18 nonexistent, because if it was by the employee’s choice, no liability attaches to Defendants.

19 19. Additionally, we had to consider another risk: even if the claims succeeded, courts
20 have wide latitude to (and often do) reduce the total civil penalties “based on the facts and
21 circumstances of a particular case” and if “to do otherwise would result in an award that is
22 unjust, arbitrary and oppressive, or confiscatory.” Labor Code § 2699(h).

23 20. When considering these risks and defenses, Plaintiffs contend that the Settlement,
24 which binds Defendants to pay a total Settlement Amount of \$300,000 – equal to \$20.92 per pay
25 period. Many class actions settle for less than \$20 per pay period, so to achieve this result in a
26 PAGA-only case is indeed a great result. Clearly, this settlement is fair, adequate, and
27 reasonable in light of the risks and uncertainties associated with the PAGA claims in this case,
28 and it is sufficient to accomplish the objectives of PAGA while not being unjust, arbitrary and

oppressive, or confiscatory.

THE REQUESTED ATTORNEY'S FEES AND COSTS ARE FAIR AND REASONABLE

21. In accordance with the Settlement, the Parties agreed that my office would receive one-third of the settlement amount as attorneys' fees in recognition of the work performed by my office and the results we achieved for the State and Aggrieved Employees.

22. At my office, this case was primarily handled by Peter Carlson and me. Mr. Carlson is a 10-year attorney and Senior Associate in the firm who works exclusively with me on employment law matters. As stated in the concurrently filed declaration of Mr. Carlson, he spent 128.9 hours working on this matter, and his billable rate is \$650 per hour.

23. I have been in practice for 23 years, with most of those years handling complex litigation and for over the last 15 years, my practice has almost entirely consisted of handling class action wage and hour matters. My billing rate is \$775/hour. I believe these rates are consistent with Plaintiff and Defense attorneys who handle complex class action litigation, if not somewhat lower

24. The table below includes a summary of the hours worked, plus additional hours that I will bill in finalizing and filing the motion, preparing for and attending the approval hearing, and working with the administrator and defense counsel to issue checks, respond to class members and finalize this matter. The actual aggregated lodestar between the attorneys that worked on this case is approximately \$139,585. This results in a negative multiplier as summarized in the following table:

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Attorney/Timekeeper	Role	Yrs Experience	Rate	Hours	Fee
Brian J. Mankin (Partner – LML)	Trial Counsel	23	\$775	72¹	\$ 55,800
Peter Carlson (Senior Associate – LML)	Handling Attorney	10	\$650	128.9	\$ 83,785
Grand Total for All Attorneys					\$ 139,585

25. Additionally, the requested fees are appropriate because the hourly rates are comparable with attorneys who handle complex class action litigation, if not somewhat lower (*i.e.*, the Laffey Matrix at www.laffeymatrix.com indicates that the benchmark rates are: \$777/hour for an 8–10-year attorney and \$1,057/hour for a 20+ year attorney).

26. Moreover, the Wolters Kluwer 2023 Real Rate Report (“Real Rate Report”) provides directly applicable information in this regard. The Real Rate Report is based on an enormous and statistically significant compilation of data, comprising millions of billing entries from a hundred thousand individual timekeepers who worked at thousands of law firms. The Real Rate Report then compiles and analyzes this data to provide the hourly rates for partners and associates in major metropolitan areas. For the southern California area: (a) the rate for partners in Los Angeles is between \$840 and \$1,159 per hour for the middle and upper quartiles, and (b) the rates for associates with seven or more years of experience, the median rate is \$674 per hour, and the upper quartile rate is \$888 per hour. And, perhaps most importantly, the information provided in the Real Rate Report is not based on self-reported numbers, surveys, sampling, or reviews or other publications – instead, the Real Rate Report is based on the actual hours and fees billed by law firms, which makes it “a much better reflection

¹ Includes an estimated 15 hours of additional work preparing for and attending the hearing (inclusive of finalizing and filing the motion, appearing at the hearing, addressing the Court’s questions/concerns, submitting revised documents, responding to class members who are anxious to receive their check, and so on), as well as 20 hours in anticipated work to be performed after the final approval, working with counsel, administrator, and Class Members (which includes up to 1.5 years of case management relating to ensuring timely payment from Defendants, reviewing the calculations, checks are timely mailed, responding to class members questions about the timing of checks/missing checks/lost checks and remailings, working with the administrator regarding uncashed checks and remailings, assisting with the Administrator’s declarations regarding payments and uncashed checks, potentially filing an amended judgment, appearing at the final disbursement hearing and/or submitting paperwork related thereto.

1 of true market rates than self-reported rates in all practice areas.” *Brown v. CVS Pharmacy, Inc.*
2 (C.D. Cal. Apr. 24, 2017) 2017 U.S. Dist. LEXIS 182309, at *21; *PLCM Group*, 22 Cal.4th at
3 1085 (holding that rates should be premised upon precisely this form of independent,
4 “objective” rate data that reflects “fair market” rates actually billed to clients “in the community
5 for similar work”)

6 27. Thus, not only are the rates reasonable and typical, but the attorneys’ fee request
7 only calls for a small multiplier, which confirms that the fee request is fair and reasonable.

8 28. Additionally, in the course of prosecuting this action, my office has incurred
9 expenses that were incidental and necessary to this PAGA litigation. These expenses included but
10 were not limited to: court filings, copying and management of documents, messenger services,
11 postage, fax transmission expenses, transportation, and other incidental expenses directly related
12 to this action. The Settlement Agreement authorized my office to recover litigation costs not to
13 exceed \$20,000. The costs through the approval hearing are \$12,480.28 (*see Exhibit D* attached
14 hereto), which is the amount requested. Defendants do not oppose this request.

15 **REASONABLENESS OF REQUESTED SERVICE AWARD**

16 29. I also believe that the service award of \$7,500 to Plaintiff is fair and warranted
17 given the time and effort she devoted to this case. Her efforts included providing factual
18 background for the lawsuit; providing documents and information about Defendants’
19 compensation plan and other policies/practices; participating in phone calls to discuss litigation
20 and settlement strategy; making herself available throughout the litigation to assist with
21 analyzing the claims and defenses; helping counsel prepare for the mediation; and reviewing the
22 settlement documents. Plaintiff also assumed significant risk in bringing this litigation; namely,
23 had she lost, she could have been ordered to pay Defendants’ costs. This request also falls
24 squarely in line with service awards with amounts that courts approved in similar litigation.

25 **SUBMISSION TO THE LWDA**

26 30. The Motion and declaration, including the Settlement Agreement, have
27 concurrently been submitted to the LWDA through its online portal. (See **Exhibit E**).

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32. A true and correct copy of Plaintiff Walden's LWDA letter is attached as **Exhibit A**; a true and correct copy of Plaintiff Collins' LWDA letter is attached as **Exhibit B**.

32. A true and correct copy of Plaintiff Walden's LWDA letter is attached as **Exhibit A**; a true and correct copy of Plaintiff Collins' LWDA letter is attached as **Exhibit B**.

Exhibit A; a true and correct copy of Plaintiff Collins' LWDA letter is attached as **Exhibit B**.

34. A true and correct copy of an itemized statement of my firm's costs is attached hereto as **Exhibit D**.

36. A true and correct copy of Phoenix's bid to serve as settlement administrator is attached hereto as **Exhibit F**.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on July 8, 2024, at Riverside, California.

By: Brian J. Mankin
Brian J. Mankin

EXHIBIT “A”



LAUBY, MANKIN & LAUBY LLP

November 4, 2022

Submitted Via Online Filing to the LWDA

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

Sent Via U.S. Mail and Certified Mail

Advanced Payroll Solutions, Inc.
15320 Barranca Parkway, Suite 100
Irvine, CA 92618

Advanced Real Estate Services, Inc.
15320 Barranca Parkway, Suite 100
Irvine, CA 92618

Re: PAGA Civil Penalty Claim
Angel Walden v. Advanced Payroll Solutions, Inc., et al.

To the Labor and Workforce Development Agency, Advanced Payroll Solutions, Inc., and Advanced Real Estate Services, Inc.:

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 Angel Walden (“Claimant”), on behalf of the State of California and all Aggrieved Employees, against her former employer(s), Advanced Payroll Solutions, Inc., Advanced Real Estate Services, Inc., and any affiliated entities (collectively, the “Company”), for violations of Labor Code §§ 200, 201, 202, 203, 204, 208, 210, 218.6, 226, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, and 1199, among possibly other sections inadvertently omitted, and/or sections of the applicable IWC Wage Order(s).

FACTUAL BACKGROUND

Claimant was employed by the Company from approximately August through October 2022. Claimant alleges that she and all other employees employed by the Company in California (the “Aggrieved Employees”) were subjected to the same policies, working conditions, and corresponding wage and hour violations to which Claimant was subjected during his employment.

For instance, at all relevant times, Claimant and the Aggrieved Employees were not provided proper minimum and overtime wages due to the Company’s failure to accurately record and compensate for all hours worked. Also, at all relevant times, Claimant and the Aggrieved Employees were compensated on an hourly basis plus additional earned compensation in the form of nondiscretionary bonuses and other compensation. However, on the occasions when the Aggrieved Employees worked overtime hours and received additional earned compensation during the same workweek, the Company failed to properly include these amounts in the calculations for Claimant’s regular rate of pay – in violation of California law and which led to the failure to pay proper overtime.

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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, as well as the hectic and demanding workload, Claimant was subjected to meal period violations when: (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 shortened meal period, (4) forced to take a meal period after the 5th hour of work, and (5) not provided a mandated second meal period 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 and Claimant was often not authorized and/or permitted to take mandated rest breaks. Furthermore, on occasions when Claimant worked 10 hours or more in a shift, the Company failed to authorize and/or permit the mandated additional rest breaks.

Moreover, at all relevant times, the Company utilized a policy and practice through which Claimant and the Aggrieved Employees accrued vacation and/or PTO hours (collectively, "vacation hours"). However, on the occasions when Claimant and the Aggrieved Employees had accrued but unused vacation hours upon separation of employment, Defendants failed to pay for these earned wages at the "final rate" as required by Labor Code § 227.3.

The Company also failed to comply with the mandates of Labor Code §§ 204 and 210 regarding the timing of the payment of wages to its employees each period, including minimum and overtime wages, as well as meal and rest period premiums. Also, the Company failed to comply with the mandates of Labor Code §§ 201–203 regarding timing of payment of final wages and failed to pay all wages due and owing upon separation of employment including minimum wages, overtime, meal and rest break premiums, and the Company further failed to pay the Aggrieved Employees for mandated sick time at a rate "calculated in the same manner as the regular rate of pay."

Finally, during employment with the Company, Claimant 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 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 acted as a single employer of Claimant and the Aggrieved Employees. Furthermore, on information and belief, the entities listed herein are an integrated enterprise and should be treated as a single employer because the entities 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 share common management, a centralized control of labor operations, and common ownership or financial control. Claimant also alleges the entities listed herein 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.

In an additional separate, but not necessarily mutually exclusive, alternative theory of liability, the Owners of the Company 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)

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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 FAILURE TO
PAY ALL MINIMUM, REGULAR, AND OVERTIME WAGES**

(Labor Code §§ 204, 210, 221-223, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198; IWC Wage Order §§ 3, 4(B))

As discussed above, the Company failed to pay all required minimum, regular, and overtime wages to Claimant and the Aggrieved Employees due to the Company’s failure to accurately record and compensate for all hours worked and the failure to pay proper overtime. This resulted in earned, but unpaid, wages due and owing to Claimant and the Aggrieved Employees. Therefore, Claimants and the Aggrieved Employees performed work for the Company without receiving proper payment of the requisite minimum, overtime, and/or doubletime wages.

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 including, but not limited to, minimum, regular, and overtime wages in violation of the Labor Code and/or the IWC Wage Orders.

**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 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 and did not do so at the proper rate. Labor Code § 558 imposes a penalty for each violation, plus an amount sufficient to recover the underpaid wages. Additionally, the civil assessment set forth in Labor Code § 2699 applies to these violations.

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FAILURE TO PAY VESTED VACATION UPON SEPARATION OF EMPLOYMENT

(Labor Code § 227.3)

Pursuant to Labor Code § 227.3, an employer that has implemented a paid vacation, paid time off, or compensated time off policy must, upon an employee's separation from employment, pay to the employee all vested but unused vacation and/or paid time off at her final rate of pay. However, as alleged herein, the Company failed to pay all vested vacation upon separation of employment and, further, only paid vested vacation upon separation at the base rate of pay, leading to a violation on each such occasion. As a result of these violations, penalties may be assessed pursuant to Labor Code § 2699.

FAILURE TO PAY SICK TIME AT PROPER RATE OF PAY

(Labor Code § 246)

Labor Code § 246(l)(1) provides that paid sick time for non-exempt employees must be "calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek." Additionally, Labor Code § 246(l)(2) states that the paid sick time must be "calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

Here, Claimant and the Aggrieved Employees were compensated on an hourly basis plus additional compensation in the form of shift differentials and/or nondiscretionary bonuses. However, on the occasions that the Aggrieved Employees took sick time and received paid sick leave, the Company only paid sick time at the base rate of pay (not factoring in the additional compensation as required by Labor Code §§ 246(l)(1-2)). As such, penalties may be assessed pursuant to Labor Code § 2699.

**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, 210, 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 §§ 210 and/or 2699.

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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, [...] any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the 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.) 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.

At all times pertinent hereto, the Company failed to provide accurate itemized wage statements due to violations including: failure to accurately state total hours worked (the paystubs failed to accurately reflect total compensable hours); failure to accurately state gross wages earned, all deductions, and net wages earned (due to, for example, the failure to pay all required minimum and overtime wages); failure to state the applicable hourly rates (including the accurate overtime rate of pay); failure to state the accurate start and end dates of the pay period; failure to accurately state the name and address of the legal entity that is the employer, and; failure to accurately state the corresponding number of hours worked at each hourly rate. Additionally, the Company’s wage statements directly violated Labor Code § 226(a) each period due to the failure to pay and report premium wages for denied meal/rest breaks under § 226.7. Accordingly, Labor Code §§ 226.3 and 2699 impose civil penalties 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

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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

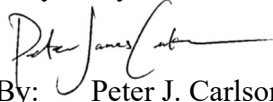
(Labor Code §§ 2699(f)(2), 2699(g)(1), 2699.5)

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, Claimant seeks 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, Claimant 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 Claimants' 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 civil penalties related to the foregoing claims and remedies. If Claimant becomes aware of any additional claims for Labor Code violations related to his employment and/or other employees of the Company, he reserves the right to add new claims by supplementing this notice letter. Should you have any questions, please feel free to give me a call.

Very Truly Yours,



By: Peter J. Carlson, Esq.

E-mail: peter@lmlfirm.com

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EXHIBIT “B”



LAUBY, MANKIN & LAUBY LLP

November 17, 2023

Submitted Via Online Filing to the LWDA

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

Sent Via U.S. Mail and Certified Mail

Advanced Payroll Solutions, Inc.
15320 Barranca Parkway, Suite 100
Irvine, CA 92618

Advanced Real Estate Services, Inc.
15320 Barranca Parkway, Suite 100
Irvine, CA 92618

Re: PAGA Civil Penalty Claim
Paige Collins v. Advanced Payroll Solutions, Inc., et al.

To the Labor and Workforce Development Agency, Advanced Payroll Solutions, Inc., and Advanced Real Estate Services, Inc.:

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 Paige Collins (“Claimant”), on behalf of the State of California and all Aggrieved Employees, against her former employer(s), Advanced Payroll Solutions, Inc., Advanced Real Estate Services, Inc., and any affiliated entities (collectively, the “Company”), for violations of Labor Code §§ 200, 201, 202, 203, 204, 208, 210, 218.6, 226, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, and 1199, among possibly other sections inadvertently omitted, and/or sections of the applicable IWC Wage Order(s).

FACTUAL BACKGROUND

Claimant was employed by the Company from 2022 to 2023. Claimant alleges that she and all other employees employed by the Company in California (the “Aggrieved Employees”) were subjected to the same policies, working conditions, and corresponding wage and hour violations to which Claimant was subjected during his employment.

For instance, at all relevant times, Claimant and the Aggrieved Employees were not provided proper minimum and overtime wages due to the Company’s failure to accurately record and compensate for all hours worked. Also, at all relevant times, Claimant and the Aggrieved Employees were compensated on an hourly basis plus additional earned compensation in the form of nondiscretionary bonuses and other compensation. However, on the occasions when the Aggrieved Employees worked overtime hours and received additional earned compensation during the same workweek, the Company failed to properly include these amounts in the calculations for Claimant’s regular rate of pay – in violation of California law and which led to the failure to pay proper overtime, sick pay, and meal premiums under Labor Code § 226.7.

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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, as well as the hectic and demanding workload, Claimant was subjected to meal period violations when: (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 shortened meal period, (4) forced to take a meal period after the 5th hour of work, and (5) not provided a mandated second meal period 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 and Claimant was often not authorized and/or permitted to take mandated rest breaks. Furthermore, on occasions when Claimant worked 10 hours or more in a shift, the Company failed to authorize and/or permit the mandated additional rest breaks.

Moreover, at all relevant times, the Company utilized a policy and practice through which Claimant and the Aggrieved Employees accrued vacation and/or PTO hours (collectively, "vacation hours"). However, on the occasions when Claimant and the Aggrieved Employees had accrued but unused vacation hours upon separation of employment, Defendants failed to pay for these earned wages at the "final rate" as required by Labor Code § 227.3.

The Company also failed to comply with the mandates of Labor Code §§ 204 and 210 regarding the timing of the payment of wages to its employees each period, including minimum and overtime wages, as well as meal and rest period premiums. Also, the Company failed to comply with the mandates of Labor Code §§ 201–203 regarding timing of payment of final wages and failed to pay all wages due and owing upon separation of employment including minimum wages, overtime, meal and rest break premiums, and the Company further failed to pay the Aggrieved Employees for mandated sick time at a rate "calculated in the same manner as the regular rate of pay."

Finally, during employment with the Company, Claimant 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 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 acted as a single employer of Claimant and the Aggrieved Employees. Furthermore, on information and belief, the entities listed herein are an integrated enterprise and should be treated as a single employer because the entities 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 share common management, a centralized control of labor operations, and common ownership or financial control. Claimant also alleges the entities listed herein 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.

In an additional separate, but not necessarily mutually exclusive, alternative theory of liability, the Owners of the Company 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)

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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 FAILURE TO
PAY ALL MINIMUM, REGULAR, AND OVERTIME WAGES**

(Labor Code §§ 204, 210, 221-223, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198; IWC Wage Order §§ 3, 4(B))

As discussed above, the Company failed to pay all required minimum, regular, and overtime wages to Claimant and the Aggrieved Employees due to the Company’s failure to accurately record and compensate for all hours worked and the failure to pay proper overtime. This resulted in earned, but unpaid, wages due and owing to Claimant and the Aggrieved Employees. Therefore, Claimants and the Aggrieved Employees performed work for the Company without receiving proper payment of the requisite minimum, overtime, and/or doubletime wages.

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 including, but not limited to, minimum, regular, and overtime wages in violation of the Labor Code and/or the IWC Wage Orders.

**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 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 and did not do so at the proper rate. Labor Code § 558 imposes a penalty for each violation, plus an amount sufficient to recover the underpaid wages. Additionally, the civil assessment set forth in Labor Code § 2699 applies to these violations.

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FAILURE TO PAY VESTED VACATION UPON SEPARATION OF EMPLOYMENT

(Labor Code § 227.3)

Pursuant to Labor Code § 227.3, an employer that has implemented a paid vacation, paid time off, or compensated time off policy must, upon an employee's separation from employment, pay to the employee all vested but unused vacation and/or paid time off at her final rate of pay. However, as alleged herein, the Company failed to pay all vested vacation upon separation of employment and, further, only paid vested vacation upon separation at the base rate of pay, leading to a violation on each such occasion. As a result of these violations, penalties may be assessed pursuant to Labor Code § 2699.

FAILURE TO PAY SICK TIME AT PROPER RATE OF PAY

(Labor Code § 246)

Labor Code § 246(l)(1) provides that paid sick time for non-exempt employees must be "calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek." Additionally, Labor Code § 246(l)(2) states that the paid sick time must be "calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

Here, Claimant and the Aggrieved Employees were compensated on an hourly basis plus additional compensation in the form of shift differentials and/or nondiscretionary bonuses. However, on the occasions that the Aggrieved Employees took sick time and received paid sick leave, the Company only paid sick time at the base rate of pay (not factoring in the additional compensation as required by Labor Code §§ 246(l)(1-2)). As such, penalties may be assessed pursuant to Labor Code § 2699.

**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, 210, 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 §§ 210 and/or 2699.

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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, [...] any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the 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.) 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.

At all times pertinent hereto, the Company failed to provide accurate itemized wage statements due to violations including: failure to accurately state total hours worked (the paystubs failed to accurately reflect total compensable hours); failure to accurately state gross wages earned, all deductions, and net wages earned (due to, for example, the failure to pay all required minimum and overtime wages); failure to state the applicable hourly rates (including the accurate overtime rate of pay); failure to state the accurate start and end dates of the pay period; failure to accurately state the name and address of the legal entity that is the employer, and; failure to accurately state the corresponding number of hours worked at each hourly rate. Additionally, the Company’s wage statements directly violated Labor Code § 226(a) each period due to the failure to pay and report premium wages for denied meal/rest breaks under § 226.7. Accordingly, Labor Code §§ 226.3 and 2699 impose civil penalties 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

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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, Claimant seeks 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, Claimant 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 Claimants' 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 civil penalties related to the foregoing claims and remedies. If Claimant becomes aware of any additional claims for Labor Code violations related to his employment and/or other employees of the Company, he reserves the right to add new claims by supplementing this notice letter. Should you have any questions, please feel free to give me a call.

Very Truly Yours,



By: Peter J. Carlson, Esq.

E-mail: peter@lmlfirm.com

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EXHIBIT “C”

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Attorneys for Defendants
Advanced Payroll Solutions, Inc., and Advanced Real Estate Services, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

ANGEL WALDEN and PAIGE COLLINS,
on behalf of the State of California as the Real
Party In Interest;

Plaintiff,

vs.

ADVANCED PAYROLL SOLUTIONS,
INC., a California Corporation; ADVANCED
REAL ESTATE SERVICES, INC., a
California Corporation; and DOES 1 through
20, inclusive;

Defendants.

Case No.: CIVSB2300104
*[Assigned to Hon. Jessica Morgan, Dept S26
for all purposes]*

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

Complaint filed: 1/10/2023
FAC filed: 2/29/2024

1 This Private Attorneys General Act of 2004 (“PAGA”) Representative Action Settlement
2 Agreement and Release of PAGA Claims is entered into by and between Plaintiffs Angel
3 Walden and Paige Collins, on behalf of themselves, the State of California, and the Aggrieved
4 Employees, and Defendants Advanced Payroll Solutions, Inc., and Advanced Real Estate
5 Services, Inc., subject to the terms and conditions herein and the Court’s approval.

6 **A. Definitions**

7 1. “**Action**” means the case entitled *Walden, et al. v. Advanced Payroll Solutions,*
8 *Inc., et al.*, San Bernardino Superior Court, Case No. CIVSB2300104.

9 2. “**Agreement**” shall mean this PAGA Representative Action Settlement
10 Agreement and Release of PAGA Claims.

11 3. “**Aggrieved Employees**” means all current and former nonexempt employees
12 employed by Defendants in California at any time during the PAGA Period.

13 4. “**Aggrieved Employee List**” shall be on one spreadsheet and shall include, for
14 each Aggrieved Employee: full name; most recent mailing address on file with Defendants;
15 phone number; Social Security Number; and number of Eligible Pay Periods during the PAGA
16 Period.

17 5. “**Attorneys’ Costs**” means an award of costs to be paid to Plaintiffs’ Counsel for
18 the costs they have incurred in prosecuting the Action, subject to Court approval.

19 6. “**Attorneys’ Fees**” means an award of attorneys’ fees to be paid to Plaintiffs’
20 Counsel for the services they have rendered and will render to the Aggrieved Employees in the
21 Action, subject to Court approval.

22 7. “**Complaint**” means the operative First Amended Complaint filed in the Action
23 seeking an assessment of PAGA penalties for: (1) Failure to Pay Minimum Wages; (2) Failure to
24 Pay Overtime Wages; (3) Failure to Provide Meal Periods; (4) Failure to Provide Rest Breaks;
25 (5) Failure to Pay Vested Vacation; (6) Failure to Timely Pay Wages; (7) Failure to Timely Pay
26 Final Wages; and (8) Failure to Provide Accurate Itemized Wage Statements.

27 8. “**Defendants**” means Advanced Payroll Solutions, Inc., and Advanced Real
28 Estate Services, Inc.

- 1 9. **“Defense Counsel”** means Philip J. Azzara of Fisher & Phillips, LLP.
- 2 10. **“Effective Date”** means the date the Court enters the Final Order.
- 3 11. **“Eligible Pay Period”** means any pay period in which an Aggrieved Employee
- 4 had hours worked for Defendants in California during the PAGA Period.
- 5 12. **“Final Order”** means the order that will be entered by the Court to approve the
- 6 Settlement.
- 7 13. **“Individual PAGA Payment”** means the portion of the PAGA Award allocated
- 8 to each Aggrieved Employee.
- 9 14. **“LWDA”** means the California Labor Workforce Development Agency.
- 10 15. **“LWDA Settlement Proceeds”** means the seventy-five percent (75%) of the
- 11 PAGA Award which is payable to the LWDA.
- 12 16. **“Notice”** means the form of notice that will be sent to each Aggrieved Employee
- 13 accompanying their Individual PAGA Payments.
- 14 17. **“PAGA Award”** means the Settlement Amount remaining to distribute to the
- 15 LWDA and Aggrieved Employees after the following amounts are subtracted from the
- 16 Settlement Amount: (a) Attorneys’ Fees, (b) Attorneys’ Costs, (c) Plaintiffs’ Service Awards,
- 17 and (d) Settlement Administration Costs.
- 18 18. **“PAGA Period”** means the time period of November 6, 2021, through February
- 19 29, 2024.
- 20 19. **“Parties”** means Plaintiffs, the Aggrieved Employees, and Defendants,
- 21 collectively.
- 22 20. **“Plaintiffs’ Counsel”** means Brian Mankin and Peter Carlson of Lauby Mankin
- 23 Lauby LLP.
- 24 21. **“Released PAGA Claims”** means any and all rights and claims for civil penalties
- 25 that Plaintiffs alleged against Defendants, on behalf of Aggrieved Employees and State of
- 26 California, based on the facts stated in the operative Complaint in the Action and in the LWDA
- 27 notice letters sent by Plaintiffs, including all PAGA claims seeking civil penalties premised upon
- 28 (a) failure to pay minimum wages, (b) failure to pay overtime wages, (c) failure to provide meal

1 periods, (d) failure to provide rest breaks, (e) failure to pay vested vacation, (f) failure to timely
2 pay wages each period, (g) failure to timely pay wages upon separation of employment, (h)
3 failure to provide accurate itemized wage statements, and (i) all other claims for civil penalties
4 recoverable under the Private Attorneys General Act, Labor Code §§ 2698 *et seq.* that were
5 stated in the Complaint and based solely upon the facts alleged in the Complaint and the notices
6 sent by Plaintiffs to the LWDA.

7 22. **“Released Parties”** means Defendants, and their parents, subsidiaries, directors,
8 owners, shareholders, officers, agents, attorneys, servants, joint employers and employees, past
9 and present, and each of them and anyone acting in concert with foregoing.

10 23. **“Service Award(s)”** means the amount approved by the Court to be paid to
11 Plaintiffs Angel Walden and Paige Collins in addition to their Individual PAGA Payments as
12 Aggrieved Employees.

13 24. **“Settlement”** means the terms and conditions set forth in this Agreement.

14 25. **“Settlement Administration Costs”** means the amount from the Settlement
15 Amount, which shall be allocated to the Settlement Administrator for services rendered in
16 administering the Settlement, not to exceed \$6,500, subject to Court approval.

17 26. **“Settlement Administrator”** means Phoenix Settlement Administrators, the
18 third-party entity selected by the Parties who will administrator the settlement, subject to
19 approval by the Court, in accordance with this Agreement.

20 27. **“Settlement Amount”** means Three Hundred Thousand Dollars (\$300,000),
21 which is the maximum amount that Defendants will be required to pay upon the Court approving
22 this Settlement and the Effective Date occurring. The Settlement Amount will be used to pay: (a)
23 the PAGA Award to the LWDA and the Aggrieved Employees; (b) the award of Attorneys’
24 Fees; (c) the award of Attorneys’ Costs to Plaintiffs’ Counsel; (d) Plaintiffs’ Service Awards, in
25 the amount approved by the Court, and (e) Settlement Administration Costs. The Parties agree
26 that the Settlement Amount is inclusive of any possible claim for interest accrued between the
27 Effective Date and Defendants’ funding the Settlement Amount. Defendants shall not be
28

1 required to pay any additional amounts beyond the Settlement Amount set forth herein, including
2 any claims for interest.

3 **B. General Terms**

4 28. On November 4, 2022, Plaintiff Walden gave written notice to the Labor and
5 Workforce Development Agency (“LWDA”) and Defendants of alleged violation of Labor Code
6 §§ 200, 201, 202, 203, 204, 208, 210, 218.6, 226, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1194,
7 1194.2, 1197, 1197.1, 1198, and 1199, and/or applicable sections of the California Industrial
8 Welfare Commission Wage Orders for wage-and-hour penalty claims. The LWDA did not assert
9 jurisdiction over the claims. Thereafter, Plaintiff Walden’s complaint was filed on January 10,
10 2023.

11 29. The Parties mediated the Action on August 14, 2023, with Gail Glick, Esq.
12 However, the Action did not settle at mediation.

13 30. Therefore, on August 31, 2023, Plaintiff Walden demanded arbitration of her
14 “individual PAGA claims” (along with her separate individual statutory claims) pursuant to
15 *Viking River Cruises, Inc. v. Moriana* (2022) 142 S.Ct. 1906. The Parties also agreed to stay
16 Plaintiff Walden’s “representative” PAGA claim pending in this Court until completion of
17 arbitration for her individual claims (including the “individual” PAGA claim).

18 31. Plaintiffs’ Counsel was then retained by Plaintiff Collins regarding alleged Labor
19 Code violations committed by Defendants. On November 17, 2023, Plaintiff Collins submitted
20 written notice to the LWDA and to Defendants of alleged violation of Labor Code §§ 200, 201,
21 202, 203, 204, 208, 210, 218.6, 226, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1194, 1194.2, 1197,
22 1197.1, 1198, and 1199, and/or applicable sections of the California Industrial Welfare
23 Commission Wage Orders for wage-and-hour penalty claims. . As required by Labor Code §
24 2699.3(a), more than 65 days passed since Plaintiff Collins gave notice to the LWDA and to
25 Defendants (without the LWDA asserting jurisdiction over the PAGA claims). Therefore, the
26 Parties stipulated to the filing of the operative First Amended Complaint, which added Paige
27 Collins as a Plaintiff and PAGA representative. The First Amended Complaint was filed on
28 February 29, 2024.

1 32. Although mediation was unsuccessful, the Parties continued direct negotiations
2 between counsel and, on February 19, 2024, reached the Settlement embodied in this Agreement.

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

7 34. Defendants deny all of the allegations in the Action, including all PAGA claims,
8 and deny that they have committed any misconduct, statutory or regulatory violation,
9 wrongdoing, or any other actionable conduct of any kind and further deny that this Action is
10 appropriate for PAGA representative treatment for any purpose other than settling this Action.
11 Defendants have denied and continue to deny each and every material factual allegation and
12 alleged claims asserted against them in the Action.

13 35. The Parties have conducted a thorough investigation into the facts of the PAGA
14 Action. This included conducting extensive informal discovery and exchanging information and
15 documents relating to the Released PAGA Claims. Based on the foregoing data and on their
16 own independent investigation and evaluation, Plaintiffs' Counsel is of the opinion that the
17 settlement with Defendants for the consideration and on the terms set forth in this Agreement is
18 fair, reasonable, and adequate and is in the best interest of the LWDA and Aggrieved Employees
19 in light of all known facts and circumstances, including the risk of significant delay, uncertainty
20 associated with litigation, various defenses asserted by Defendants, and numerous potential
21 appellate issues. Defendants and Defense Counsel also agree that the settlement is fair and in the
22 best interest of the LWDA and Aggrieved Employees. The Parties desire to completely dispose
23 of the Action by this Agreement and the separate Individual Settlement Agreements (as defined
24 below). The Parties further acknowledge that they are each represented by competent counsel
25 and that they have had an opportunity to consult with their counsel regarding the fairness and
26 reasonableness of this settlement.

27 36. Under California Law, the State may assess and collect civil penalties from
28 employers for violations of certain provisions of the Labor Code. (See Cal. Lab. Code §§ 2699 *et*

1 *seq.*) Under PAGA, however, if an “aggrieved employee” “give[s] written notice by certified
2 mail to the [State] and the employer of the specific provision of the [Labor Code] alleged to have
3 been violated,” and the State thereafter decides not to investigate, as was the case here, or does
4 investigate and determines that a citation against the employer should not issue, the employee
5 may, “as an alternative” to enforcement by the State, act as a proxy or agent of the state’s labor
6 law enforcement agencies and bring a civil action under PAGA to recover civil penalties “on
7 behalf of himself or herself and other current or former employees.” *Id.* “[C]ivil penalties
8 recovered by aggrieved employees shall be distributed as follows: 75 percent to the state and 25
9 percent to the aggrieved employees.” *Id.*

10 37. California Labor Code § 2699(1)(2) provides that “The superior court shall review
11 and approve any settlement of any civil action filed pursuant to this part.”

12 38. In consideration of the promises and agreements contained herein, the Parties
13 agree and covenant as follows.

14 **C. Terms of Settlement**

15 39. Subject to the Court’s approval of the Settlement pursuant to Labor Code §
16 2699(1)(2), which counsel and the Parties agree to recommend in good faith to the Court, the
17 Parties agree to the following binding settlement and disposal of the entire Action in exchange
18 for Defendants’ agreement to pay the Settlement Amount.

19 40. The financial terms of the Settlement are as follows:

20 (a) Settlement Amount: The Parties agree to settle this Action for the
21 Settlement Amount, which is the maximum amount that will be paid by Defendants and includes
22 the Court-awarded Attorneys’ Fees, Attorneys’ Costs, Plaintiffs’ Service Awards, with the
23 remainder forming the PAGA Award.

24 (b) Attorneys’ Fees and Attorneys’ Costs: The Parties agree that, subject to
25 the Court’s review and approval, Plaintiffs’ Counsel will be paid Attorneys’ Fees of one-third of
26 the Settlement Amount (\$100,000.00), plus actual Attorney’s Costs not to exceed \$20,000 from
27 the Settlement Amount. Any portion of the Attorneys’ Fees or Attorneys’ Costs not awarded to
28 Plaintiffs’ Counsel will be reallocated to the PAGA Award. Defendants agree not to oppose any

request by Plaintiffs' counsel for attorneys' fees under the common fund doctrine and/or lodestar multiplier method. The Settlement Administrator will report these payments on an IRS Form 1099 issued to Plaintiffs' Counsel.

(c) Settlement Administration Costs: The costs associated with settlement administration (e.g. NCOA searches, preparing and mailing payments/notices to LWDA and Aggrieved Employees, tax documentation, etc.) shall be paid from the Settlement Amount and shall not exceed \$6,500. Any Settlement Administration Costs not awarded by the Court will be reallocated to the PAGA Award.

(d) Service Awards: The amount, if any, awarded to Plaintiffs as Service Awards will be set by the Court in its discretion, not to exceed \$5,000 to each Plaintiff, in exchange for the services that Plaintiffs performed on behalf of the Aggrieved Employees and State of California. Defendants agree not to oppose this request. The Service Awards to Plaintiffs will be paid out of the Settlement Amount. Plaintiffs will be issued an IRS Form 1099 in connection with this payment. Plaintiffs shall be solely and legally responsible to pay all applicable taxes on this payment. The Parties agree that any amount awarded as the Service Award to Plaintiffs less than the requested amount shall not be a basis for Plaintiffs' Counsel to void this Agreement. Should the Court approve a lesser amount for the Service Awards, the difference shall be added to the PAGA Award.

(e) PAGA Award: After deducting the amounts specified in items (b)-(d) from the Settlement Amount, the balance remaining will form the PAGA Award that will be paid to the Aggrieved Employees and the LWDA in full satisfaction of all Released PAGA Claims. Pursuant to PAGA, Seventy-Five Percent (75%) of the PAGA Award will be paid to the LWDA. The remaining Twenty-Five Percent (25%) will be paid to all Aggrieved Employees on a pro-rata basis according to the following formula:

i. The Settlement Administrator will divide the amount payable to all Aggrieved Employees (*i.e.*, 25% of the PAGA Award) by the total number of Eligible Pay Periods worked by all Aggrieved Employees during the PAGA Period, as calculated from the Aggrieved Employee List, to determine the "Eligible Pay Period Value."

1 ii. Each Aggrieved Employee's Individual PAGA Payment will then
2 be determined by multiplying the Eligible Pay Periods by the Eligible Pay Period Value.

3 (f) Taxes and Reporting: Each Aggrieved Employee's Individual PAGA
4 Payment shall be treated as penalties (*i.e.*, non-wage income) for all purposes and reported by the
5 Settlement Administrator on IRS Form 1099 to the respective Aggrieved Employee and
6 applicable governmental authorities. No portion of the Individual PAGA Payments shall be
7 construed as wages. Nothing in this Agreement is intended to constitute legal advice regarding
8 federal, state and/or local tax obligations or legal requirements for attribution of settlement
9 proceeds. The Aggrieved Employees will be solely responsible for correctly characterizing any
10 compensation received under the settlement on his/her personal income tax returns for tax
11 purposes, and paying all appropriate taxes due for any and all amounts paid to them under the
12 settlement. Plaintiffs, Defendants, Plaintiffs' Counsel, and Defense Counsel make no
13 representations or warranties with respect to tax consequences of any payment under this
14 Agreement, do not intend anything contained in this Agreement to constitute advice regarding
15 taxes or taxability, nor shall anything in this Agreement be relied upon as such. To the extent that
16 this Agreement or any of its attachments is interpreted to contain or constitute advice regarding
17 any U.S. or Federal tax issue, such advice is not intended or written to be used, and cannot be
18 used, by any person for the purpose of avoiding penalties under the Internal Revenue Code.
19 Defendants, Defense Counsel, Plaintiffs, and Plaintiffs' Counsel are not responsible for any
20 employee tax obligations arising out of the Aggrieved Employee's Individual PAGA Payments.

21 (g) The Parties agree that the settlement is fair and reasonable and will so
22 represent to the Court. The Parties agree that should the Court deny approval of the settlement
23 based on the allocation of the Settlement Amount or the PAGA Award, the Parties agree to re-
24 negotiate the allocation of funds in good faith in an effort to obtain approval of the settlement.

25 **D. Settlement Approval and Implemental Procedures**

26 41. Plaintiffs' Counsel shall also prepare a motion for approval of the settlement
27 pursuant to California Labor Code § 2699(1)(2), advocating that the Settlement is fair, adequate,
28 and reasonable, and Plaintiffs' Counsel shall send a draft of the motion and all supporting papers

1 to Defense Counsel for review and comment. Plaintiffs will then move the Court for approval of
2 the Settlement and this Agreement, including the allocation of the PAGA Award, Plaintiffs'
3 Counsel's Attorneys' Fees and Costs, Plaintiffs' Service Awards, and Settlement Administration
4 Costs, which Defendants will not oppose. Plaintiffs' Counsel will serve the Motion on Defense
5 Counsel via email and submit it to the LWDA through the online filing system. Pursuant to
6 California Labor Code section 2698, *et seq.*, Plaintiffs' Counsel shall undertake all required
7 submissions and disclosures to the LWDA and the Court to obtain approval of the settlement.

8 42. The Parties have agreed to the appointment of the Settlement Administrator to
9 perform the duties of a settlement administrator, including mailing the Notice, using standard
10 devices to obtain forwarding addresses, resolving any disputes regarding the calculation or
11 application of the formula for determining the Individual PAGA Payments, drafting and mailing
12 the settlement checks to Aggrieved Employees, issuing 1099 forms, and performing such other
13 tasks as set forth herein or as the Parties mutually agree or that the Court orders. Any disputes
14 relating to administration of the settlement by the Settlement Administrator shall be referred to
15 the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of
16 this Agreement, until all payments and obligations contemplated by this Agreement have been
17 fully carried out. Prior to presenting any issue to the Court, counsel for the Parties will confer in
18 good faith to resolve the dispute without the necessity of Court intervention. The Settlement
19 Administrator shall also be responsible for issuing to Plaintiffs, Aggrieved Employees, and
20 Plaintiffs' Counsel any 1099, or other tax forms as may be required by law for all amounts paid
21 pursuant to this Agreement. The Settlement Administrator shall also be responsible for setting
22 up all necessary tax accounts and forwarding all payments to the appropriate government
23 authorities.

24 43. Upon the Court's entry of the Final Order, the Settlement Administrator will
25 perform all settlement administration duties, including (i) performing a National Change of
26 Address ("NCOA") search on all Aggrieved Employees to update the addresses of the Aggrieved
27 Employees, (ii) issuing the Notice and payments to Plaintiffs and the Aggrieved Employees, (iii)
28 issuing any required IRS forms, (iv) issuing payment to the LWDA and Plaintiffs' Counsel, and

(v) handling uncashed checks and preparing declaration(s) for the Court regarding the disbursements.

44. Within ten (10) calendar days after the Effective Date, the Settlement Administrator shall send Defense Counsel electronic wiring instructions to fund the Settlement Amount.

45. Aggrieved Employee List and Data: Within ten (10) calendar days after the Effective Date, Defendants will send to the Settlement Administrator the Aggrieved Employees List. This information shall be treated as and remain confidential and shall be used solely by the Settlement Administrator to manage the notice and payment process described herein, shall not be disclosed to anyone other than the Settlement Administrator, except to applicable taxing authorities, or pursuant to express written authorization of Defendants, the individual in question, or by order of the Court.

46. Funding of the Settlement Amount: Defendants shall fund the Settlement Amount by no later than fifteen (15) calendar days after the Effective Date.

47. Disbursement of the Settlement Amount: No later than ten (10) calendar days after receipt of the Settlement Amount by Defendants, the Settlement Administrator shall mail or wire the Court-approved amounts to the Aggrieved Employees, LWDA, Plaintiffs, Plaintiffs' Counsel, and will pay itself for the Settlement Administration Costs.

48. Aggrieved Employee Check Cashing Deadline: Aggrieved Employees shall have 180 calendar days after mailing to cash their settlement checks. If any Aggrieved Employee's check is not cashed within that period, the check will be voided, and a stop-payment will be issued. The release nevertheless will be binding regardless of whether an Aggrieved Employee cashes his or her check 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 Plaintiffs' Counsel of the results. If a new address is located by these means, the Settlement Administrator will have ten (10) business days to issue the check. Any funds in the Settlement Administrator's account

1 as a result of a failure to timely cash a settlement check shall be issued to the California State
2 Controller's Office in the name of the Aggrieved Employee. Neither Defendants, Defense
3 Counsel, Plaintiffs' Counsel, nor Plaintiffs will have any liability for lost or stolen settlement
4 checks, forged signatures on settlement checks, unauthorized negotiation of settlement checks or
5 failure to timely cash a settlement check within the 180-day period.

6 49. The Settlement Administrator will provide the Parties with a declaration
7 confirming that distribution of payments has been completed in accordance with the Agreement
8 and the Court's Final Order, within ten (10) business days of distributing all payments under the
9 Settlement. Plaintiffs' Counsel will file the declaration with the Court and any required papers
10 (*i.e.*, amended Final Order and/or Judgment) or as otherwise ordered by the Court.

11 50. This Agreement is expressly conditioned upon the Court entering the Final Order,
12 thereby disposing of the Action in its entirety. The Final Order and entry of judgment of
13 dismissal will not release or bar any claims other than the Released PAGA Claims as to
14 Plaintiffs, Aggrieved Employees, and State of California.

15 **E. PAGA Release by Plaintiff, the State of California, and Aggrieved Employees**

16 51. Upon the Effective Date occurring and Defendants' funding of the Settlement
17 Amount, Plaintiffs, standing in the shoes of the Labor Commissioner/LWDA, and the State of
18 California and Aggrieved Employees will forever completely release and discharge the Released
19 Parties from the Released PAGA Claims. The time period governing the Released PAGA
20 Claims shall be the PAGA Period.

21 52. It is the intent of the Parties that the Final Order entered by the Court shall have
22 full equitable and collateral estoppel and *res judicata* effect to the fullest extent permitted by law.
23 In accordance with *Arias v. Superior Court* (2009) 46 Cal.4th 969, 985, a judgment in "a
24 representative action brought by an aggrieved employee under the Labor Code Private Attorneys
25 General Act of 2004 ... is binding not only on the named employee plaintiff but also on
26 government agencies and any aggrieved employee not a party to the proceeding," which the
27 Final Order shall so reflect. Thus, in accordance with *Arias*, the Final Order shall be binding on
28 the Aggrieved Employees as to the Released PAGA Claims, including the PAGA Claims.

1
2
3 **F. Separate Releases and Individual Settlements by Plaintiffs**

4 53. In addition to this Agreement, Plaintiffs have each entered into separate
5 Settlement Agreements and General Releases of Individual Claims (the “Individual Settlement
6 Agreements”) with Defendants for all their separate individual (non-PAGA) claims arising out of
7 employment with Defendants, in exchange for a full release of those claims. The Parties
8 acknowledge and agree that the Individual Settlement Agreements and the covenants, promises
9 and Released PAGA Claims contained therein shall not serve to modify or limit Plaintiffs’ right
10 to continue with this Action and seek the Court’s approval of this Settlement; however, Plaintiffs
11 shall have no right to be the representative of a class action lawsuit against Defendants. The
12 Parties further agree that if for any reason the Effective Date does not occur with regard to this
13 Agreement and/or the Final Order is not entered, then the Individual Settlement Agreements
14 shall be null and void.

15 54. The Individual Settlement Agreements will not be filed with the Court. However,
16 if necessary, the Parties agree to submit the monetary terms of this individual settlement to the
17 Court in conjunction with the motion for approval of this Settlement, along with the fact that
18 Plaintiffs are releasing claims, including Section 1542 waivers.

19 **G. Additional Settlement Terms and Conditions**

20 55. Acknowledgement that the Settlement is Fair and Reasonable. The Parties
21 believe this Settlement is a fair, adequate, and reasonable settlement of the Action and have
22 arrived at this Settlement after extensive trial preparation and arm’s-length negotiations by
23 experienced counsel.

24 56. Denial of Liability. The Parties expressly recognize that the making of this
25 Agreement does not in any way constitute an admission or concession of liability, culpability,
26 negligence or wrongdoing on the part of Defendants or any of the other Released Parties. The
27 Parties hereto have entered into this Settlement with the intention of avoiding further disputes
28 and litigation with the attendant risk, inconvenience and expenses. Nothing in this Settlement,

1 nor any action taken in implementation thereof, nor any statements, discussions or
2 communications, nor any materials prepared, exchanged, issued or used during the course of this
3 Action, is intended by the Parties to, nor will any of the foregoing constitute, be introduced, be
4 used or be admissible in any way in any other judicial, arbitral, administrative, investigative or
5 other forum or proceeding, as evidence of any violation of any federal, state, or local law, statute,
6 ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity.
7 Notwithstanding the foregoing, this Settlement Agreement may be used in any court proceeding
8 that has as its purpose the interpretation, implementation, or enforcement of the Settlement or
9 any orders or judgments of the Court entered into in connection therewith.

10 57. No Credit Toward Benefit Plans. Payments to Aggrieved Employees will not be
11 utilized to calculate any additional benefits under any benefit plans to which any Aggrieved
12 Employee may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k)
13 plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit
14 plan. Rather, it is the Parties' intention that this Agreement will not affect any rights,
15 contributions, or amounts to which any Aggrieved Employee may be entitled under any benefit
16 plans.

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

21 59. Nullification of Settlement Agreement. In the event that: (i) the Court does not
22 approve the Settlement as provided herein or as may be amended by the Parties by mutual
23 agreement, in the event that the Court does not approve it; or (ii) the Settlement does not become
24 final for any other reason, then this Agreement, and any documents generated to bring it into
25 effect, will be null and void, and the Parties will be returned to their original respective positions.

26 60. Judgment/Dismissal and Continued Jurisdiction. After entry of the Final Order,
27 the Court will have continuing jurisdiction solely for purposes of addressing: (i) the
28 interpretation and enforcement of the terms of the Settlement, (ii) settlement administration

1 matters, and (iii) such post-approval matters as may be appropriate under court rules or as set
2 forth in this Settlement.

3 61. Entire Agreement. This Agreement constitutes the entirety of the Parties'
4 settlement terms of the claims released herein. All prior or contemporaneous agreements,
5 understandings, representations and statements, whether oral or written and whether by a Party
6 of such Party's legal counsel, including the Memorandum of Understanding between the Parties,
7 are merged herein.

8 62. Amendment or Modification. This Agreement may be amended or modified only
9 by a written instrument, signed by either the Parties or their successors-in-interest or counsel for
10 all Parties.

11 63. Authorization to Enter Into Agreement. Counsel for all Parties warrant and
12 represent they are expressly authorized by the Parties whom they represent to negotiate this
13 Agreement and to take all appropriate action required or permitted to be taken by such Parties
14 pursuant to this Agreement to effectuate its terms and to execute any other documents required to
15 effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each
16 other and use their best efforts to effect the implementation of the Settlement. If the Parties are
17 unable to reach agreement on the form or content of any document needed to implement the
18 Settlement, or on any supplemental provisions that may become necessary to effectuate the terms
19 of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

20 64. Binding on Successors and Assigns. This Agreement will be binding upon, and
21 inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

22 65. California Law Governs. All terms of this Agreement will be governed by and
23 interpreted according to the laws of the State of California, regardless of its conflict of laws.

24 66. Execution and Counterparts. This Agreement is subject only to the execution of
25 all Parties. However, the Agreement may be executed in one or more counterparts. All executed
26 counterparts and each of them, including facsimile and scanned copies of the signature page, will
27 be deemed to be one and the same instrument. Electronic signatures shall have the same force
28 and effect as an original.

1 67. Invalidity of Any Provision. Before declaring any provision of this Agreement
2 invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible
3 consistent with applicable precedents so as to define all provisions of this Agreement valid and
4 enforceable, and consistent with the intent of this Agreement based on the language and terms
5 used herein.

6 68. Captions. The captions and section and paragraph numbers in this Agreement are
7 inserted for the reader's convenience, and in no way define, limit, construe or describe the scope
8 or intent of the provisions of this Agreement.

9 69. Waiver. No waiver of any condition or covenant contained in this Agreement or
10 failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or
11 constitute a further waiver by such Party of the same or any other condition, covenant, right or
12 remedy.

13 70. Enforcement Action. In the event that one or more of the Parties institutes any
14 legal action or other proceeding against any other Party or Parties to enforce the provisions of
15 this Agreement or to declare rights and/or obligations under this Settlement, the successful Party
16 or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys'
17 fees and costs, including expert witness fees incurred in connection with any enforcement
18 actions.

19 71. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
20 and conditions of this Agreement. Accordingly, this Agreement will not be construed more
21 strictly against one Party merely by virtue of the fact that it may have been prepared by counsel
22 for one of the Parties, it being recognized that, because of the arm's-length negotiations between
23 the Parties, all Parties have contributed to the preparation of this Agreement.

24 72. Representation By Counsel. The Parties acknowledge that they have been
25 represented by competent counsel throughout all negotiations that preceded the execution of this
26 Agreement, and that this Agreement has been executed with the consent and advice of counsel,
27 and reviewed in full.
28

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

Dated: Jun 2, 2024

PLAINTIFF ANGEL WALDEN:


Angel Walden (Jun 2, 2024 11:24 PDT)

Angel Walden

Dated: _____

PLAINTIFF PAIGE COLLINS:

Paige Collins

Dated: June 7, 2024

DEFENDANT ADVANCED PAYROLL SOLUTIONS, INC.

By: 
frank holloway (name)
President (title)

Dated: June 7, 2024

DEFENDANT ADVANCED REAL ESTATE SERVICES, INC.

By: 
frank holloway (name)
President (title)

APPROVED AS TO FORM:

Dated: _____

PLAINTIFFS' COUNSEL
LAUBY, MANKIN & LAUBY LLP

Brian J. Mankin
Attorneys for Plaintiff

Dated: _____

DEFENSE COUNSEL
FISHER & PHILLIPS LLP

Philip J. Azzara, Esq.
Attorneys for Defendants

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

Dated: _____

PLAINTIFF ANGEL WALDEN:

Angel Walden

Dated: May 29, 2024

PLAINTIFF PAIGE COLLINS:


Paige Collins (May 29, 2024 11:10 PDT)

Paige Collins

Dated: June 7, 2024

DEFENDANT ADVANCED PAYROLL SOLUTIONS, INC.

By:  (name)

President (title)

Dated: June 7, 2024

DEFENDANT ADVANCED REAL ESTATE SERVICES, INC.

By:  (name)

President (title)

APPROVED AS TO FORM:

Dated: 6/3/2024

PLAINTIFFS' COUNSEL
LAUBY, MANKIN & LAUBY LLP


Brian J. Mankin
Attorneys for Plaintiff

Dated: June 7, 2024

DEFENSE COUNSEL
FISHER & PHILLIPS LLP

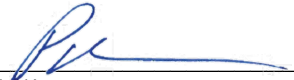

Philip J. Azzara, Esq.
Attorneys for Defendants

EXHIBIT “D”

All Expenses

Lauby, Mankin & Lauby LLP

Staff Member = All (Active Only)
Group By Staff Member Group
Client - Project = 14000-00518 Walden v Advanced Payroll (Active Only)
Activity Code = All
Expense Code = All
View = Original
Approval Status = All
Selected Expenses = All
From Earliest To Latest

Entered	Status	Approval	BillableType	Expense	Staff Member	Price	Mark Up %	Qty	Amount
Angel Walden 14000-00518 Walden v Advanced Payroll									
11-04-2022	Approved		Billable	E112 Court fees	Chiarito, Tracie	75.00	0.00	1.00	75.00
Fees to LWDA to submit PAGA letter									
11-04-2022	Approved		Billable	E101 Copying	Chiarito, Tracie	0.06	0.00	104.00	6.24
104 copies @ .06 each - Letters to company									
11-07-2022	Approved		Billable	Attorney Service	Chiarito, Tracie	1,492.52	0.00	1.00	1,492.52
Onelgal Order #19246694 - file complaint									
11-08-2022	Approved		Billable	Attorney Service	Chiarito, Tracie	15.19	0.00	1.00	15.19
Onelgal Order #19255479 - file civil case cover sheet									
11-15-2022	Approved		Billable	Attorney Service	Chiarito, Tracie	98.52	0.00	1.00	98.52
Bosco Inv #7927496 Serve: Advanced Real Estate Services, Inc., a California Corporation Summons; Complaint; Civil Case Cover Sheet; Judge Lon Hurwitz Department CX 103 Schedule and General Information; ADR Court: Orange County Superior Court - Civil Complex Center Completed on: 11/09/2022									
11-15-2022	Approved		Billable	Attorney Service	Chiarito, Tracie	138.47	0.00	1.00	138.47
Bosco Inv #7927479 Serve: Advanced Payroll Solutions, Inc., a California Corporation Summons; Complaint; Civil Case Cover Sheet; Judge Lon Hurwitz Department CX 103 Schedule and General Information; ADR Court: Orange County Superior Court - Civil Complex Center Completed on: 11/09/2022									
11-17-2022	Approved		Billable	Attorney Service	Chiarito, Tracie	15.19	0.00	1.00	15.19
Onelgal Order #19317503 - file (2) POS									
11-30-2022	Approved		Billable	Attorney Service	Chiarito, Tracie	15.19	0.00	1.00	15.19
Onelgal Order #19378027 - file Request for Dismissal / Proposed Order									
01-09-2023	Approved		Billable	Attorney Service	Chiarito, Tracie	454.83	0.00	1.00	454.83
TurboCourt - file PAGA complaint									
01-27-2023	Approved		Billable	Attorney Service	Chiarito, Tracie	9.95	0.00	1.00	9.95

All Expenses
Lauby, Mankin & Lauby LLP

Staff Member = All (Active Only)
Group By Staff Member Group
Client - Project = 14000-00518 Walden v Advanced
Payroll (Active Only)
Activity Code = All
Expense Code = All
View = Original
Approval Status = All
Selected Expenses = All
From Earliest To Latest

Entered	Status	Approval	BillableType	Expense	Staff Member	Price	Mark Up %	Qty	Amount
Angel Walden 14000-00518 Walden v Advanced Payroll									
TurboCourt - file (2) Notice and Acknowledgment of Receipt									
02-04-2023	Approved		Billable	E112 Court fees	Chiarito, Tracie	1,002.00	0.00	1.00	1,002.00
San Bernardino Superior Court complex fees									
02-13-2023	Approved		Billable	E125 Mediation fees	Chiarito, Tracie	5,325.00	0.00	1.00	5,325.00
Judicate West Inv #588010 for 8/14/23 mediation w Gail Click, Esq.									
03-14-2023	Approved		Billable	Attorney Service	Chiarito, Tracie	30.69	0.00	1.00	30.69
TurboCourt Order #7775443 - file Slip and Order to Cont CMC									
08-04-2023	Approved		Billable	E101 Copying	Chiarito, Tracie	0.06	0.00	48.00	2.88
48 copies @ .06 each - record request letters to company (Collins)									
08-16-2023	Approved		Billable	E119 Experts	Chiarito, Tracie	2,550.00	0.00	1.00	2,550.00
Berger Consulting Group Inv #9105									
09-15-2023	Approved		Billable	Attorney Service	Chiarito, Tracie	72.00	0.00	1.00	72.00
Courtcall ID #11741848 for 9/14/23 CMC									
11-17-2023	Approved		Billable	E112 Court fees	Chiarito, Tracie	75.00	0.00	1.00	75.00
Receipt for LWDA - submit PACA letter (Collins)									
11-17-2023	Approved		Billable	E101 Copying	Chiarito, Tracie	0.06	0.00	48.00	2.88
48 copies @ .06 each - LWDA letter to companies (Collins)									
11-17-2023	Approved		Billable	E108 Postage	Chiarito, Tracie	19.28	0.00	1.00	19.28
Postage for November 2023 (Collins)									
01-25-2024	Approved		Billable	E121 Arbitrators/mediators	Chiarito, Tracie	350.00	0.00	1.00	350.00
Receipt from AAA for Arbitration Fee Payment - Paige Collins									
02-22-2024	Approved		Billable	Attorney Service	Chiarito, Tracie	91.05	0.00	1.00	91.05
Bosco Inv #10463577									
File and Conform									
Stipulation to Allow Plaintiff to File First Amended Complaint; [Proposed] Order									
Advance fees									
Court: San Bernardino County Superior Court - Central District									
Completed on: 02/21/2024									
02-29-2024	Approved		Billable	Attorney Service	Chiarito, Tracie	59.95	0.00	1.00	59.95

All Expenses
Lauby, Mankin & Lauby LLP

Staff Member = All (Active Only)
Group By Staff Member Group
Client - Project = 14000-00518 Walden v Advanced
Payroll (Active Only)
Activity Code = All
Expense Code = All
View = Original
Approval Status = All
Selected Expenses = All
From Earliest To Latest

Entered	Status	Approval	BillableType	Expense	Staff Member	Price	Mark Up %	Qty	Amount
Angel Walden									
14000-00518 Walden v Advanced Payroll									
Bosco Inv #10516750									
File and Conform									
First Amended Representative Enforcement Action Complaint									
Court: San Bernardino County Superior Court - Central District									
Completed on: 02/29/2024									
04-12-2024	Approved		Billable	Attorney Service	Chiarto, Tracie	81.95	0.00	1.00	81.95
Bosco Inv #10840254									
File and Conform: in Dept S26									
Notice of Settlement and Stipulation and Order									
Advance Fees									
Court: San Bernardino County Superior Court - Central District									
Completed on: 04/11/2024									
04-23-2024	Approved		Billable	E112 Court fees	Chiarto, Tracie	2.50	0.00	1.00	2.50
Receipt for San Bernardino Superior Court - copy of the signed order re setting FA hearing									
07-10-2024	Approved		Billable	Attorney Service	Chiarto, Tracie	350.00	0.00	1.00	350.00
Costs to file Motion for Approval and supporting docs via Bosco									
08-06-2024	Approved		Billable	Attorney Service	Chiarto, Tracie	144.00	0.00	1.00	144.00
Costs for Courtcall for Approval Hearing									
Project Total									12,480.28
Client Total									12,480.28
Grand Total									12,480.28

EXHIBIT “E”

EXHIBIT “F”



PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

March 5, 2024

CASE ASSUMPTIONS

Class Members	600
Opt Out Rate	N/A
Opt Outs Received	
Total Class Claimants	600
Subtotal Admin Only	\$6,961.58

Flat Fee Total \$6,500.00

For 600 Class Members

Pricing Good for Scope of Estimate Only

All Aspects of Escheating to the State of CA Included

Spanish Translation, Printing & Mailing Included

Case: Walden v. v. Advanced Payroll, PAGA Administration

Phoenix Contact: Michael E. Moore

Contact Number: 949.331.0131

Email: mike@phoenixclassaction.com

Requesting Attorney: Brian J. Mankin

Firm: Lauby, Mankin & Lauby

Contact Number: (951) 320-1444 |

Email: brian@lmlfirm.com

Assumptions and Estimate are based on information provided by counsel. If class size changes, PHX will need to adjust this Estimate accordingly.

Estimate is based on **600** Class Members. Class data **Must** be sent in Microsoft Excel or uploaded in the same format. Class Data Must be sent in one spreadsheet, with no additional programming needed. A rate of \$150 per hour will be charged for any additional analysis or programming. Pricing good for 90 day

Case & Database Setup / Toll Free Setup & Call Center / NCOA (USPS)

Administrative Tasks:	Rate	Hours/Units	Line Item	Estimate
Programming Manager	\$100.00	2		\$200.00
Programming Database & Setup	\$100.00	1		\$100.00
Toll Free Setup*	\$100.00	1		\$100.00
Call Center & Long Distance	\$2.50	96		\$240.00
NCOA (USPS)	\$125.00	1		\$125.00
Total				\$765.00

* Up to 120 days after disbursement

Data Merger & Scrub / Notice Packet, Check & Postage / Spanish Translation

Project Action	Rate	Hours/Units	Line Item	Estimate
Notice Packet Formatting	\$100.00	1		\$100.00
Spanish Translation	\$150.00	1		\$150.00
Data Merge & Duplication Scrub	\$0.09	600		\$54.00
Notice and Check Packet	\$1.00	600		\$600.00
Estimated Postage (up to 1 oz.)*	\$0.64	600		\$384.00
Total				\$1,288.00

* Prices good for 90 days. Subject to change with the USPS Rate or change in Notice pages or Translation, if any.



PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

Skip Tracing & Remailing Notice Packets / Tracking & Programming Undeliverables

Project Action:	Rate	Hours/Units	Line Item	Estimate
Case Associate	\$55.00	3		\$165.00
Skip Tracing Undeliverables	\$0.75	150		\$112.50
Remail Notice Packets	\$1.00	147		\$147.00
Estimated Postage	\$0.64	147		\$94.08
Programming Undeliverables	\$50.00	1		\$50.00
			Total	\$568.58

Database Programming

Project Action:	Rate	Hours/Units	Line Item	Estimate
Programming Claims Database	\$150.00	1		\$150.00
Case Associate	\$55.00	3		\$165.00
Case Manager	\$85.00	2		\$170.00
			Total	\$485.00

Calculation & Disbursement Programming/ Create & Manage QSF/ Mail Checks

Project Action:	Rate	Hours/Units	Line Item	Estimate
Programming Calculations	\$135.00	1		\$135.00
Disbursement Review	\$135.00	2		\$270.00
Programming Manager	\$95.00	2		\$190.00
QSF Bank Account & EIN	\$135.00	1		\$135.00
Check Run Setup & Printing	\$135.00	6		\$810.00
			Total	\$1,540.00

* Checks are printed on 8.5 x 11 in. sheets with W2/1099 Tax Filing



PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

Tax Reporting & Reconciliation / Re-Issuance of Checks / Conclusion Reports and Declarations				
Project Action:	Rate	Hours/Units	Line Item	Estimate
Case Supervisor	\$115.00	2		\$230.00
Remail Undeliverable Checks (Postage Included)	\$1.50	90		\$135.00
Case Associate	\$55.00	3		\$165.00
Reconcile Uncashed Checks	\$85.00	4		\$340.00
Conclusion Reports	\$115.00	2		\$230.00
Case Manager Conclusion	\$85.00	2		\$170.00
Final Reporting & Declarations	\$115.00	3		\$345.00
QSF Annual Tax Reporting * (State Tax Reporting & Escheating Uncashed Checks to the State of CA included)	\$700.00	1		\$700.00
Total				\$2,315.00

* All applicable California State & Federal taxes, which include SUI, ETT, and SDI, and FUTA filings. Additional taxes are Defendant's responsibility.

Estimate Total: \$6,961.58



TERMS AND CONDITIONS

Provisions: The case estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make any provision for any services or class size not delineated in the request for proposal or stipulations. Proposal rates and amounts are subject to change upon further review, with Counsel/Client, of the Settlement Agreement. Only pre-approved changes will be charged when applicable. No modifications may be made to this estimate without the approval of PSA (Phoenix Settlement Administrators). All notifications are mailed in English language only unless otherwise specified. Additional costs will apply if translation into other language(s) is required. Rates to prepare and file taxes are for Federal and California State taxes only. Additional charges will apply if multiple state tax filing(s) is required. **Pricing is good for ninety (90) days.**

Data Conversion and Mailing: The proposal assumes that data provided will be in ready-to-use condition and that all data is provided in a single, comprehensive Excel spreadsheet. PSA cannot be liable for any errors or omissions arising due to additional work required for analyzing and processing the original database. A minimum of two (2) business days is required for processing prior to the anticipated mailing date with an additional two (2) business days for a National Change of Address (NCOA) update. Additional time may be required depending on the class size, necessary translation of the documents, or other factors. PSA will keep counsel apprised of the estimated mailing date.

Claims: PSA's general policy is to not accept claims via facsimile. However, in the event that facsimile filing of claims must be accepted, PSA will not be held responsible for any issues and/or errors arising out of said filing. Furthermore, PSA will require disclaimer language regarding facsimile transmissions. PSA will not be responsible for any acts or omissions caused by the USPS. PSA shall not make payments to any claimants without verified, valid Social Security Numbers. All responses and class member information are held in strict confidentiality.

Payment Terms: All postage charges and 50% of the final administration charges are due at the commencement of the case and will be billed immediately upon receipt of the data and/or notice documents. PSA bills are due upon receipt unless otherwise negotiated and agreed to with PSA by Counsel/Client. In the event the settlement terms provide that PSA is to be paid out of the settlement fund, PSA will request that Counsel/Client endeavor to make alternate payment arrangements for PSA charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the settlement account is funded by Defendant, or no later than the time of disbursement. Amounts not paid within thirty (30) days are subject to a service charge of 1.5% per month or the highest rate permitted by law.

Tax Reporting Requirements

PSA will file the necessary tax returns under the EIN of the QSF, including federal and state returns. Payroll tax returns will be filed if necessary. Under the California Employment Development Department, all taxes are to be reported under the EIN of the QSF with the exception of the following taxes: Unemployment Insurance (UI) and Employment Training Tax (ETT), employer-side taxes, and State Disability Insurance (SDI), an employee-side tax. These are reported under Defendant's EIN. Therefore, to comply with the EDD payroll tax filing requirements we will need the following information:

1. Defendant's California State ID and Federal EIN.
2. Defendant's current State Unemployment Insurance (UI) rate and Employment Training Tax (ETT) rate. This information can be found in the current year DE 2088, Notice of Contribution Rates, issued by the EDD.
3. Termination dates of the class members, or identification of current employee class members, so we can account for the periods that the wages relate to for each class member.
4. An executed Power of Attorney (Form DE 48) from Defendant. This form is needed so that we may report the UI, SDI, and ETT taxes under Defendant's EIN on their behalf. If this form is not provided we will work with the EDD auditors to transfer the tax payments to Defendant's EIN.
5. Defendant is responsible for reporting the SDI portion of the settlement payments on the class member's W-2. PSA will file these forms on Defendant's behalf for an additional fee and will issue an additional W-2 for each class member under Defendant's EIN, as SDI is reported under Defendant's EIN rather than the EIN of the QSF. The Power of Attorney (Form DE 48) will be needed in order for PSA to report SDI payments.

EXHIBIT “G”

Insert Settlement Administrator

Insert Address

Insert Phone Number

[Aggrieved Employee]

[Address]

[Address]

Re: *Angel Walden and Paige Collins v. Advanced Payroll Solutions, Inc., et al.*
San Bernardino Superior Court, Case No. CIVSB2300104

Dear [Aggrieved Employee]:

Enclosed is your payment from the settlement of a lawsuit entitled *Angel Walden and Paige Collins, on behalf of the State of California as the Real Party In Interest v. Advanced Payroll Solutions, Inc., and Advanced Real Estate Services, Inc.*, which was pending in the Superior Court of the State of California for the County of San Bernardino, Case No. CIVSB2300104 (the “Lawsuit”).

Plaintiff Angel Walden filed the Lawsuit on January 10, 2023, and the Plaintiff Paige Collins was later added to the case. The Lawsuit brings claims against Defendants Advanced Payroll Solutions, Inc., and Advanced Real Estate Services, Inc. (“Defendants”) pursuant to the California Private Attorneys General Act of 2004, Cal. Lab. Code § 2698 *et seq.* (“PAGA”). The Lawsuit was brought on behalf of the State of California and all current and former nonexempt employees employed by Defendants in California any time during the “Statutory Period” of November 6, 2021, through February 29, 2024 (the “Aggrieved Employees”). The Lawsuit alleges that Defendants failed to pay all required minimum and overtime wages, failed to provide compliant meal and rest breaks, failed to pay vested vacation, failed to timely pay wages each period and upon separation of employment, and failed to provide accurate itemized wage statements. As such, the Lawsuit sought civil penalties under PAGA on behalf of the State of California and all similarly situated Aggrieved Employees.

Defendants emphatically deny that they violated any provisions of the California Labor Code and contend that their practices regarding the payment of wages, meal and rest breaks, and providing of wage statements complied with all requirements of California law. Nevertheless, without admitting any wrongdoing, Defendants agreed to resolve this case by way of settlement. And, according to Defendants’ records, you are an “Aggrieved Employee” because you were employed by Defendants as a nonexempt employee during the Statutory Period.

The Court approved the settlement on [REDACTED], 2024. Under California law, any settlement of a PAGA case results in 75 percent of the awarded penalty being paid to the State of California and 25 percent of the penalty being paid to the Aggrieved Employees who worked during the Statutory Period. The settlement releases only claims for civil penalties alleged in the Lawsuit under PAGA (Labor Code section 2699) for the Statutory Period. Your share of the PAGA settlement is the enclosed settlement check. You have 180 days to cash the settlement check. Checks remaining uncashed for more than 180 days after issuance will be voided and funds represented thereby will be remitted by the State Controller’s Office for the State of California in the name of the Aggrieved Employee that did not cash their check.

For more information, you may inspect the Court’s files and the PAGA Representative Action Settlement Agreement and Release of PAGA Claims at Office of the Clerk, San Bernardino County Superior Court, located at 247 West Third Street San Bernardino CA 92415, during regular court hours. You may also contact the Settlement Administrator using the contact information listed above for more information.