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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

LAVONTRA BREAUX, in a Representative capacity only, and on behalf of other members of the general public similarly situated Plaintiff v. L'OCCITANE, INC., a California Corporation; and DOES 1-10, inclusive Defendants	CASE NO. 30-2023-01311136-CU-OE-CXC **DECLARATION OF ERIC K. YAECKEL IN SUPPORT OF PLAINTIFF'S *MOTION* RE: *UNOPPOSED* PAGA APPROVAL** Date: November 21, 2024 Time: 2:00 p.m. Dept.: CX104 Judge: Hon. Melissa R. McCormick Reservation No. 74330897

I, Eric K. Yaeckel declare as follows:

1. I am an attorney licensed to practice law before all the courts of the State of California, and am employed with the law firm of SULLIVAN & YAECKEL LAW GROUP, APC, attorneys of record for LAVONTRA BREAUX, in a Representative capacity only, and on behalf of other members of the general public similarly situated in this matter.

2. I make this declaration in support of Plaintiff's Unopposed Motion Re: PAGA Settlement Approval. I am personally familiar with the facts set forth in this declaration and, if called to testify, could and would do so.

Background and Settlement Terms

3. Following the exchange of discovery, analysis of numerous sets of time and wage data, and a mediation before respected "wage an hour" mediator Mike Young, Esq., the Parties reached a proposed settlement that includes a payment of penalties to the LWDA.

4. A true and correct copy of the "PAGA Settlement Agreement" (the "Agreement") is attachedas Exhibit 1.

5. Based on the exchange of the parties, it is estimated that there are 325 or less PAGA Members, who collectively worked 6,685 pay periods.

6. The Total Value of the proposed Settlement is **$167,125.00**. The "Monetary Terms"" are found in Exhibit 1 (section 3). After deductions for contingent costs, there will be $22,605.86 dispersed between the aggrieved employees. The actual calculations will be based on pay periods worked. If you divide the $22,605.86 between all 325 employees it results in an average recovery of $69.56 per employee. This is an average only as the agreement bases the payment on the total pay periods worked during the PAGA Period.

7. Subject to the Court's Approval, the parties proposed notice to accompany the settlement checks is attached as **Exhibit 2.**

8. The parties propose to use Phoenix Class Action Administration Solutions as the Settlement Administrator. Phoenix has given the parties a bid not to exceed $4,250.00. A true and correct copy is attached as **Exhibit 3.**

9. The parties have met and conferred and are not aware of any other cases that will be impacted

by this settlement.

10. Plaintiff's prior notice letter to the LWDA, dated December 20, 2022, is attached as **Exhibit 4**.

11. The key allegations in the case were Plaintiff allegations that she - and other employees - received "short," "late," or "missing" Meal Periods, including those documented within Defendant's Time Records. Plaintiff also challenged whether Defendant maintained lawful meal and rest periods. Plaintiff alleged she- and other employees -were not properly compensated due to Defendant's failure to maintain accurate time records, which at time resulted in a failure to pay for all overtime worked..

12. After conducting an internal analysis of all data and documents produced, our office estimated the <u>maximum</u> liability in a case of this type would be in the range of **$200,000.00** to **$300,000.00**. However, without revealing settlement protected communications, it was highly unlikely Plaintiff could ever recover anything approaching a maximum judgment.

13. Our office is aware of the Court's discretion to mitigate penalties pursuant to California Labor Code section 2699(e)(2). To confirm, Plaintiff's counsel experienced the mitigation of "PAGA" penalties in *Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504. In *Carrington*, the Court significantly mitigated PAGA penalties ($5 per violation), due to the efforts made by the employer to comply with the law.

14. Plaintiff's counsel agrees with the Court,, and with the provision of the Labor Code, that penalties *should* be mitigated where violations are minimal (or rare), or where the employer makes significant efforts to comply with the Labor Code.

15. As the above factors exist in this case, it is the opinion of Plaintiff's counsel that the settlement is fair, adequate, and reasonable

<u>Experience of Counsel</u>

16. I am co-lead trial counsel. I have over 13 years of experience as a licensed California attorney who is primarily engaged in prosecuting class and representative actions. I have spent my entire practice engaged in prosecuting class and representative actions. I became a partner in our law firm in 2020.

17. Our office are the attorneys of record in a matter recently (and favorably) decided before the California Supreme Court titled *Donohue v. AMN Services, LLC,* 11 Cal.5th 58 (2021). The *Donohue* matter is a certified class and PAGA action.

18. Our office is lead counsel on at least 40 employment "wage and hour" claims with class action, or representative action, allegations. These cases are set within the California Superior Court and Federal District Courts in California. Our office is currently lead counsel on claims that have been certified by both Court Order and by stipulation of the parties. In the last three years, Sullivan & Yaeckel Law Group has settled at least 15 employment "wage and hour" claims on behalf of a Certified Class.

19. In the last five years, Sullivan & Yaeckel Law Group has tried three "Wage and Hour" Representative (PAGA) cases.

20. Our firm has the requisite experience knowledge of California law and the Federal Rules of Civil Procedure required to act on behalf of a Class or PAGA Representative Group. I consider the Settlement Agreement in this matter to represent a fair, adequate and reasonable settlement that is well within the accepted range of recoveries for similar wage and hour class actions. I also believe the Agreement is in the best interests of the Settlement Class Members. I am also aware that Defendants' counsel (both the firm, and individual attorneys working on this case) have extensive experience defending similar wage and hour class actions.

21. Based on the above experience, it is this firm's opinion that this settlement represents a fair and adequate payment to the LWDA and aggrieved employees.

<u>The Lodestar Analysis</u>

22. Plaintiff seeks attorneys fees in the amount of one third of the total settlement amount, which is $38,125.00 For purposes of a lodestar cross-check the firms' attorneys' fees incurred (to date) are estimated to amount to approximately **$64,122.00**. The Attorney's fees are broken down as follows:

    a. I served as lead investigator and co-trial counsel, per the specific request of Plaintiff. My billing rate is **$600.00** per hour. Over the course of the investigation (including pre-filing), I have have currently expended approximately **79.5** hours in the service of this action. **79.5** hours times **$600.00** equals **$47,700.00**. The work includes nearly all preliminary investigation, and the majority of all client and aggrieved employee interaction/meetings. This also included a substantive review and analysis of documents. During this time, I also investigated Defendant, its business practices, and any variations in employee job duties and rates of pay. Aside from supervising the primary associates, my work also included attending hearings and most of the day to day communication with opposing counsel. I spent substantial time preparing for, and attending, the mediation, including preparing a detailed mediation brief and damage analysis. I also handled numerous exchanges between the mediator and Defense counsel to negotiate and finalize the settlement. I also assisted with the review and drafting of settlement documents and the approval motion.

b. Mr. Ryan Kuhn and Ms. Katherine Dishoungh also served as the Associate Attorneys assigned to the case. The associates' billing rate on this matter is **$420.00** per hour. The associates expended approximately **39.1** hours in the service of this action. **39.1** hours times **$420.00** equals **$16,422.00.**The work performed by the associates consisted of, for the most part, analysis of Defendants' documents and records, in preparation for mediation. The associates were also assigned to discovery creation/review, the preparation of "meet and confer" letters and some other contact with defense counsel.

<u>The Reasonableness of Plaintiff's Hourly Rates</u>

23. I printed a copy of the Updated Laffey Matrix from the following website: www.laffeymatrix.com. A true and correct copy is attached as **Exhibit 5**.

24. The referenced "Laffey" chart states that for the time periods in this case, for an attorney with 11-19 years experience, the matrix states a reasonable fee is between $829- $878 per hour. I have over 12 years experience working on class action litigation and only bill at the rate of $600 per hour.

25. For an attorney with 4-7 years experience, the matrix states a reasonable fee is between $508 - $538 per hour. The associate Mr. Kuhn, who was working on this matter has 4-7 years experience and billed at the rate of $420 per hour.

26. Accordingly, we submit our rates are comparable to, or less than, those charged by other class action plaintiffs' counsel and the firms defending class actions.

27. Our hourly rates have routinely been approved by numerous federal and state Courts.

28. In a recent successful PAGA trial, tried before in the San Diego Superior Court, our office was awarded our full requested attorneys fees and was approved at the requested hourly rates (which are similar to the fees/rates billed here). Please See *Carrington v. Starbucks Corp.* San Diego Superior Court, Case No. 37-2014-00018637-CU-OE-CTL and published appellate opinion 30 Cal.App.5th 504.

<u>Costs of Litigation</u>

29. Class Counsel's total costs expended in this matter will be **$11,743.24** . This is less than the $12,000 amount that Defendant agreed not to contest. The attached Cost Worksheet was contemporaneously maintained and updated by my office. (See **Exhibit 6**). This is a true and accurate summary of the costs incurred by Plaintiff's counsel. The costs include, filing and service fees (including the Complaint and all other pleadings, all e-file charges, LWDA filing fees and attorney messenger fees; Mediation Fees; Legal Research and Postage and Copying Costs)

<u>Class Representative Enhancement</u>

30. The named Plainitiff Lavontra Breaux contributed extensive time and resources in the prosecution of this case. Plaintiff was able to provide information instrumental to the prosecution of this matter including identifying numerous witnesses that could corroborate the claims. Plaintiff also assisted with reviewing and providing insight on Defendant's documents produced. Plaintiffs brought to our attention numerous Labor Code violations that formed the basis of the litigation.

31. I know (from experience) that any company who does a detailed background check, will be able to determine that Plaintiff is serving as PAGA and/or class representatives in a lawsuit against their former employer.

32. An entire industry exists that allows employers to run extensive background searches on potential employees. Companies who provide these services specifically highlight the fact that

their services allows employers to weed out litigious employment candidates. One such service outlines ways that employers can "get a sense of whether a prospective employee is likely to sue" the employer, through background checks and other means, to screen out these employees. www.reliableplant.com/Read/6959/a-solution-to-fear-of-hiring-litigious-employees. Onicra Credit Rating Agency of India states: "Background screening has become a necessity in today's litigious society." Back Track Screening also represents: "In today's litigious culture, employers simply cannot afford to hire employees who will put their company at risk." http://www.btscreening.com/wp-content/uploads/2012/09/Screening-101.pdf.

33. Finally, any employer may simply check the various Superior Court of California websites and conduct a party name search to uncover whether an applicant has previously filed litigation against their employer.

34. Plaintiffs also risked personally owing a large cost award, which I estimate would be well into the tens of thousands of dollars, had the claims been unsuccessful.

35. Despite all the risks Plaintiff, at all times remained committed to securing a monetary recovery on behalf of the entire group of aggrieved employees.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 3rd day of July, 2024 at San Diego, California.

Eric Yaeckel

Eric K. Yaeckel

EXHIBIT 1

PAGA SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") of claims under the Private Attorneys General Act ("PAGA") is made by and between Plaintiff LaVontra Breaux ("Plaintiff") and Defendant L'Occitane, Inc. ("Defendant"). The Agreement refers to Plaintiff and L'Occitane, collectively as "Parties," or individually as "Party."

1. DEFINITIONS.

1.1 "Action" means the Plaintiff's lawsuit alleging claims under PAGA against Defendant, captioned *LaVontra Breaux v. L'Occitane, Inc., et al.*, Case No. 30-2023-01311136-CU-OE-CXC initiated on March 8, 2023, and pending in the Superior Court of the State of California, County of Orange.

1.2 "Administrator" means Phoenix Settlement Administrators, the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3 "Administration Expenses Payment" means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator's "not to exceed" bid submitted to the Court in connection with approval of this Settlement.

1.4 "Aggrieved Employees" means all persons who are employed or have been employed by Defendant in California as hourly, non-exempt employees from December 20, 2021, through March 11, 2024

1.5 "Aggrieved Employee" means a person who is or was employed by Defendant in California as an hourly, non-exempt employee at any time between December 20, 2021, and March 11, 2024.

1.6 "Aggrieved Employee Data" means identifying information for the Aggrieved Employees in Defendant's possession including the their names, last-known mailing addresses, Social Security numbers and dates of employment and/or number of PAGA Pay Periods worked by Aggrieved Employees during the PAGA Period.

1.7 "Aggrieved Employee Address Search" means the Administrator's investigation and search for the current mailing addresses of the Aggrieved Employees using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces and direct contact by the Administrator with Aggrieved Employees.

1.8 "Court" means the Superior Court of California, County of Orange.

1.9 "Defendant" means L'Occitane, Inc., the defendant named in the Action.

1.10 "Defense Counsel" means Nathan W. Austin and Alis Moon of Jackson Lewis P.C.

1.11 "Effective Date" means the date the Court has: (1) granted approval of the Settlement; and (2) issued a Judgment in the Action. The Parties agree that there is no right to opt-out or object to a PAGA settlement. It is therefore the Parties' intention that the Settlement shall be final at the time of the Court's approves the Settlement and enters Judgment. Defendant's deadline to fund the Settlement will be due based on the Effective Dates and there shall be no further waiting periods given that there is no right to appeal.

1.12 "Gross Settlement Amount" means $167,125.00 which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay the PAGA Penalties, the PAGA Representative Service Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator's Expenses Payment.

1.13 "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.

1.14 "Judgment" means the judgment entered by the Court based upon the Court's approval of the Settlement.

1.15 "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subdivision (i).

1.16 "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subdivision (i).

1.17 "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, PAGA Representative Service Payment, and the Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees as Individual PAGA Payments and the LWDA as the LWDA PAGA Payment.

1.18 "Operative Complaint" means the operative complaint filed by Plaintiff in the Action, including any amendments thereto.

1.19 "PAGA Counsel" means Eric K. Yaeckel and Ryan T. Kuhn of Sullivan & Yaeckel Law Group APC, the attorneys representing the Plaintiff in the Action.

1.20 "PAGA Counsel Fees Payment" means the amount allocated to PAGA Counsel for reimbursement of their reasonable attorneys' fees incurred to prosecute the Action.

1.21 "PAGA Counsel Litigation Expenses Payment" means the amount allocated to PAGA Counsel for reimbursement of their reasonable litigation expenses incurred to prosecute the Action.

1.22 PAGA Pay Period" means any pay period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

1.23 "PAGA" means the Private Attorneys General Act (Lab. Code, § 2698. et seq.).

1.24 "PAGA Notice" means Plaintiff's December 20, 2022, letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3 subd. (a).

1.25 "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees and the 75% to LWDA in settlement of PAGA claims.

1.26 "PAGA Representative Service Payment" means the payment to Plaintiff for initiating the Action and providing services in support of the Action.

1.27 "Plaintiff" means LaVontra Breaux, the named plaintiff in the Action.

1.28 "Approval Order" means the proposed Court Order granting approval of the Settlement.

1.29 "Released Claims" means the claims being released by the Plaintiff, the Aggrieved Employees, and PAGA Counsel and as described in Paragraph 5 below.

1.30 "Released Parties" means (i) Defendant, L'Occitane, Inc., (ii) each of Defendant's respective past, present and future parents, subsidiaries and affiliates including, without limitation, any corporation, limited liability company, or partnership, (iii) the past, present and future shareholders, directors, officers, agents, employees, attorneys, insurers, members, partners, managers, contractors, agents, consultants, representations, administrators, fiduciaries, benefit plans, transferees, predecessors, successors, and assigns of any of the foregoing; and (iv) any individual or entity which could be jointly liable with any of the foregoing.

1.31 "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

2. RECITALS.

2.1 On March 8, 2023, Plaintiff commenced this Action by filing a Complaint alleging a cause of action Defendant for violations of PAGA, pursuant to Labor Code section 2698, *et seq.* Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the cause of action alleged.

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

2.3 On December 11, 2023, the Parties participated in an all-day mediation presided over by Michael Young, Esq. which led to this Agreement to settle the Action.

2.4 The Parties, PAGA Counsel, and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

3.1 Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant promises to pay a maximum of $167,125.00 as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 6.1 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring the Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2 Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in granting approval of the Settlement:

3.2.1 To PAGA Counsel: A PAGA Counsel Fees Payment of not more than 33.3%, which is currently estimated to be $55,708.33, and PAGA Counsel Litigation Expenses Payment of not more than $13,000.00. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant harmless and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these payments.

3.2.2 To the Plaintiff: PAGA Counsel shall petition the Court for a PAGA Representative Service Payment not to exceed $5,000.00, in addition to Plaintiff's Individual PAGA Payment. The PAGA Representative Service Payment is to be part of, and to be deducted from, the Gross Settlement Amount. If the Court approves a PAGA Representative Service Payment less than the amount requested, the difference will be added to the Net Settlement Amount. The Administrator will pay the PAGA Representative Service Payment using an IRS 1099 Form. Plaintiff assumes full responsibility and liability for employee taxes owed on the PAGA

Representative Service Payment.

3.2.3 To the Administrator: An Administrator Expenses Payment not to exceed $4,250.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than $4,250.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4 To the LWDA. The Administrator will pay 75% of the Net Settlement Amount to the LWDA as the LWDA PAGA Payment.

3.2.5 To Each Aggrieved Employee: The Administrators will pay 25% of the Net Settlement Amount to the Aggrieved Employees as the Individual PAGA Payment. The Individual PAGA Payment to be paid to each Aggrieved Employee will be calculated by: (a) taking 25% of the Net Settlement Amount and dividing that amount by the total number of PAGA Periods worked by all Aggrieved Employees during the PAGA Period; and (b) multiplying the result by the number of PAGA Pay Periods worked by each Aggrieved Employee during the PAGA Period.

3.2.6 Tax Allocation of Individual PAGA Payments. Since this is a Settlement for penalties under PAGA, there will be no tax withholding for each Aggrieved Employee's Individual PAGA Payment. The Administrator will pay the Individual PAGA Payments using IRS 1099 Forms. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1 PAGA Pay Periods. Based on a review of its records to date, Defendant estimates there are approximately 6,685 pay periods worked by Aggrieved Employees during the period from December 20, 2021, to December 11, 2023.

4.2 Aggrieved Employee Data. Within 15 days of executing this Agreement, Defendant will deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect the privacy rights of the Aggrieved Employees, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

4.3 Funding of Gross Settlement Amount. Defendant shall fully fund the Gross

Settlement Amount by transmitting the funds to the Administrator no later five business days after the Effective Date of the Settlement.

4.4 Payments from the Gross Settlement Amount. Within 15 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Representative Service Payment, the PAGA Counsel Fees Payment, and the PAGA Counsel Litigation Expenses Payment. Disbursement of the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

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

4.4.2 The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are retuned undelivered without USPS forwarding address. Within 10 days of receiving a returned check, the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re- mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

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

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

5. RELEASES OF CLAIMS.

Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Plaintiff, PAGA Counsel, and Aggrieved Employees will release claims against all Released Parties as follows:

5.1 Plaintiff's Released Claims. Plaintiff and her respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors and assigns generally, release and discharge the Released Parties of the claims that Plaintiff alleged against the Released Parties, in her individual capacity and on behalf of the State of California, based on the facts stated in the Operative Complaint and in the PAGA Notice, including: (i) all PAGA claims seeking civil penalties premised upon California Labor Code sections 201, 202, 203, 226, 226(a), 226.3, 226.7, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198.5, and 2802, *et. seq.*, California Industrial Commission Wage Orders; and (2) all other clams for civil penalties recoverable under PAGA based on the facts or claims alleged in the Operative Complaint and in the PAGA Notice at any time during the PAGA Period (collectively, "Plaintiff's Released Claims"). Plaintiff's Release Claims do not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time or based on occurrences outside the PAGA Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Released Claims shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

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

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

5.2 Aggrieved Employees' Released Claims. All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, the Released Parties of the claims that Plaintiff alleged in the Operative Complaint and in the PAGA Notice, based on the facts stated in the Operative Complaint and in the PAGA Notice, including: (i) all PAGA claims seeking civil penalties premised upon California Labor Code sections 201, 202, 203, 226, 226(a), 226.3, 226.7, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198.5, and 2802, *et. seq.*, California Industrial Commission Wage Orders; and (2) all other clams for civil penalties recoverable under PAGA based on the facts or claims alleged in the Operative Complaint and in the PAGA Notice at any time during the PAGA Period (collectively, "Aggrieved Employees' Released Claims"). The Aggrieved Employees' Released Claims do not release any Aggrieved Employees' claims for wages or statutory penalties, and the Aggrieved Employees may not opt out of the Aggrieved Employees' Released Claims.

5.3 Release by PAGA Counsel. PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for attorneys' fees and costs incurred in connection with pursuing Plaintiff's Released Claims and Aggrieved Employees' Released Claims.

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT.

The Parties agree to jointly prepare and file an application or motion for approval of this Settlement with the Court.

6.1 Plaintiff's Responsibilities. Plaintiff and/or PAGA Counsel will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement by the Court under Labor Code section 2699, subdivision (f)(2)) including a drafts of the application or motion for approval of the Settlement and notice to be sent to the Aggrieved Employees along with their Individual PAGA Payment.

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

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

7. SETTLEMENT ADMINISTRATION.

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

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

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

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

8. AGGRIEVED EMPLOYEE ESTIMATES AND ESCALATOR CLAUSE

Defendant has represented that the Aggrieved Employees worked a total of approximately 6,685 pay periods during the period from December 20, 2021, to December 11, 2023. In the event the number of pay periods from December 20, 2021, through March 11, 2024 exceeds 6,685 by more than 10% (i.e., *exceeds* 7,356), Defendant, at its sole discretion, will either: (1) pay the pro rata percentage increase in excess of 10% to the Gross Settlement Amount to include the additional pay periods, e.g., an 11% increase in workweeks would result in a 1% increase in the Gross Settlement Amount; or (2) reduce the PAGA Period to the date that 7,356 pay periods are met, but not exceeded.

9. CONTINUING JURISDICTION OF THE COURT.

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

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

10. ADDITIONAL PROVISIONS.

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

10.2 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants or inducements made to or by any Party.

10.3 Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

10.4 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

10.5 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action or right released and discharged by the Party in this Settlement.

10.6 No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

10.7 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

10.8 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

10.9 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

10.10 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

10.11 Confidentiality. To the extent permitted by law, all agreements made and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

10.12 Use and Return of Aggrieved Employee Data. Information provided to PAGA

Counsel pursuant to Evidence Code section 1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute or California Rules of Court. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendant unless, prior to the Administrator's payment of all settlement funds, Defendant makes a written request to PAGA Counsel for the return, rather than the destruction, of Aggrieved Employee Data.

10.13 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

10.14 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

10.15 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff: **SULLIVAN & YAECKEL LAW GROUP, APC**
Eric K. Yaeckel
2330 Third Avenue
San Diego, CA 92101
(619) 702-6760

To Defendant: **JACKSON LEWIS, P.C.**
Nathan Austin
400 Capitol Mall, Suite 1600
Sacramento, CA 95814
(916) 341-0404

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

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

Plaintiff, LaVontra Breaux

Dated: ______________ ______________________________

Defendant, L'Occitane, Inc.

Dated: 06/05/24 ______________________________

By: Ross Novak

Its: CFO, North America

APPROVED AS TO FORM:

Dated: ______________ SULLIVAN & YAECKEL LAW GROUP, APC

By: ______________________________
Eric K. Yaeckel
Ryan T. Kuhn

Attorneys for Plaintiff, LaVontra Breaux

Dated: June 5, 2024 JACKSON LEWIS P.C.

By: ______________________________
Nathan Austin
Alis Moon

Attorneys for Defendant, L'Occitane, Inc.

4869-7670-8778, v. 2

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

Plaintiff, LaVontra Breaux

5/15/2024

DocuSigned by:

E06F0F156E82450...

Dated: ________________ ________________________________

Defendant, L'Occitane, Inc.

Dated: ________________ ________________________________

By: ________________

Its: ________________

APPROVED AS TO FORM:

6/12/24

Dated: ______________ SULLIVAN & YAECKEL LAW GROUP, APC

By: Eric Yaeckel ________________________________

Eric K. Yaeckel
Ryan T. Kuhn

Attorneys for Plaintiff, LaVontra Breaux

Dated: ______________ JACKSON LEWIS P.C.

By: ____________________________________

Nathan Austin
Alis Moon

Attorneys for Defendant, L'Occitane, Inc.

EXHIBIT 2

NOTICE OF PAGA SETTLEMENT

Lavontra Breaux v. L'Occitane, Inc., et al.

Superior Court of California for the County of Orange, Case No. 30-2023-01311136-CU-OE-CXC

[ADMINISTRATOR].
P.O. Box _________
Telephone: ___________________

SIMID «SIMID»
«FirstName» «LastName»
«Address1» «Address2»
«City» «State» «Zip»

You are receiving this Notice as a result of a lawsuit brought on a representative basis under the Private Attorneys General Act, California Labor Code § 2698 *et seq.* ("PAGA") ("the Action"). The Action was brought Plaintiff is Lavontra Breaux ("Plaintiff"), against Defendant is L'Occitane, Inc. ("Defendant") on behalf of the State of California and other allegedly aggrieved employees who worked for Defendant in California from December 20, 2021, through March 11, 2024.

Plaintiff alleged that Defendant owed civil penalties under PAGA for alleged violations of the California Labor Code. The parties reached a settlement of Plaintiff's claims, and on [DATE], the Court approved the settlement, including the amount of civil penalties to be paid under the settlement. A portion of the civil penalties to be paid under the settlement goes to the State of California's Labor and Workforce Development Agency, and another portion goes to the allegedly aggrieved employees. In agreeing to this settlement, Defendant does not admit that it is liable in any way to the State of California and/or the allegedly aggrieved employees. Defendant expressly denies all claims and allegations in the Action, denies that it owes any penalties, and asserts that it has fully complied with all applicable Labor Code provisions. In approving the settlement, the Court did not decide the merits of Plaintiff's claims.

The settlement consists of a Gross Settlement Amount of $167,125.00. The Court has awarded the following amounts to be paid out of that Gross Settlement Amount: (1) an award of attorneys fees in the amount of $_________; (2) costs of litigation reimbursement in the amount of $________; (3) costs of settlement administration fees in the amount of $________; and (4) Plaintiff's Representative Enhancement Award for serving as the named Plaintiff, and executing a full release of claims, in the amount of $_________.

Following the award of the above contingent costs, there will be a Net Settlement Amount of $__________ which will be the the total PAGA penalty. 75% of this amount ($________) will be paid to the California Labor and Workforce Development Agency. The remaining 25% ($_________) will be paid between all of the allegedly aggrieved employees. Your enclosed share is calculated based on the total number of pay periods you worked during the PAGA Period, which is from December 20, 2021, through March 11, 2024.

According to the Defendant's records, you have been identified as one of the employees on whose behalf this case was brought. Pursuant to the settlement, enclosed is a check for your share of a portion of the civil penalties based upon the Court approved allocation. This check will remain valid for 180 days from the date of issuance.

While you were not a party of the Action, you and the State of California have been bound by the settlement entered in this matter and approved by the Court, including the release contained in the settlement. The release pertains to civil penalties under PAGA only. The release includes all claims under PAGA that were alleged in the Action, including claims for civil penalties for alleged violations of the California Labor Code governing meal and rest periods, unpaid minimum and overtime wages, itemized wage statements, business expense reimbursement, and final pay requirements. You will bound by the release of PAGA claims in the Action, even if you do not cash the enclosed check.

<u>Please Note:</u> One hundred percent (100%) of your portion of the civil penalties under this settlement will be considered penalties and may be subject to local, state, or federal tax withholdings and will be reported to the IRS and state tax authorities. You should rely on your own tax advisors as to the tax consequences of your portion of the settlement. Neither Plaintiff nor Defendant have made any representations or warranties regarding the taxation of your portion of the settlement. Nothing within this notice or any other communication shall constitute or be construed or relied upon as tax advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended).

Do not call or write the Court or Office of the Clerk to ask questions about the settlement or to ask questions about the claims process. If you have any questions, you may call or write to the Settlement Administrator using the contact information at the top of this correspondence.

EXHIBIT 3

CASE ASSUMPTIONS	
Aggrieved Members	325
Opt Out Rate	N/A
Opt Outs Received	
Total Aggrieved Claimants	325
Subtotal Admin Only	**$4,250.00**

Not-to-Exceed Total $4,250.00

For 325 Aggrieved Members

Pricing Good for Scope of Estimate Only

April 23, 2024

Case: Breaux v. L'Occitane PAGA Admin

Phoenix Contact: Jarrod Salinas
Contact Number: 800-523-5773
Email: Jarrod@phoenixclassaction.com

Requesting Attorney: Eric Yaeckel
Firm: Sullivan & Yaeckel Law Group, APC
Contact Number: (619) 702-6760
Email: Yaeckel@sullivanlawgroupapc.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 325 Aggrieved 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 days.

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	2	$200.00
Toll Free Setup*	$46.00	1	$46.00
Call Center & Long Distance	$2.00	33	$65.00
NCOA (USPS)	$125.00	1	$125.00
		Total	**$636.00**

* Up to 120 days after disbursement

Data Merger & Scrub / Notice Packet, Check & Postage

Project Action	Rate	Hours/Units	Line Item Estimate
Notice Packet Formatting	$100.00	2	$200.00
Data Merge & Duplication Scrub	$0.50	325	$162.50
Notice and Check Packet	$1.50	325	$487.50
Estimated Postage (up to 1 oz.)*	$0.64	325	$208.00
		Total	**$1,058.00**

* 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	$50.00	2	$100.00
Skip Tracing Undeliverables	$1.50	33	$48.75
Remail Notice Packets	$1.70	33	$55.25
Estimated Postage	$0.60	33	$19.50
Programming Undeliverables	$50.00	2	$100.00
		Total	**$323.50**

Database Programming			
Project Action:	**Rate**	**Hours/Units**	**Line Item Estimate**
Programming Claims Database	$100.00	2	$200.00
Case Manager	$100.00	2	$200.00
		Total	**$400.00**

Calculation & Disbursement Programming/ Create & Manage QSF/ Mail Checks			
Project Action:	**Rate**	**Hours/Units**	**Line Item Estimate**
Programming Calculations	$100.00	2	$200.00
Disbursement Review	$100.00	2	$200.00
Programming Manager	$75.00	2	$150.00
QSF Bank Account & EIN	$50.00	1	$50.00
Check Run Setup & Printing	$125.00	2	$250.00
		Total	**$850.00**

* 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	$100.00	2	$200.00
Remail Undeliverable Checks (Postage Included)	$1.50	5	$7.50
Case Associate	$100.00	1	$100.00
Reconcile Uncashed Checks	$100.00	1	$100.00
Conclusion Reports	$100.00	1	$100.00
Case Manager Conclusion	$75.00	1	$75.00
Final Reporting & Declarations	$100.00	1	$100.00
QSF Annual Tax Reporting * (State Tax Reporting Included)	$300.00	1	$300.00
		Total	**$982.50**

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

Estimate Total:	**$4,250.00**

PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

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 4

SULLIVAN & YAECKEL
LAW GROUP
A PROFESSIONAL CORPORATION

2330 THIRD AVENUE
SAN DIEGO, CALIFORNIA 92101

PHONE 619-702-6760
FACSIMILE 619-702-6761

December 20, 2022

Labor and Workforce Development Agency
Attn. PAGA Administrator

Submitted Via Online Filing

Re: **LaVontra Breaux v. L'Occitane, Inc.**
Our File No.: 7324

Dear Administrator:

Please allow this correspondence to serve as "written notice," as required by California Labor Code section 2699.3(a)(1), of the specific provisions of the California Labor Code believed to have been violated by L'Occitane, Inc. (hereinafter "L'Occitane"), in the above referenced matter. This "written notice" is filed on behalf of Ms. Breaux, and all current and former non-exempt employees employed by L'Occitane. Thank you for your assistance and instruction on this issue.

The specific provisions alleged to have been violated by L'Occitane are as follows:

> CALIFORNIA LABOR CODE SECTIONS 201-203, 226, 226(a), 226.7, 510, 512, 558, 1194, 1197.1, 1198.5 and 2802, as well as IWC Wage Order 7, and any other applicable wage orders, codified as Title 8, California Code of Regulations, section 11070 *et seq*.

Facts and theories supporting the allegations: Ms. Breaux was employed as a non-exempt employee for L'Occitane from approximately September 2021, through October, 2022.

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Throughout the term of Ms. Breaux's employment, L'Occitane required Ms. Breaux and all other non-exempt employees to experience actions illegal under the California Labor Code, including the following:

Minimum Wage and Overtime Violations

- L'Occitane failed to provide all compensation, including minimum wage and overtime compensation, as well as compensation for work performed inside of Meal and Rest Periods, to its employees in violation of, *inter alia*, Labor Code sections 1194, 510, IWC Wage Order 7, and any other applicable wage orders. This illegal action is due, in part, to L'Occitane's policies of **(1)** failing to properly retain accurate Time Records, in violation of California law, and **(2)** failing to provide compensation (including both minimum and overtime compensation) for all time worked by the employees, or in control of the employer. For instance, L'Occitane would instruct Ms. Breaux to report scheduled (as opposed to *actual*) work hours, resulting in a loss of compensation. Additionally, L'Occitane would often require Ms. Breaux to work extended hours (beyond scheduled hours), without compensation. Further, L'Occitane would regularly contact Ms. Breaux outside of normal work hours (*i.e.*, "after hours" or during lunch) without compensation. Ms. Breaux will testify she was required to approve Payroll on the last day of the Pay Period for the store she worked at, even if she was scheduled off that day.

- Additionally, among other issues, L'Occitane has notice of Ms. Breaux, and others, working outside of their scheduled and/or reported hours, as well as *within* Meal and Rest Periods, but fails to provide any compensation for this work-time. Ms. Breaux will testify that she was frequently scheduled to be "On Call" outside when of her work shifts ended, but was never compensated for this time. Further, L'Occitane failed to properly calculate and pay overtime at the actual overtime rate of pay, as L'Occitane ignores certain compensation when calculating the Regular Rate of Pay.

Failure to Provide Compliant Meal Periods

- L'Occitane failed to provide compliant Meal Periods or requisite Meal Period penalty payments, in violation of, *inter alia*, Labor Code sections 226.7, 512, and IWC Wage Order 7, or any other applicable wage orders. For example, L'Occitane does not possess a legal Meal Period policy and makes no attempt to ensure that its employees are either timely or wholly provided Meal Periods. The employees would often either miss a Meal Period entirely, or be provided a short or untimely Meal Period. Whether or not an employee was provided a Meal Period was often contingent upon the how busy the employees were on a given day.

- L'Occitane would pressure its employees to either skip, or cut short, a Meal Period as employees were expected to respond to customers and supervisors at all times.

L'Occitane has never provided a compliant Meal Period penalty payment to any employee as to the above referenced issues. Finally, on the rare occasions when employees ***were*** paid Meal Period penalties (*i.e.* California Meal Period Premiums), such payments do not "cure" the stated Labor Code violation under section 226.7. The California Supreme Court held that "An employer's failure to provide an additional hour of pay does not form part of a section 226.7 violation, and an employer's provision of an additional hour of pay does not excuse a section 226.7 violation. The failure to provide required meal and rest breaks is what triggers a violation of section 226.7." (*Kirby v. Immoos Fire Protection, Inc.* (2012) 53 Cal.4th 1244, 1256, italics added.). Even more recently, a 2020 California Supreme Court ruling stated that, "The remedy for a Labor Code violation, through settlement or other means, is distinct from the fact of the violation itself. For example, employers can pay an additional hour of wages as a remedy for failing to provide meal and rest breaks. (§ 226.7, subd. (c).) But we have held that payment of this statutory remedy 'does not excuse a section 226.7 violation.'" *Kim v. Reins International California, Inc.*, (2020) 9 Cal.5th 73. To be clear, payment of a Meal Period penalty to employees does not rectify the violation, it is in fact an admission of a Labor Code violation. Finally, L'Occitane failed to pay Meal Period Premiums at the proper rate, as L'Occitane fails to either **(1)** pay a full hours worth of pay, or **(2)** properly calculate the regular rate of pay for purposes of determining the premium rate owed. *Ferra v. Loews Hollywood Hotel, LLC*, (2021) 11 Cal.5th 858.

- L'Occitane required its employees to constantly monitor their cell phones and be "on-call" at all times, specifically during Meal Periods. On occasion, L'Occitane would interrupt, or cut short, its employees' Meal Periods and require them to return to work.

- L'Occitane illegally retained control over its employees during Meal Periods. For example, L'Occitane required its employees to remain "On Call" (*i.e.* monitor their phones) at all times, including during Meal Periods.

<u>Failure to Provide Compliant Rest Periods</u>

- L'Occitane failed to provide compliant Rest Periods or requisite Rest Period penalty payments, in violation of, *inter alia*, Labor Code sections 226.7, 512, and IWC Wage Order 7, and any other applicable wage orders. For example, L'Occitane does not possess a legal Rest Period policy, as its Rest Period policy lacks required language under California law. L'Occitane makes no attempt to ensure that its employees are either timely or wholly provided Rest Periods. The employees would often either miss a Rest Period entirely, be provided a short or untimely Rest Period, or be provided only one Rest Period, even when they were working in excess of 6.5 hours a day. L'Occitane would pressure its employees to either skip, or cut short, a Rest Period as employees were expected to respond to supervisors at all times. L'Occitane has never provided a compliant Rest Period penalty payment to any employee as to the above referenced issues. Finally, on the rare occasions in which L'Occitane would provide a Rest Period penalty, it would pay said penalty at an improper (and *lesser*) rate, due to the failure to properly calculate the Regular Rate of Pay.

- L'Occitane required its employees to constantly monitor their cell phones and be "on-call" at all times, specifically during Rest Periods. On occasion, L'Occitane would interrupt, or cut short, its employees' Rest Periods and require them to return to work.

- Finally, L'Occitane illegally retained control over its employees during Rest Periods. For example, L'Occitane required its employees to remain "On Call" (*i.e.* monitor their telephones) at all times, including during Rest Periods.

Wage Statement Violations

- L'Occitane violated Labor Code section 226(a)**(2)** by failing to furnish an accurate showing of all hours worked at each hourly rate by the employee. Ms. Breaux, and other employees were not compensated for all hours worked (due in part to L'Occitane's requirement that employees list only *scheduled* work-times, not actual work-times.)

- L'Occitane violated Labor Code section 226(a)**(9)** by failing to furnish an accurate showing of all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

- L'Occitane violated Labor Code section 226(a)**(5)** by failing to furnish an accurate showing of the net wages earned by its employees. For example, L'Occitane **(a)** would not provide compensation for all hours and minutes worked, **(b)** would use an improper (and lesser) Overtime Rate of Pay, and **(c)** would fail to pay Meal and/or Rest Period penalties when due. Further, on the rare occasions in which L'Occitane would provide a Meal or Rest Period penalty, it would pay said penalty at an improper (and lesser) rate, due to the failure to properly calculate the Regular Rate of Pay.

- L'Occitane violated Labor Code section 226(a)**(9)** by failing to furnish an accurate showing of all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Ms. Breaux, and the other employees were not compensated for all hours worked (due in part to L'Occitane requiring employees to list only *scheduled* work-times, not actual work-times to include "on-call" hours). L'Occitane does not explain how its' system describes "time worked" on the "Earnings Statement" itself. Additionally, L'Occitane does <u>not</u> use "minutes," to describe the amount of time worked, on the "Earnings Statement." As an example, .75 is not an accurate representation of minutes worked, but an altered representation of those minutes. (i.e., 25 minutes of work could be represented as .25, and 50 minutes of work could be represented as .50, however .75 minutes of work cannot be represented as .75 as there are not 75 minutes within one hour.) As such, Ms. Breaux cannot "readily ascertain" what these figures mean. This is because L'Occitane is apparently using a time-calculating system other than "minutes," but without explanation to the employees within the wage statement. As minutes are measured on a scale of 1 through 60, it is not apparent what these figures are meant to represent. Without an explanation for how these figures were arrived at, employees cannot "readily ascertain" their total hours worked. Therefore, L'Occitane failed to provide an <u>accurate</u> showing of the "total hours worked" by its employees pursuant to section 226(a)(2), due to all the aforesaid reasons.

<u>Failure to Provide Compliant Expense Reimbursement Payments</u>

- L'Occitane failed to provide compliant expense reimbursement payments in violation of, *inter alia*, Labor Code section 2802, by failing to provide payments for expenses incurred by Ms. Breaux, and other non-exempt employees, including expenses for cell-phone costs, other necessary work supplies, and mileage.

<u>Willful Failure to Provide All Compensation to Ex-Employees</u>

- L'Occitane failed to provide all compensation upon termination of employment in violation of Labor Code sections 201-203, due, in part, to the fact that L'Occitane failed to provide proper compensation for all hours worked, and failed to pay full Meal or Rest Period penalties, as discussed above.

To confirm, L'Occitane is a "person" as defined within California Labor Code section 18.

Again, thank you for your assistance and instruction throughout this matter. Should you have any questions or comments, please do not hesitate to contact the undersigned.

Very Truly Yours,

Eric K. Yaeckel, Esq.

cc: *Via Certified U.S. Mail*

CORPORATION SERVICE COMPANY
WHICH WILL DO BUSINESS IN CALIFORNIA
AS CSC - LAWYERS INCORPORATING SERVICE
Agent for Service of Process for
L'Occitane, Inc.
2710 Gateway Oaks Dr. Ste 150N
Sacramento, CA 95833

cc: *Courtesy Copy via U.S. Mail*

Department of Industrial Relations
Accounting Unit
455 Golden Gate Ave, 10th Floor
San Francisco, CA 94102

EXHIBIT 5

LAFFEY MATRIX

			Years Out of Law School *				
Year	Adjustmt Factor**	Paralegal/ Law Clerk	1-3	4-7	8-10	11-19	20 +
6/01/23- 5/31/24	1.059295	$239	$437	$538	$777	$878	$1057
6/01/22- 5/31/23	1.085091	$225	$413	$508	$733	$829	$997
6/01/21- 5/31/22	1.006053	$208	$381	$468	$676	$764	$919
6/01/20- 5/31/21	1.015894	$206	$378	$465	$672	$759	$914
6/01/19- 5/31/20	1.0049	$203	$372	$458	$661	$747	$899
6/01/18- 5/31/19	1.0350	$202	$371	$455	$658	$742	$894
6/01/17- 5/31/18	1.0463	$196	$359	$440	$636	$717	$864
6/01/16- 5/31/17	1.0369	$187	$343	$421	$608	$685	$826
6/01/15- 5/31/16	1.0089	$180	$331	$406	$586	$661	$796
6/01/14- 5/31/15	1.0235	$179	$328	$402	$581	$655	$789
6/01/13- 5/31/14	1.0244	$175	$320	$393	$567	$640	$771
6/01/12- 5/31/13	1.0258	$170	$312	$383	$554	$625	$753
6/01/11- 5/31/12	1.0352	$166	$305	$374	$540	$609	$734
6/01/10- 5/31/11	1.0337	$161	$294	$361	$522	$589	$709
6/01/09- 5/31/10	1.0220	$155	$285	$349	$505	$569	$686
6/01/08- 5/31/09	1.0399	$152	$279	$342	$494	$557	$671
6/01/07-5/31/08	1.0516	$146	$268	$329	$475	$536	$645
6/01/06-5/31/07	1.0256	$139	$255	$313	$452	$509	$614
6/1/05-5/31/06	1.0427	$136	$249	$305	$441	$497	$598
6/1/04-5/31/05	1.0455	$130	$239	$293	$423	$476	$574
6/1/03-6/1/04	1.0507	$124	$228	$280	$405	$456	$549
6/1/02-5/31/03	1.0727	$118	$217	$267	$385	$434	$522
6/1/01-5/31/02	1.0407	$110	$203	$249	$359	$404	$487
6/1/00-5/31/01	1.0529	$106	$195	$239	$345	$388	$468
6/1/99-5/31/00	1.0491	$101	$185	$227	$328	$369	$444
6/1/98-5/31/99	1.0439	$96	$176	$216	$312	$352	$424
6/1/97-5/31/98	1.0419	$92	$169	$207	$299	$337	$406
6/1/96-5/31/97	1.0396	$88	$162	$198	$287	$323	$389
6/1/95-5/31/96	1.032	$85	$155	$191	$276	$311	$375

6/1/94-5/31/95	1.0237	$82	$151	$185	$267	$301	$363

The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g.,DL v. District of Columbia, 267 F.Supp.3d 55, 69 (D.D.C. 2017)

* ï¿½Years Out of Law Schoolï¿½ is calculated from June 1 of each year, when most law students graduate. ï¿½1-3" includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). ï¿½4-7" applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier ï¿½1-3" from June 1, 1996 until May 31, 1999, would move into tier ï¿½4-7" on June 1, 1999, and tier ï¿½8-10" on June 1, 2003.

** The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.

EXHIBIT 6

LWDA	$75.00	
Postage	$16.80	
One Legal	$505.03	
Judicate West	$8,375.00	
Knox	$115.75	
Superior Court of CA Orange County	$1,000.00	
Transportation	$285.45	
Research	$892.00	
Copies	$445.55	
Subtotal	$11,710.58	12/18/2023
One Legal	$17.71	3/8/2024
One Legal	$14.95	3/8/2024
2nd Sub total	**$11,743.24**	**3/12/2024**