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

MIRIAM MORENO, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

BEACON DAY SCHOOL, INC., a California
Corporation; and DOES 1 through 100,
Defendants.

CASE NO. 30-2022-01296662-CU-OE-CXC

*[Case assigned for all purposes to the Hon.
Lon F. Hurwitz, Dept. CX103]*

**DECLARATION OF MATTHEW K.
MOEN IN SUPPORT OF PLAINTIFF'S
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION AND
PAGA ACTION SETTLEMENT**

Date: September 6, 2024
Time: 1:30 p.m.
Dept.: CX103

Action Filed: December 14, 2022
Trial Date: None Set

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I, MATTHEW K. MOEN, declare as follows:

1. I am a Senior Associate with Haines Law Group, APC, and counsel for the named Plaintiff Mariam Moreno (“Plaintiff”) in the above-captioned matter. I am a member in good standing of the bar of the State of California and am admitted to practice in this Court. I have personal knowledge of the facts stated in this declaration and could testify competently to them if called upon to do so.

2. I received a Bachelor of Arts degree from UCLA in 2011, and a Juris Doctor from Loyola Law School, Los Angeles, in 2015. Both before and during law school, I worked for the law firm of Prindle, Amaro, Goetz, Hillyard, Barnes & Reinholtz LLP (now known as Prindle, Goetz, Barnes & Reinholtz LLP), located in Long Beach, California. Both before and during law school, I also worked for Jill McBride Baxter, Certified Sports Agent and Sports Law Attorney.

3. From January 2016 to December 2017, I worked as an associate at Baltodano & Baltodano LLP, a law firm dedicated exclusively to the practice of Plaintiff-side employment law located in San Luis Obispo, California. After the founding partner and senior litigation partner at Baltodano & Baltodano LLP, Justice Hernaldo J. Baltodano, Second District Court of Appeal, was appointed to the California judiciary in December 2017, the firm dissolved on December 31, 2017. Since January 1, 2018, I have worked as an associate at my current firm, Haines Law Group, APC.

4. During my time with both Baltodano & Baltodano LLP and Haines Law Group, APC, my practice has been solely devoted to litigating plaintiff-side employment related cases in both state and federal court, including wage and hour class actions arising under the California Labor Code and the Fair Labor Standards Act. I am currently staffed on over thirty (30) active wage and hour class and/or PAGA actions in which I am integrally involved in all aspects of the litigation. I also supervise the work of several junior attorneys staffed on the same wage and hour class actions.

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1 5. *Santiago Gutierrez v. M.M.C.L., Inc. dba California Landcare*, Case No. 30-
2 2021-01182371-CU-OE-CXC, Honorable Randall J. Sherman, presiding (awarding attorney's
3 fees following a lodestar cross-check based on a rate of \$575 per hour for work performed in
4 2021-2023); *Robert Lewis v. IMERYS Filtration Minerals, Inc., et al.*, Case No. 22CV02874,
5 Santa Barbara County Superior Court, Honorable Jed Beebe, presiding (awarding attorney's
6 fees following a lodestar cross-check based on a rate of \$575 per hour for work performed in
7 2021-2023); *Roberto Arcos, et al. v. Panoramic Doors, LLC*, Case No. 37-2021-00048823-CU-
8 OE-CTL, San Diego County Superior Court, Honorable Loren G. Freestone, presiding
9 (awarding attorney's fees following a lodestar cross-check based on a rate of \$650 per hour for
10 work performed in 2021-2023); and *Aaron Hallum, et al. v. FCA US, LLC*, Case No.
11 CIVDS1936782, San Bernardino County Superior Court, Honorable Joseph T. Ortiz, presiding
12 (awarding attorney's fees following a lodestar cross-check based on a rate of \$650 per hour for
13 work performed in 2021-2024).

14 6. I have also been appointed as Class Counsel following a contested motion to
15 certify one or more classes in three (3) class action lawsuits, including as the lead litigation
16 attorney in the following cases:

- 17 • *George Gomez v. The Bedrock Company*, Case No. CIVDS1824255, San Bernardino
18 County Superior Court, Honorable David Cohn, presiding (certifying claims for unpaid
19 overtime and minimum wage violations, meal period violations, rest period violations,
20 wage statement violations, and waiting time penalties); and
- 21 • *Aurora Gatica v. Valley Ag, Inc. et al.*, Case No. 19CECG03018, Fresno County
22 Superior Court, Honorable Tyler D. Tharpe, presiding (certifying claims for meal period
23 violations, unpaid rest period violations, wage statement violations, and waiting time
24 penalties).

25 7. In every year from 2020 to 2024, Thomson Reuters and Los Angeles Magazine
26 recognized me as a Top Young Attorney in Southern California in the annual Rising Star
27 Edition of Super Lawyers. This is an honor awarded to no more than two-and-a-half percent
28 (2.5%) of attorneys under the age of forty in Southern California each year.

1 8. As counsel for Plaintiff, I have been closely involved in all aspects of this
2 litigation since its inception, and believe that the proposed Stipulation of Settlement
3 (“Settlement Agreement” or “Settlement”) is a fair and reasonable result for the participating
4 Settlement Class members.

5 9. On June 10, 2024, I performed a search for any cases filed against Defendant
6 Beacon Day School, Inc. (“Defendant”) using the legal database Courthouse News Service
7 (located at search.cnsportal.com). According to my search, there were no concurrent
8 pending class, representative or other collective actions against Defendant in this or any other
9 court that assert any class, representative, or otherwise overlapping claims with those asserted
10 by Plaintiff in the instant action. Following my search, I met and conferred with Defendant’s
11 counsel, who also confirmed to me that they were not aware of any concurrent pending class,
12 representative or other collective actions against Defendant in this or any other court that assert
13 any class, representative, or otherwise overlapping claims with those asserted by Plaintiff in the
14 instant action.

15 10. Defendant operates private schools specializing in the education and care of
16 children with autism and related disorders across Southern California. Plaintiff was employed
17 by Beacon as a non-exempt “Behavioral Interventionist” from May 9, 2022 to October 25, 2022.
18 Plaintiff and Defendant are referred to collectively herein as the “Parties”. Plaintiff’s primary
19 job duties consisted of supervising and providing special education services to children with
20 autism and related disorders at Defendant’s school. Like all Settlement Class members, Plaintiff
21 was subject to Defendant’s wage and hour policies and practices.

22 11. On December 14, 2022, Plaintiff filed a class action complaint alleging
23 Defendant failed to: (i) pay all minimum wages owed; (ii) pay all overtime wages owed; (iii)
24 provide all lawful meal periods; (iv) authorize and permit all lawful rest periods; (v) reimburse
25 all necessary business expenses; (vi) issue accurate and itemized wage statements; (vii) timely
26 pay all final wages upon separation; and (viii) comply with California’s Unfair Competition
27 laws. On February 21, 2023, after exhausting her administrative remedies with the LWDA,
28 Plaintiff filed the operative FAC to add a ninth cause of action for civil penalties under PAGA,

1 premised on the same underlying Labor Code violations. Attached hereto as **Exhibit 3** are true
2 and correct copies of Plaintiff's December 14, 2022 PAGA Notice letter, Plaintiff's LWDA
3 submission page, and the LWDA's confirmation of receipt.

4 12. Plaintiff asserts that, throughout the putative class period, Defendant maintained
5 an unlawful rounding practice that resulted in Defendant systematically underpaying Plaintiff
6 and Settlement Class members all earned wages. Specifically, Plaintiff claims Defendant
7 records Plaintiff's and Settlement Class members' clock in and clock out timeclock punches to
8 the minute, but rounds Plaintiff's and Settlement Class members' timekeeping entries in an
9 uneven manner to the employees' detriment, resulting in unpaid minimum and overtime wages.

10 13. In response, Defendant contends that its timekeeping practices are lawful and its
11 rounding practice is neutral and operates in an even-handed way, which Defendant asserts is
12 lawful under the court's ruling in *See's Candy Shops, Inc. v. Superior Court* (2012) 210
13 Cal.App.4th 889. Moreover, Defendant contends that Plaintiff could not certify this claim, as it
14 would require individualized inquiries into each employee on a pay period by pay period basis
15 as to whether the employee actually started working after their first punch of the day or instead
16 went to the break room for coffee, socialized with coworkers, or otherwise did not work, and
17 whether the employee was overpaid or underpaid based on Defendant's rounding practice,
18 resulting in an unmanageable series of mini-trials. Finally, because *Camp v. Home Depot U.S.A.,*
19 *Inc.* has been granted review by the California Supreme Court, the decision is only persuasive,
20 not binding authority, and Plaintiff faces the risk that the *Camp* holding could be reversed,
21 rendering Plaintiff's reliance on *Camp* misplaced, and Defendant claims that under *See's Candy*
22 *Shops, Inc. v. Superior Court*, its rounding practice will be found neutral and lawful.

23 14. Plaintiff alleges that Defendant paid Plaintiff and Settlement Class members non-
24 discretionary retention bonuses as an incentive for employees to remain with Defendant for
25 ninety (90) days. However, Plaintiff asserts that Defendant failed to include the value of these
26 bonuses when calculating employees' respective regular rates of pay. As a result, Plaintiff
27 alleges that Defendant thereby failed to accurately pay Plaintiff and other non-exempt
28 employees all overtime wages and meal and rest period premium wages owed.

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2 15. In response, Defendant argues any bonus payments made were purely
3 discretionary, and therefore are properly excluded from the regular rate of pay. As such,
4 Defendant contends that Plaintiff's claim will fail on the merits. Further, Defendant asserts that
5 this claim is unmanageable, as it requires individualized inquiries into whether each bonus
6 payment made by Defendant was discretionary or non-discretionary, and into exactly how much
7 money each employee was purportedly owed as a result of Defendant's alleged regular rate
8 violation, resulting in an unmanageable series of mini-trials.

9 16. Plaintiff further asserts that Defendant failed to provide the Settlement Class
10 members with all timely duty-free, uninterrupted 30-minute meal periods to which they were
11 entitled. Specifically, Plaintiff claims Defendant required Settlement Class members to care for
12 students and otherwise remain on-duty throughout the workday. Plaintiff also asserts that
13 Defendant failed to provide all second, duty-free, uninterrupted 30-minute meal periods
14 commencing before the end of the tenth hour of work on days in which the Settlement Class
15 members worked more than 10.0 hours. Further, Plaintiff asserts that when Defendant did pay
16 meal period premiums during the relevant time period, these payments were made at the
17 employees' respective base rates of pay, rather than at the regular rate of pay.

18 17. In response, Defendant contends it maintained lawful meal period
19 policies/practices throughout the Class Period. Defendant also contends that, in the event an
20 employee was not provided a lawful meal period, Defendant pays the employee a meal period
21 premium as required by law. In support of this position, Defendant produced timekeeping and
22 payroll records showing that employees receive a meal period premium in each instance in
23 which their timekeeping records do not reflect a lawful meal period being taken. Finally,
24 Defendant contends that Plaintiff's meal period claim is not suited for class certification as
25 individual inquiries would be required to assess whether an employee chose to not take an
26 otherwise provided meal period, or whether was an employee ever validly waived a meal period,
27 resulting in an unmanageable series of mini-trials.

1 18. Plaintiff further alleges that Defendant failed to authorize and permit the
2 Settlement Class members to take all lawful rest periods to which they were entitled. As with
3 meal periods, Plaintiff asserts that work demands forced Plaintiff and the Settlement Class
4 members to remain on duty at all times to maintain supervision of their students. Plaintiff also
5 alleges that Defendant failed to pay *any* rest period premiums during the relevant time period as
6 required by Labor Code § 2267.7; an issue which itself is certifiable.

7 19. Defendant maintains it authorized and permitted the Settlement Class members
8 to take all lawful rest periods to which they are entitled. To support this position, Defendant
9 asserts it maintained a facially lawful written rest period policy that it enforced at all times
10 throughout the putative class period, and designated specific employees as “floaters” who were
11 responsible for relieving the other employees in order for them to take rest periods during the
12 work day. Further, Defendant asserts that this claim is unmanageable and not suited for class
13 certification, as it requires individualized inquiries into whether each employee was authorized
14 and permitted to take a lawful rest period and on which days, which Defendant argues Plaintiff
15 will be unable to substantiate with any common, documentary evidence, as rest periods are not
16 required to be recorded, resulting in an unmanageable series of mini-trials.

17 20. Plaintiff further alleges that Defendant failed to reimburse the Settlement Class
18 members for all necessary business expenses incurred, in violation of Labor Code § 2802.
19 Specifically, Plaintiff asserts that Defendant required Plaintiff and other non-exempt employees
20 to use their personal cellular phones for work-related purposes, including to clock in and out
21 and to receive daily calls from supervisors to help coordinate the students, but did not reimburse
22 Plaintiff and other non-exempt employees for these necessary business expenses.

23 21. In response, Defendant maintains that Settlement Class members were not
24 required to use their personal cellular phones as part of their job. Instead, Defendant asserts that
25 it provided company phones for all employees to use, maintained lawful reimbursement
26 policies/practices throughout the putative class period, and paid employees a cell phone stipend
27 during the COVID-19 pandemic and following remote work period. Lastly, Defendant argues
28 this claim is not suitable for class treatment, as it would require individualized inquiries to

determine which employees incurred expenses, if any, whether those expenses were reasonable and necessary, and why the employee had used their personal cell phone rather than the company-provided phones without submitting an expense reimbursement request.

22. As a result of Defendant's alleged failure to pay all overtime wages, minimum wages, and meal period and rest period premiums, Plaintiff asserts that Defendant also failed to issue accurate and itemized wage statements and failed to timely pay all final wages at the time of separation. As a result of these alleged Labor Code violations, Plaintiff also seeks PAGA civil penalties on behalf of all aggrieved employees.

23. In response, Defendant argues that Plaintiff's underlying claims will fail and, as a result, the derivative wage statement, waiting time, and PAGA claims will also fail. Defendant also maintains that Plaintiff cannot show that the wage statement violations were "knowing and intentional," or that the putative class members "suffer[ed] injury" as a result of the alleged violations, as required by Labor Code § 226(e) for the imposition of wage statement penalties. Moreover, Defendant maintains that its good faith defenses to Plaintiff's underlying claims would preclude the recovery of waiting time penalties, which are only available for the "willful" failure to pay wages, and that this Court would exercise its discretion to substantially reduce any PAGA penalties awarded.

24. Finally, Defendant also argued that as a relatively small, family-owned business, it simply does not have the financial resources to satisfy a sizable judgment or settlement and is constrained by cash-flow issues. Further, Defendant argued that its business model is not a typical "for profit" operation, but instead was started as a school for children with special needs because of the founder's personal experience as the parent of a child with special needs, and only was able to stay in business through the COVID-19 pandemic due to government assistance. Plaintiff's counsel ultimately concluded that it would be an uphill battle to collect a judgment that was significantly in excess of the amount offered in settlement.

25. In connection with mediation, Defendant provided Plaintiff with electronic timekeeping and payroll records for an approximately 10% sample of Settlement Class members spanning the entire Class Period, as well as key policy documents and data points.

1 Plaintiff then retained an expert with a Ph.D. in economics to analyze the produced date, and
2 conducted a comprehensive, class-wide analysis and created a class-wide exposure model for
3 the claims at issue. On January 25, 2024, the Parties participated in a mediation session with
4 Honorable William McCurine, Jr. (Ret.), during which the Parties exchanged divergent views
5 on Defendant's liability and exposure valuations, their legal positions, and the likelihood of
6 certification of Plaintiff's claims. At the conclusion of mediation, the Parties reached a tentative
7 settlement. Over the following months, the Parties finalized the terms of the proposed
8 Settlement now before the Court for preliminary approval.

9 26. Attached hereto as **Exhibit 1** is a true and correct copy of the Parties'
10 Stipulation of Settlement. Attached hereto as **Exhibit 2** are true and correct copies of the
11 Notice of Class and PAGA Action Settlement, Notice of Individual Settlement Payment, and
12 the Request for Exclusion Form (collectively, the "Notice Packet").

13 27. If the Court preliminarily approves this settlement, Defendant will pay a
14 Maximum Settlement Amount ("MSA") of \$250,000.00. This Settlement is non-reversionary,
15 and Settlement Class members will automatically receive their Individual Settlement Payments
16 unless they affirmatively opt-out.

17 28. Settlement Class members can be easily identified using Defendant's
18 employment and payroll records. Defendant represents that the Settlement Class consists of
19 approximately 450 individuals, rendering it impracticable to bring all Settlement Class members
20 before the Court. Based on the estimated NSA, average Individual Settlement Payments are
21 projected to be approximately \$296.48, with the lowest possible estimated Individual Settlement
22 Payment of \$6.07 (in the event a Settlement Class member worked only one workweek during
23 the Class Period) and the highest possible estimated Individual Settlement Payment of
24 \$1,645.24 (in the event a Settlement Class member performed worked in every workweek
25 throughout the Class Period). Plaintiff's estimated Individual Settlement Payment is
26 approximately \$246.70, excluding any requested enhancement award.

27 29. For tax purposes, each Individual Settlement Payment will be allocated as 10%
28 wages (subject to applicable withholdings), and 90% interest and penalties (not subject to

1 withholdings). Each PAGA Amount payable to the PAGA Aggrieved Employees shall be
2 allocated as 100% penalties. This allocation between taxable and non-taxable amounts is
3 appropriate because the unpaid wages portion of Plaintiff's exposure analysis only amounts to
4 approximately 10.8% of the total reasonable exposure Defendant faced due to the substantial
5 derivative penalties that stem from these unpaid wages, as well as a portion of Defendant's
6 maximum reasonable exposure being comprised of non-taxable expense reimbursements.
7 Further, Defendant will pay the employer's share of payroll taxes separate and apart from, and
8 in addition to, the MSA.

9 30. At the time of seeking final settlement approval, Plaintiff will apply for a Class
10 Representative Enhancement Payment in the amount of \$5,000 for her service to the Settlement
11 Class and her general release of all claims. Plaintiff's requested class representative
12 Enhancement Payment is intended to recognize the significant time and effort that she expended
13 on behalf of the Settlement Class, including searching for relevant documents for use in the
14 lawsuit and providing factual information to her attorneys, holding various phone calls with her
15 attorneys to discuss the claims in the lawsuit and Defendant's practices, discussing the status of
16 the case and general case strategy with her attorneys on multiple occasions, providing valuable
17 input to assist her attorneys in preparing for mediation, being available for the full-day
18 mediation that lead to the Settlement, reviewing and providing input regarding the Settlement in
19 this case, and otherwise assisting her attorneys in moving the case towards resolution, the
20 significant risks Plaintiff undertook by serving as the named plaintiff, and the fact that she
21 agreed to a general release of all claims subject to a waiver of Civil Code § 1542.

22 31. Class Counsel will also apply for an attorneys' fee award of up to one third of the
23 MSA (currently estimated at \$83,333.33), and up to \$12,000 in reimbursement for actual
24 litigation costs. Plaintiff submits that the requested fee is fair compensation for undertaking
25 complex, risky, expensive, and time-consuming litigation on a purely contingent fee basis. Class
26 Counsel has incurred substantial attorneys' fees conducting pre-filing investigation, analyzing
27 Plaintiff's claims, conducting legal research and analysis, reviewing class documents and data
28 produced by Defendant, extensively reviewing and evaluating the produced timekeeping and

1 payroll records with the assistance of a retained expert to build a comprehensive damages model,
2 preparing for and attending mediation, negotiating and drafting the Memorandum of
3 Understanding, long-form Settlement Agreement, Notice Packet documents, preparing this
4 motion for preliminary approval, and otherwise litigating the case. Class Counsel will also
5 expend future attorney time attending the hearing on this Motion, overseeing the Notice process,
6 drafting the Final Approval Motion and supporting documents, attending the Final Approval
7 hearing, and completing other tasks, such as fielding questions from Settlement Class members.
8 Class Counsel will provide the Court with a lodestar analysis when seeking an award of
9 attorneys' fees, including information about counsel's hourly rates and the time spent on the
10 case. Class Counsel utilized the expert services of Dr. J. Michael DuMond, Ph.D., of Berkeley
11 Research Group to perform all expert analyses for this case. Plaintiff will also provide
12 additional documentation in support of the request for reimbursement of litigation costs incurred
13 at final approval. Attached hereto as **Exhibit 5** is a true and correct copy of the expert invoice
14 that my office received from Dr. DuMond for his expert services on this case.

15 32. Class Counsel carefully vetted the claims at issue, reviewed Settlement Class
16 member data spanning the entire Class Period and all relevant policy documents, retained an
17 expert with a Ph.D. in economics to assist in analyzing the data, and created a comprehensive
18 damages model for Defendant's liability.

19 33. Although the Parties engaged in substantial informal discovery and information
20 exchange prior to mediation, the Parties had agreed to refrain from engaging in formal written
21 and deposition discovery until after exhausting their settlement efforts at mediation. Absent
22 settlement, the Parties will be required to expend substantial time and resources conducting
23 extensive formal written and deposition discovery. Moreover, Plaintiff has not yet filed for class
24 certification, and thus, absent settlement, the Parties would face the prospect of appeals in the
25 wake of a disputed class certification ruling and/or an adverse summary judgment ruling. Even
26 if Plaintiff succeeded in certifying one or more classes, the Parties would incur considerably
27 more attorneys' fees and costs through a possible decertification motion, trial, and possible
28 appeal.

1 34. At the time of the proposed Settlement, Plaintiff had not filed her motion for
2 class certification. Had the Court certified any claims, Plaintiff anticipated that Defendant
3 would seek decertification. There was also a risk that Defendant would engage in a campaign
4 pursuant to *Chindarah v. Pick Up Stix, Inc.*, (2009) 171 Cal.App.4th 796, that could either affect
5 Plaintiff's ability to maintain the numerosity required to proceed as a class action, or
6 significantly reduce the size of the putative class for a fraction of what Settlement Class
7 members are receiving through this Settlement. Therefore, absent the Settlement, there was a
8 serious risk that Plaintiff would be unable to move forward on a class-wide basis.

9 35. Plaintiff's data analysis of Defendant's timekeeping and payroll data revealed
10 that Defendant's rounding practice resulted in the Settlement Class members being underpaid
11 for an aggregate of 485.23 recorded hours of work during the putative class period. Therefore,
12 Plaintiff calculated Defendant's maximum potential exposure on this claim at \$13,324 (485.23
13 unpaid hours * \$13.73 average minimum wage * 2 liquidated damages).

14 36. Defendant argues that its timekeeping practice was neutral, both on its face and
15 in practice, and that such a policy is lawful under *See's Candy*. Moreover, because *Camp v.*
16 *Home Depot* has been granted review by the California Supreme Court, there is tangible risk
17 that *Camp* will be overturned, rendering Plaintiff's damages analysis substantially overstated.
18 Plaintiff therefore discounted the maximum potential exposure by 40% for the risk of non-
19 certification and 40% for the risk of being unsuccessful on the merits, to arrive at an estimated
20 exposure of \$4,797.

21 37. Plaintiff's data analysis determined that Settlement Class members were
22 underpaid approximately \$14,619 as a result of Defendant's failure to properly include the value
23 of non-discretionary retention bonus payments when calculating the employees' respective
24 regular rates of pay for overtime purposes.

25 38. Defendant, however, argues that the bonuses in question were discretionary, and
26 therefore did not need to be included in the regular rate of pay. Defendant also argues that this
27 claim is unmanageable, as it requires individualized inquiries into whether each bonus payment
28 was discretionary or non-discretionary and how much money each employee was purportedly

1 owed as a result of Defendant's alleged regular rate violation. Based on these defenses, Plaintiff
2 discounted the maximum exposure by 40% for the risk of non-certification, and by an
3 additionally 35% for the risk of losing on the merits or failing to recover the full amount sought,
4 to arrive at an estimated exposure of approximately \$5,701.

5 39. Plaintiff's data analysis determined that Settlement Class members were paid a
6 total of 47,556 meal period premium payments during the Class Period, all of which were at the
7 employee's base rate of pay. Plaintiff asserts that all meal period premiums received during the
8 same time period in which non-discretionary incentive pay was earned were underpaid due to
9 Defendant's failure to incorporate the value of non-discretionary incentive pay when calculating
10 the employees' regular rates of pay. Accordingly, Plaintiff calculated Defendant's liability on
11 this claim at \$6,287 as a result of underpaying the meal period premiums.

12 40. Defendant asserts, however, that it maintained a lawful meal period
13 policy/practice at all times during the Class Period and that all bonus payments made to putative
14 class members were purely discretionary in nature, and therefore were properly excluded from
15 Defendant's regular rate calculations. Given these defenses, Plaintiff discounted the maximum
16 exposure by 40% for the risk of non-certification, and by an additional 35% for risk of losing on
17 the merits, to arrive at an estimated exposure of \$2,452.

18 41. Plaintiff's data analysis revealed that non-exempt employees worked an
19 aggregate total of 86,497 shifts in excess of 3.5 hours during the Class Period. Plaintiff
20 estimates a rest period violation occurred on approximately 40% of work shifts in excess of 3.5
21 hours. Accordingly, Plaintiff calculated Defendant's maximum potential exposure on this claim
22 at \$627,622 (86,497 shifts in excess of 3.5 hours * 40% violation rate * \$18.14 approximate
23 average premium).

24 42. But as noted above, Defendant argues it has always authorized and permitted
25 duty-free rest periods in accordance with California law, including maintaining lawful written
26 rest period policies and providing a "floater" as coverage so employees could be relieved of all
27 duty to take all duty-free rest periods to which they were entitled. Therefore, Defendant asserts
28 that Plaintiff's assumption that a rest period violation occurred in 40% of all work days in

1 excess of 3.5 during the Class Period is severely overstated and individualized to Plaintiff.
2 Further, Defendant asserts that this claim is not amenable to class certification given the
3 individual inquiries required to determine whether each employee was authorized and permitted
4 to take a lawful rest period and on which days, particularly given that rest periods were not
5 recorded. Given these defenses, Plaintiff discounted the maximum exposure by 80% for the risk
6 of non-certification, and by an additional 80% for risk of losing on the merits, to arrive at an
7 estimated exposure of \$25,105.

8 43. Plaintiff's data analysis determined that Settlement Class members worked an
9 aggregate total of approximately 4,521 months during the Class Period excluding the time
10 period in which Defendant paid employees a cell phone stipend due to the COVID-19 pandemic.
11 Using a conservative estimate of \$25 per month reimbursement for personal cellular phone use,
12 Plaintiff calculates Defendant's maximum exposure for this claim at approximately \$113,025
13 (\$25 per month * 4,521 work-months with no stipend).

14 44. As noted above, Defendant maintains that Settlement Class members were not
15 required to use their personal cellular phones as part of their job. Instead, Defendant asserts that
16 it provided company phones for all employees to use, and further argues that any expenses
17 incurred by Settlement Class members were minimal, given the wide availability of low-cost
18 cellular phone plans. Defendant further argues that this claim would require individual inquiries
19 into whether Settlement Class members actually used their personal cellular phones for work
20 purposes, how much expense they incurred, whether they submitted a request for
21 reimbursement, and the reasonableness of that expense, thus precluding class certification.
22 Based on these defenses, Plaintiff discounted the estimated maximum amount by 55% for risk
23 of non-certification, and by an additional 45% to account for risk of losing on the merits and/or
24 failure to recover the maximal amount sought, to arrive at an estimated exposure of
25 approximately \$27,974.

26 45. According to the key data points provided by Defendant, approximately 267
27 Settlement Class members are eligible for wage statement penalties, and a total of 8,433 wage
28 statements were issued during the relevant period. Plaintiff calculated Defendant's maximum

possible wage statement exposure as approximately \$829,950 ((267 initial violations * \$50 per pay period) + (8,166 subsequent pay periods * \$100 per pay period)). However, Defendant raised numerous defenses, including that the alleged violations, if any, were not “knowing and intentional,” and that Plaintiff could not show that the Settlement Class members “suffer[ed] injury” as a result of any alleged violations. Defendant further argued that Plaintiff’s underlying claims would fail, and, therefore, her wholly derivative wage statement claim would also fail. Finally, Defendant argued that Plaintiff’s damages were substantially overstated, as Plaintiff attributed a wage statement penalty to every pay period during the relevant time period, despite the fact that the underlying “unpaid wage” violations arguably did not occur in every pay period, e.g., employees only received a single 90-day retention bonus once during their entire employment which is the basis for Plaintiff’s regular rate and underpaid meal period premiums claims. Therefore, Plaintiff discounted the maximum exposure by 50% for the risk of non-certification of the underlying claims and 75% for a risk of being unsuccessful on the merits, including failing to prove the violations were “knowing and intentional,” that the Settlement Class members “suffer[ed] injury,” for an estimated recovery of \$103,744.

46. Based on data provided by Defendant, approximately 261 Settlement Class members separated their employment during the relevant period applicable to this claim. As a result of Defendant’s allegedly unlawful rounding practice, Plaintiff asserts that each of these employees was owed wages that were not paid at the time of their separation. Plaintiff therefore calculated Defendant’s maximum exposure of \$1,136,133 (261 former employees * average waiting time penalty of \$4,353 (\$18.14 approximate average hourly rate * 8 hours * 30 days)). Defendant maintains that waiting time penalties are not appropriate because Plaintiff’s claims fail on the merits, and given their good-faith defenses, Plaintiff cannot show that any failure by Defendant to pay all final wages was willful. Finally, Defendant argued that Plaintiff’s damages were substantially overstated, as Plaintiff attributed a waiting time penalty to every employee who separated their employment during the relevant time period, which could be ultimately inaccurate if the California Supreme Court overturns the holding in *Camp* and Plaintiff’s rounding claim becomes dependent on the standard outlined in *See’s Candy*. Plaintiff

1 discounted this claim by 50% for the risk of non-certification and by an additional 70% for risk
2 of being unsuccessful on the merits, overstating damages, or failing to establish willfulness, for
3 an estimated recovery of \$170,420.

4 47. Plaintiff alleges that PAGA civil penalties would be recoverable for each pay
5 period in which she could prove an underlying Labor Code violation. According to Plaintiff's
6 data analysis, the Settlement Class members worked a combined total of 8,433 pay periods
7 during the PAGA liability period in which at least one of Plaintiff's alleged Labor Code
8 violations occurred. Plaintiff therefore calculates Defendant's maximum PAGA exposure at
9 \$843,300 (8,433 pay periods * \$100 per violation). However, these penalties are exclusively
10 derivative of the underlying violations that Defendant vigorously disputes, both as to
11 certification and the merits. Plaintiff also recognizes that the Court has discretion to
12 substantially reduce any award of PAGA penalties. Therefore, Plaintiff discounted the
13 maximum figure by 75% to account for the risk that she would not prevail on the underlying
14 claims and/or that the damages were overstated, and by an additional 95% for risk of the Court
15 reducing penalties, to arrive at an estimated exposure of \$10,541.

16 48. Using these estimated figures, Plaintiff estimated that the potential reasonable
17 recovery for the Settlement Class would be approximately \$350,733. Thus, the proposed
18 recovery to the Settlement Class of \$250,000.00 represents approximately 71.28% of Plaintiff's
19 reasonably forecasted class-wide recovery, which is within the range approved by courts as
20 being fair, reasonable and adequate, especially in light of Defendant's limited financial
21 resources and cash-flow constraints, while also avoiding further expense and risk of proceeding
22 towards class certification and trial.

23 49. Concurrently with the filing of this motion, Plaintiff provided notice of the
24 proposed Settlement, as well as copies of the Motion for Preliminary Approval and all papers
25 filed in support hereof, to the LWDA. Attached hereto as **Exhibit 4** are true and correct copies
26 of Plaintiff's Settlement submission and the LWDA's confirmation of receipt.

27 50. I confirm that I do not have any interest or involvement in, and am not affiliated
28 with, the proposed settlement administrator, Phoenix Class Action Administration Solutions.

1 51. There is a referring attorney with whose law firm my firm has entered into a
2 written fee-splitting agreement. Plaintiff was fully notified of the fee-splitting agreement in
3 writing and consented to the fee-splitting agreement in writing at the time she retained my firm,
4 in compliance with California Rules of Professional Conduct, Rule 1.5.1.
5

6 I declare under penalty of perjury under the laws of the United States and the state of
7 California that the foregoing is true and correct. Executed on June 12, 2024, at El Segundo,
8 California.
9



Matthew K. Moen

EXHIBIT 1

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement” or “Settlement”) is reached by and between Plaintiff Miriam Moreno (“Plaintiff” or “Class Representative”), as an individual and on behalf of all members of the Settlement Class (defined below), on one hand, and Defendant Beacon Day School, Inc. (“Defendant”), on the other hand. Plaintiff and Defendant are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Paul K. Haines, Fletcher W. Schmidt, and Matthew K. Moen of Haines Law Group, APC (collectively, “Class Counsel”). Defendant is represented by William K. Browning of Browning | Hocker (“Defense Counsel”).

On December 14, 2022, Plaintiff filed a class action complaint against Defendant in Orange County Superior Court, titled *Miriam Moreno v. Beacon Day School, Inc.*, Case No. 30-2022-01296662-CU-OE-CXC (the “Action”). On February 21, 2023, Plaintiff filed the operative First Amended Complaint, alleging that Defendant failed to: (i) pay all minimum wages; (ii) pay all overtime wages; (iii) provide all lawful meal periods; (iv) authorize and permit all lawful rest periods; (v) reimburse necessary business expenses; (vi) issue accurate itemized wage statements; (vii) timely pay all final wages due upon separation from employment; (viii) comply with California’s Unfair Competition laws; and (ix) is liable for civil penalties under the Private Attorneys General Act, Labor Code § 2968 *et seq.* (“PAGA”).

Given the uncertainty of litigation, Plaintiff and Defendant wish to settle both individually and on behalf of the Settlement Class. Accordingly, the Parties agree as follows:

1. **Settlement Class Defined.** For the purposes of this Settlement Agreement only, Plaintiff and Defendant stipulate to the certification of the following Settlement Class:

All current and former non-exempt employees who worked for Defendant in California between December 14, 2018 and the date of preliminary approval or February 24, 2024, whichever occurs first (“Class Period”).

The Parties agree that certification for purposes of settlement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure. If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

Additionally, the “PAGA Aggrieved Employees” shall be defined as:

All current and former non-exempt employees who worked for Defendant in California at any time from December 14, 2021 through the date of preliminary approval or February 24, 2024, whichever occurs sooner (the “PAGA Period”).

2. **Release by Settlement Class Members and Plaintiff.** Plaintiff and each Settlement Class member who does not timely opt-out of the settlement, shall fully release and discharge Defendant and all of its present and former parent companies, subsidiaries, divisions, related or affiliated

companies, shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns (the “Released Parties”), as follows:

- A. All Settlement Class members who do not timely opt out will release and discharge the Released Parties from liability for all claims based on the factual allegations set forth in the operative First Amended Complaint in the Action or Plaintiff’s December 14, 2022 PAGA Notice Letter to the LWDA, or which could have been pled in the operative First Amended Complaint in the Action based on the factual allegations therein, that arose during the Class Period, including: (i) failure to pay all minimum wages; (ii) failure to pay all overtime wages; (iii) failure to provide all lawful meal periods; (iv) failure to authorize and permit all lawful rest periods; (v) failure to reimburse necessary business expenses; (vi) failure to issue accurate itemized wage statements; (vii) failure to timely pay all final wages due upon separation from employment; and (viii) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories of relief pled in the operative First Amended Complaint in the Action (“Released Claims”). This release shall run from December 14, 2018 through the date of preliminary approval or February 24, 2024, whichever occurs sooner.
- B. It is understood and acknowledged that all PAGA Aggrieved Employees will be issued a check for their share of the PAGA Amount, as defined below, regardless of whether they submit a timely Request for Exclusion Form. All PAGA Aggrieved Employees shall be deemed to have released and discharged Defendant from all PAGA claims that are based on the Labor Code violations pled in the operative First Amended Complaint in the Action or Plaintiff’s December 14, 2022 PAGA Notice Letter to the LWDA, or which could have been pled in the operative First Amended Complaint in the Action based on the factual allegations therein, that arose during the PAGA Period (the “PAGA Released Claims”). This release shall run from December 14, 2021 through the date of preliminary approval or February 24, 2024, whichever occurs sooner.
- C. In light of Plaintiff’s Class Representative Enhancement Payment, Plaintiff agrees to release, as an individual and in addition to the Released Claims described above, all claims, whether known or unknown, under federal law or state law against Defendant. Plaintiff understands that this release includes unknown claims and that Plaintiff is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

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.

Nothing contained herein shall constitute a release of any rights or claims that cannot be waived as a matter of law (including but not limited to claims arising under workers’ compensation laws). Nor shall anything contained herein be

construed to exclude the filing of an administrative charge or complaint with the Equal Employment Opportunity Commission or National Labor Relations Board, or participation in an administrative investigation or proceeding, except that Plaintiff waives and releases all rights to receive a monetary recovery in any such proceedings.

The Settlement shall become effective on the date upon which the Court signs an order granting final approval of the Settlement Agreement ("Effective Date").

3. **Maximum Settlement Amount.** As consideration, Defendant agrees to pay a non-reversionary "Maximum Settlement Amount" of Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00) in full and complete settlement of the Action, as follows:
 - A. The Parties have agreed to engage Phoenix Settlement Administrators as the "Settlement Administrator" to administer this Settlement.
 - B. Defendant will fund the Maximum Settlement Amount within thirty (30) calendar days after the Effective Date, which shall be deposited with the Settlement Administrator and held in an established Qualified Settlement Fund ("QSF").
 - C. This is a non-reversionary settlement. The Maximum Settlement Amount includes:
 - (1) All payments (including interest) to the Settlement Class members;
 - (2) All costs of the Settlement Administrator which are not to exceed \$8,750.00;
 - (3) Up to \$5,000.00 for Plaintiff's Class Representative Enhancement Payment in recognition for Plaintiff's contributions to the Action and service to the Settlement Class. In the event that the Court reduces or does not approve the requested Class Representative Enhancement Payment, Plaintiff shall not have the right to revoke the Settlement Agreement for that reason, and the Settlement will remain binding;
 - (4) Up to one-third (1/3) of the Maximum Settlement Amount in Class Counsel's attorneys' fees (currently estimated at \$83,333.33), plus actual costs and expenses incurred by Class Counsel related to the Action as supported by declaration, which shall be no greater than \$12,000.00. In the event that the Court reduces or does not approve the requested Class Counsel attorneys' fees or costs, Class Counsel shall not have the right to revoke the Settlement Agreement based on that reason, and the Settlement will remain binding; and
 - (5) Ten Thousand Dollars and Zero Cents (\$10,000.00) of the Maximum Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), 75% of such penalties, or \$7,500.00, will be payable to the LWDA, and the remaining 25%, or \$2,500.00, will

be payable to the PAGA Aggrieved Employees as the "PAGA Amount," as described below.

- D. Defendants will not oppose the reasonableness of these requests. Any reduction by the Court of these requests will revert to the Net Settlement Amount for distribution to the Settlement Class members who do not opt-out.
 - E. **Employer Payroll Taxes.** The Maximum Settlement Amount does not include the employer's share of payroll taxes, which shall be paid by Defendant separate and apart from, and in addition to, the Maximum Settlement Amount.
 - F. **Escalator Clause.** In advance of mediation, Defendant represented that there are an estimated 21,976 aggregate workweeks worked by the approximately 450 Settlement Class members at the time of mediation. If the actual number of aggregate workweeks worked by the Settlement Class members exceeds this figure by more than 10% (i.e., if there are 24,174 or more aggregate workweeks worked by the Settlement Class members), Defendant shall increase the Maximum Settlement Amount on a proportional basis (i.e., if there was a 12% increase in the number of aggregate workweeks, Defendant shall increase the Maximum Settlement Amount by 12%).
4. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment ("Individual Settlement Payment") from the Settlement. Individual Settlement Payments will be determined and paid as follows:
- A. The Settlement Administrator shall first deduct from the Maximum Settlement Amount the amounts approved by the Court for Class Counsel's attorneys' fees, Class Counsel's costs and expenses, the Class Representative Enhancement Payment, the Settlement Administrator's fees and expenses for administration, and the amount of PAGA civil penalties designated as payable to the LWDA. The remaining amount shall be known as the "Net Settlement Amount."
 - B. From the Net Settlement Amount, the Settlement Administrator will calculate each Settlement Class member's Individual Settlement Payment based on the following formula:
 - i. PAGA Amount: The \$2,500.00 payable to the PAGA Aggrieved Employees as their 25% portion of the PAGA civil penalties shall be designated as the "PAGA Amount." Each PAGA Aggrieved Employee who was employed by Defendant at any time during the PAGA Period, regardless of whether they timely submit a Request for Exclusion, shall receive a portion of the PAGA Amount proportionate to the number of workweeks that he or she worked during the PAGA Period compared to the aggregate number of workweeks worked by all PAGA Aggrieved Employees during the PAGA Period.
 - ii. Wage Statement Amount: Twenty percent (20%) of the Net Settlement Amount shall be designated as the "Wage Statement Amount." Each

participating Settlement Class member who was employed by Defendant at any time between December 14, 2021 and the end of the Class Period, shall receive a portion of the Wage Statement Amount proportionate to the number of workweeks that he or she worked during the aforementioned time period, by multiplying the Wage Statement Amount by a fraction, the numerator of which is the Settlement Class member's total workweeks worked during the aforementioned time period, and the denominator of which is the aggregate number of workweeks worked by all participating Settlement Class members during the aforementioned time period.

- iii. Waiting Time Amount: Twenty-five percent (25%) of the Net Settlement Amount shall be designated as the "Waiting Time Amount." The Waiting Time Amount shall be distributed in equal, pro-rata shares to each participating Settlement Class member who separated their employment from Defendant at any time between December 14, 2019 and the end of the Class Period.
 - iv. The remainder of the Net Settlement Amount will be distributed to each participating Settlement Class member based on their proportionate number of workweeks worked during the Class Period, by multiplying the remaining Net Settlement Amount by a fraction, the numerator of which is the Settlement Class member's total workweeks worked during the Class Period, and the denominator of which is the total number of workweeks worked by all participating Settlement Class members during the Class Period.
- C. Within ten (10) business days following the full funding of the Maximum Settlement Amount, the Settlement Administrator will calculate each Settlement Class member's Individual Settlement Payment, will prepare and mail the Individual Settlement Payments to the participating Settlement Class members, and will disburse all payments due under the Settlement Agreement.
 - D. Each Individual Settlement Payment shall be allocated as 10% wages (subject to applicable withholdings), and 90% interest and penalties (not subject to withholdings). Each PAGA Amount payable to the PAGA Aggrieved Employees shall be allocated as 100% penalties. The Settlement Administrator will be responsible for issuing to participating Settlement Class members an IRS Form W-2 for amounts paid as wages, and an IRS Form 1099 for amounts paid as penalties, reimbursement of expenses, and interest. Settlement Class members are responsible for their share of the payroll taxes on portions of the Individual Settlement Payments allocated as unpaid wages, which will be deducted from their Individual Settlement Payments.
 - E. Defendant shall fully discharge its obligations to the participating Settlement Class members through the Settlement Administrator's mailing of an Individual Settlement Payment, regardless of whether such checks are actually received and/or negotiated by the recipients. Each member of the Settlement Class who receives

an Individual Settlement Payment must cash that check within one hundred eighty (180) days from the date the Settlement Administrator mails it. Any check that is not negotiated within 180 days of mailing to a Settlement Class member shall be transferred to the California State Controller's Office to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 *et seq.*, in the name of the Settlement Class member to whom the check was issued, until such time that they claim their property. The Parties agree that this disposition results in no "unpaid residue" within the meaning of California Code of Civil Procedure Section 384. For any settlement checks returned to the Settlement Administrator as non-delivered, the Settlement Administrator shall conduct a "skip trace" to obtain an updated mailing address within five (5) business days of receiving the returned settlement check. If an updated mailing address is identified, the Settlement Administrator shall resend the Individual Settlement Payment to the Settlement Class member within five (5) business days of obtaining the updated address.

- F. Neither Plaintiff nor Defendant shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.
- G. The Settlement Payments issued and paid to Participating Class Members and the Service Payment issued and paid to Plaintiff shall be deemed not to be "pensionable" earnings and shall not have any effect on the eligibility for, accrual of, or calculation of, any employee benefits (e.g. vacations, holiday pay, retirement plans, 401(k), Employee Stock Purchase Plan, etc.) of the Plaintiff or Participating Class Members. The Parties agree any Settlement Payments to Participating Class Members and the Service Payment under the terms of this Agreement do not represent any modification of Participating Class Members' previously credited hours of service or other eligibility criteria under any employee plan for stock purchase, pension benefit, or employee welfare benefit sponsored by Defendant.

5. **Attorneys' Fees and Costs.** Defendant will not object to Class Counsel's request for a total award of attorneys' fees of up to one-third of the Maximum Settlement Amount, which is currently estimated to be \$83,333.33. Additionally, Class Counsel will request an award of actual costs and expenses as supported by declaration, in an amount not to exceed \$12,000.00 from the Maximum Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator for the fees and costs award approved by the Court. If the Court awards a lesser amount in Attorneys' Fees and Costs than what is requested, the difference shall become part of the Net Settlement Amount for the benefit of the Settlement Class members who do not opt out.

6. **Class Representative Enhancement Payment.** Defendant will not object to a request for a Class Representative Enhancement Payment in the amount of \$5,000.00 for Plaintiff's time and

risk in prosecuting this case, Plaintiff's service to the Settlement Class, and in exchange for Plaintiff's general release of claims. This award will be in addition to Plaintiff's Individual Settlement Payment as a Settlement Class member, and shall be reported on an IRS Form 1099 issued by the Settlement Administrator. If the Court awards a lesser amount for the Class Representative Enhancement Payment than what is requested, the difference shall become part of the Net Settlement Amount for the benefit of the Settlement Class members who do not opt out.

7. **Settlement Administrator.** The Parties agree to the appointment of Phoenix Settlement Administrators as Settlement Administrator. Defendant will not object to Plaintiff seeking approval to pay up to \$8,750.00 for the administration services from the Maximum Settlement Amount. The Settlement Administrator shall be responsible for depositing into an account and holding the payment from Defendant comprising the Maximum Settlement Amount, sending Notice Packets in English only to the Settlement Class members, calculating Individual Settlement Payments and preparing all checks and mailings, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be responsible for maintaining a website and posting important documents from the case for the Settlement Class members, including copies of the operative First Amended Complaint in the Action, the Settlement Agreement, Class Notice, Preliminary Approval Order, and the Court's Final Judgment and Order. The Settlement Administrator shall be authorized to pay itself from the Maximum Settlement Amount only after Individual Settlement Payments have been mailed to all participating Settlement Class members. If the Court awards a lesser amount for settlement administration costs than what is requested, the difference shall become part of the Net Settlement Amount for the benefit of the Settlement Class members who do not opt out.

8. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiff shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for settlement purposes only;
- B. Appointing Paul K. Haines, Fletcher W. Schmidt, and Matthew K. Moen of Haines Law Group, APC as Class Counsel;
- C. Appointing Plaintiff Miriam Moreno as Class Representative for the Settlement Class;
- D. Approving Phoenix Settlement Administrators as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Notice Packet (which is comprised of the Class Notice, Notice of Individual Settlement Payment, and the Request for Exclusion Form), and directing the mailing of the same; and
- G. Scheduling a Final Approval hearing.

9. **LWDA Notices.** Class Counsel will provide to the LWDA all required notices and documents to facilitate approval of the Settlement in accordance with the PAGA, including, but

not limited to, submitting to the LWDA a copy of the proposed Settlement at the same time that it is submitted to the Court.

10. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within fourteen (14) calendar days of the court signing an order preliminarily approving this Settlement Agreement, Defendant will provide the Settlement Administrator with the names, last known addresses, phone numbers, social security numbers, and workweek data for all Settlement Class members during the Class Period.
- B. Within ten (10) business days from receipt of this information, the Settlement Administrator shall (i) run the names of all Settlement Class members through the National Change of Address ("NCOA") database to determine any updated addresses for Settlement Class members; (ii) update the address of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Individual Settlement Payment for each Settlement Class member; and (iv) mail a Notice Packet to each Settlement Class member via first-class mail at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline, as defined below, shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member immediately, and in any event within five (5) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. Settlement Class members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have an additional forty-five (45) calendar days from the date of re-mailing, or until the Response Deadline has expired, whichever is later, to submit a Request for Exclusion, Objection, or dispute. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline.
- D. Requests for Exclusion. Request for Exclusion Forms will be mailed to all Settlement Class members in the Notice Packets. Any Settlement Class member who wishes to opt-out of the Settlement must complete and mail the Request for Exclusion Form to the Settlement Administrator within 60 calendar days of the date of the initial mailing of the Notice Packets (the "Response Deadline").
 - i. The Notice Packet shall state that Settlement Class members who wish to exclude themselves from the Settlement must submit the Request for Exclusion

Form by the Response Deadline. The Request for Exclusion Form must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion Form does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the Settlement, except a Request for Exclusion Form not containing a Class Member's telephone number and/or last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion Form shall be the exclusive means used to determine whether a Request for Exclusion Form has been timely submitted. The Court shall make the final determination regarding the validity and authenticity of any Requests for Exclusion. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the Settlement or have any right to object, appeal or comment thereon.

- ii. At no time will the Parties or their counsel seek to solicit or otherwise encourage any Settlement Class member to object to the Settlement or opt-out of the Settlement Class, or encourage any Settlement Class member to appeal from the final judgment.
 - iii. In the event ten percent (10%) or more of the total Class Members submit a valid Request for Exclusion from the Settlement, Defendant may rescind this Settlement. If Defendant rescinds the Settlement, it will pay Settlement Administration Costs incurred through the date of the rescission.
 - iv. PAGA Aggrieved Employees. Notwithstanding the foregoing, all PAGA Aggrieved Employees will be deemed to have released the PAGA Released Claims, regardless of whether or not they timely request to be excluded from the Settlement Class, and shall receive their share of the PAGA Amount.
- E. Objections. Members of the Settlement Class who do not opt-out may object to this Settlement Agreement as explained in the Class Notice by filing a written objection with the Settlement Administrator by the Response Deadline (who shall serve all objections as received on Class Counsel and Defendant's counsel, as well as file a single packet of all such objections with the Court). Defendant's counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval. All objections should contain the objecting Settlement Class member's full name and current address, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection, include all objections and the factual and legal bases for the same, and include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence. Absent good cause found by the Court, any objection must

be postmarked no later than the Response Deadline to be valid. Any Settlement Class member who wishes to may appear in person or through their own counsel and raise an objection at the Final Approval Hearing.

- F. Notice of Individual Settlement Payment / Disputes. Each Notice Packet mailed to a Settlement Class member shall disclose the amount of the Settlement Class member's estimated Individual Settlement Payment as well as all of the information that was used to calculate the Individual Settlement Payment. Settlement Class members will have the opportunity, should they disagree with Defendant's records regarding the information stated in the Notice of Individual Settlement Payment, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will notify the Parties of the dispute within five business days of receipt of the notice of dispute and will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this Settlement Agreement. However, if the Settlement Administrator and the Parties cannot agree on a resolution, the Parties will submit the dispute to the Court for a final determination.
- G. Defendant understands its legal obligation not to retaliate against the Settlement Class members for their participation and/or election to participate in the benefits to be afforded any of them by the Settlement and/or the Action.

11. **Final Approval.** Following preliminary approval and the close of the period for filing requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
- B. Approving Plaintiff's and Class Counsel's application for attorneys' fees and costs, Class Representative Enhancement Payment, settlement administration costs, and payment to the LWDA for its share of civil penalties under PAGA; and
- C. Entering judgment pursuant to California Rule of Court 3.769.
- D. A Notice of the Court's Final Judgment and Order will be posted on the Settlement Administrator's website for at least 30 days from the date of Final Judgment for the Settlement Class members, in compliance with California Rule of Court 3.771(b).

12. **Non-Admission of Liability.** Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this Settlement. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve,

interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

13. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by all of the Parties or their respective counsel, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

14. **Confidentiality.** The Parties agree to keep this Settlement Agreement confidential (except for purposes of enforcement) through preliminary approval. Thereafter, neither Party will make comments to the media or otherwise publicize the terms of the Settlement. Nothing herein shall prohibit any of the Parties from disclosing information relating to the Settlement Agreement as required by law.

15. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Plaintiff:	Fletcher W. Schmidt of Haines Law Group, APC 2155 Campus Drive, Suite 180, El Segundo, CA 90245 fschmidt@haineslawgroup.com
if to Defendant:	William K. Browning of Browning Hocker 501 W Broadway, Suite 540, San Diego, CA 92101 wbrowning@browninghocker.com

16. **Cooperation.** The Parties agree to work cooperatively, diligently and in good faith to ensure that all necessary documents are timely filed.

17. **Assignment.** No right or obligation in this Agreement may be assigned by any Party, Class Member, or Class or Defendant's Counsel without the express written consent of the other Party and their counsel. The representations and warranties in this Agreement are for the sole benefit of the Parties and do not confer any right to any other person.

18. **Enforcement and Continuing Jurisdiction of the Court.** To the extent consistent with class action procedure, the Parties intend that the Court shall retain jurisdiction over the Parties to enforce the terms of the Settlement Agreement and judgment pursuant to California Rule of Court Rule 3.769(h) and Code of Civil Procedure Section 664.6. The Court shall retain continuing jurisdiction over this Action and over all Parties and Settlement Class members, to the fullest extent permitted by law, to enforce and effectuate the terms and intents of this Settlement Agreement, and to adjudicate any claimed breaches of this Settlement Agreement. In the event that one more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

19. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

20. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

IN WITNESS THEREOF, the Parties to this Settlement Agreement each acknowledge that they have read the foregoing Settlement Agreement, have had the opportunity to and have in fact consulted with counsel of their own choice before signing this Settlement Agreement, accept and agree to the provisions contained herein, and hereby execute it voluntarily and with full understanding of its consequences.

MIRIAM MORENO

Dated: 03/17/24

Miriam Moreno
Miriam Moreno (Mar 17, 2024 10:33 PM)

Miriam Moreno, Plaintiff

BEACON DAY SCHOOL, INC.

Beacon Day School

Dated: 3/27/24

Mary J. Lang
By: *Mary J. Lang*
Its: *Beacon Day School*
Defendant

APPROVED AS TO FORM:

Dated: 03/18/2024

HAINES LAW GROUP, APC

By: *P.K. Haines*

Paul K. Haines

Fletcher W. Schmidt

Matthew K. Moen

Attorneys for Plaintiff

Dated: 3/27/24

BROWNING | HOCKER

By: *William K. Browning*
William K. Browning
Attorneys for Defendant

EXHIBIT 2

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

MIRIAM MORENO, as an individual and on behalf of
all others similarly situated,

Plaintiff,

vs.

BEACON DAY SCHOOL, INC, a California
Corporation; and DOES 1 through 100,

Defendants.

Case No. 30-2022-01296662-CU-OE-CXC

**NOTICE OF CLASS AND PAGA ACTION
SETTLEMENT**

To: All current and former non-exempt employees who worked for Defendant Beacon Day School, Inc. in California between December 14, 2018 and the date of preliminary approval or February 24, 2024, whichever occurs first (“Class Period”). Collectively, these employees will be referred to as “Settlement Class members.”

**PLEASE READ THIS NOTICE CAREFULLY
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT**

Why should you read this notice?

The Orange County Superior Court has granted preliminary approval of a proposed class and PAGA action settlement (“Settlement”) in the case of *Miriam Moreno v. Beacon Day School, Inc.*, Orange County Superior Court Case No. 30-2022-01296662-CU-OE-CXC (the “Action”). Because your rights may be affected by the Settlement, it is important that you read this notice carefully.

You may be entitled to money from the Settlement. Defendant Beacon Day School, Inc.’s (“Defendant”) records show that you were employed by Defendant in California as a non-exempt employee during the Class Period. The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this notice is to provide you with a brief description of the Action, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment. You may access this Notice and other relevant documents for this case, including the operative complaint, the Settlement Agreement, and the orders granting preliminary and final approval, at the Settlement Administrator’s website at <https://www.beacondaysettlement.com>.

What is this case about?

Plaintiff Miriam Moreno (“Plaintiff”) brought this Action against Defendant, asserting claims on behalf of all Settlement Class Members. Plaintiff is known as the “Class Representative,” and her attorneys, who also represent the interests of all Settlement Class Members, are known as “Class Counsel.”

In the Action, Plaintiff alleges that Defendant failed to: (i) pay all minimum wages; (ii) pay all overtime wages; (iii) provide all lawful meal periods; (iv) authorize and permit all lawful rest periods; (v) reimburse necessary business expenses; (vi) issue accurate itemized wage statements; (vii) timely pay all final wages due upon separation from employment; and (viii) comply with California’s Unfair Competition laws. As a result of the alleged violations, Plaintiff alleges that Defendant is liable for civil penalties under the Labor Code Private Attorneys General Act (“PAGA”).

Defendant denies that it has done anything wrong. Defendant denies that it has engaged in any unlawful activity, that it has failed to comply with the law in any respect, and that it has any liability to anyone under the claims asserted in the Action. Defendant denies that it owes Settlement Class Members any reimbursement, restitution, penalties, or other damages. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Defendant, which expressly denies all liability.

The Court has not ruled on the merits of Plaintiff's claims. However, to avoid additional expense, inconvenience, and interference with its business operations, the parties concluded that it is in the best interests of Defendant and the Settlement Class Members to settle the Action on the terms summarized in this Notice. After Defendant provided relevant information and documents to Class Counsel, the Settlement was reached after mediation and arm's-length negotiations between the parties.

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to Defendant, the risk of denial of class certification, the inherent risks of trial on the merits, and the delays and uncertainties associated with litigation.

If you are still employed by Defendant, your decision about whether to participate in the Settlement will not affect your employment. California law and Defendant's policy strictly prohibit unlawful retaliation. Defendant will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Settlement Class Member because of his or her decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for the Plaintiff/Settlement Class Members: HAINES LAW GROUP, APC Paul K. Haines (SBN 248226) phaines@haineslawgroup.com Fletcher W. Schmidt (SBN 286462) fschmidt@haineslawgroup.com Matthew K. Moen (SBN 305956) mmoen@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 haineslawgroup.com	Attorneys for Defendant: BROWNING HOCKER William K. Browning, Esq. (CSB #166742) 501 W Broadway STE 540 San Diego, California 92101 (619) 234-2194
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What are the terms of the Settlement?

On <<PRELIM APPROVAL DATE>>, the Court preliminarily certified a class, for settlement purposes only, of all current and former non-exempt employees who worked for Defendant in California during the Class Period. Settlement Class Members who do not opt out of the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Defendant as described below in the "Release" section.

Defendant has agreed to pay \$250,000.00 ("Maximum Settlement Amount") to fully resolve all claims in the Action, including payments to Settlement Class Members, requested attorneys' fees and verified cost reimbursement, settlement administration costs, payment to the California Labor and Workforce Development Agency ("LWDA") for its share of PAGA civil penalties, and the Class Representative's Enhancement Payment. The following deductions from the Maximum Settlement Amount will be requested by the parties:

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the “Settlement Administrator,” who is sending this Notice to you, will issue settlement checks, and will perform many other duties relating to the Settlement. The Court has approved setting aside up to \$8,750.00 from the Maximum Settlement Amount to pay the settlement administration costs. If the Court awards a lesser amount for settlement administration costs than what is requested, the difference shall become part of the Net Settlement Amount for the benefit of Settlement Class members who do not opt out.

Attorneys’ Fees and Expenses. Class Counsel have been prosecuting the Action on behalf of the Settlement Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys’ fees, which will be paid from the Maximum Settlement Amount. Settlement Class Members are not personally responsible for any of Class Counsel’s attorneys’ fees or expenses. Class Counsel will ask for fees of up to one-third of the Maximum Settlement Amount, which is estimated to be \$83,333.33, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Action through final Settlement. Class Counsel also will ask for reimbursement of up to \$12,000.00 for verified costs Class Counsel incurred to prosecute the Action. If the Court awards a lesser amount in Attorneys’ Fees and Costs than what is requested, the difference shall become part of the Net Settlement Amount for the benefit of Settlement Class Members who do not opt out.

Enhancement Payment to Class Representative. Class Counsel will ask the Court to award the Class Representative an Enhancement Payment in the amount of \$5,000.00 to compensate her for her general release of claims against Defendant and her service and extra work provided on behalf of the Settlement Class Members. If the Court awards a lesser amount for the Class Representative Enhancement Payment than what is requested, the difference shall become part of the Net Settlement Amount for the benefit of Settlement Class Members who do not opt out.

PAGA Payment to State of California. The parties have agreed to allocate \$10,000.00 of the Maximum Settlement Amount as PAGA civil penalties. Per Labor Code Section 2699(i), 75% of such penalties (\$7,500.00) will be payable to the LWDA for its share of PAGA penalties, and the remaining 25% (\$2,500.00) will be payable to the PAGA Aggrieved Employees as the “PAGA Amount,” as described below.

Calculation of Settlement Class Members’ Individual Settlement Payments. After deducting the Court-approved amounts above, the balance of the Maximum Settlement Amount will form the Net Settlement Amount (“NSA”), which will be distributed to all Settlement Class Members who do not submit a valid and timely Request for Exclusion (described below). The NSA will be divided as follows:

- (i) PAGA Amount: The \$2,500.00 payable to the PAGA Aggrieved Employees as their 25% portion of the PAGA civil penalties shall be designated as the “PAGA Amount.” Each PAGA Aggrieved Employee who was employed by Defendant at any time during the PAGA Period, regardless of whether they timely submit a Request for Exclusion, shall receive a portion of the PAGA Amount proportionate to the number of workweeks that he or she worked during the PAGA Period compared to the aggregate number of workweeks worked by all PAGA Aggrieved Employees during the PAGA Period.
- (ii) Wage Statement Amount: Twenty percent (20%) of the Net Settlement Amount shall be designated as the “Wage Statement Amount.” Each participating Settlement Class member who was employed by Defendant at any time between December 14, 2021 and the end of the Class Period, shall receive a portion of the Wage Statement Amount proportionate to the number of workweeks that he or she worked during the aforementioned time period, by multiplying the Wage Statement Amount by a fraction, the numerator of which is the Settlement Class member’s total workweeks worked during the aforementioned time period, and the denominator of which is the aggregate number of workweeks worked by all participating Settlement Class members during the aforementioned time period.

- (iii) Waiting Time Amount: Twenty-five percent (25%) of the Net Settlement Amount shall be designated as the “Waiting Time Amount.” The Waiting Time Amount shall be distributed in equal, pro-rata shares to each participating Settlement Class member who separated their employment from Defendant at any time between December 14, 2019 and the end of the Class Period.
- (iv) The remainder of the Net Settlement Amount will be distributed to each participating Settlement Class member based on their proportionate number of workweeks worked during the Class Period, by multiplying the remaining Net Settlement Amount by a fraction, the numerator of which is the Settlement Class member’s total workweeks worked during the Class Period, and the denominator of which is the total number of workweeks worked by all participating Settlement Class members during the Class Period.

Payments to Settlement Class Members. If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to all Settlement Class Members who did not submit a valid and timely Request for Exclusion Form. Settlement checks will be valid for 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class Members whose checks were not cashed within 180 days after mailing shall be transferred to the California State Controller’s Office to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 *et seq.*, in the name of the Settlement Class member to whom the check was issued, until such time that they claim their property.

The Individual Settlement Payments issued and paid to participating Settlement Class Members will be deemed not to be “pensionable” earnings and will not have any effect on the eligibility for, accrual of, or calculation of, any employee benefits (e.g. vacations, holiday pay, retirement plans, 401(k), Employee Stock Purchase Plan, etc.) of the participating Settlement Class Members. Any Individual Settlement Payments to participating Settlement Class Members under the terms of the Settlement Agreement do not represent any modification of participating Settlement Class Members’ previously credited hours of service or other eligibility criteria under any employee plan for stock purchase, pension benefit, or employee welfare benefit sponsored by Defendant.

Allocation and Taxes. For tax purposes, each Individual Settlement Payment will be allocated as 10% wages (subject to applicable withholdings), and 90% interest and penalties (not subject to withholdings). Each PAGA Amount payable to the PAGA Aggrieved Employees shall be allocated as 100% penalties. Settlement Class Members are responsible for the proper income tax treatment of the Individual Settlement Payments. The Maximum Settlement Amount does not include the employer’s share of payroll taxes, which shall be paid by Defendant separate and apart from, and in addition to, the Maximum Settlement Amount. The Settlement Administrator, Defendant and its counsel, and Class Counsel cannot provide tax advice. Accordingly, Settlement Class Members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. If the Court approves the Settlement, each Settlement Class Member who has not submitted a timely and valid Request for Exclusion will release and discharge Defendant and all of its present and former parent companies, subsidiaries, divisions, related or affiliated companies, shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns (the “Released Parties”) from liability for all claims based on the factual allegations set forth in the operative First Amended Complaint in the Action or Plaintiff’s December 14, 2022 PAGA Notice Letter to the LWDA, or which could have been pled in the operative First Amended Complaint in the Action based on the factual allegations therein, that arose during the Class Period, including: (i) failure to pay all minimum wages; (ii) failure to pay all overtime wages; (iii) failure to provide all lawful meal periods; (iv) failure to authorize and permit all lawful rest periods; (v) failure to reimburse necessary business expenses; (vi) failure to issue accurate itemized wage statements; (vii) failure to timely pay all final wages due upon separation from employment; and (viii) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories of relief pled in the operative First Amended Complaint in the Action (collectively, the “Released Claims”). The period of the Released Claims shall extend to the limits of the Class Period.

PAGA Release. If the Court approves the Settlement, all PAGA Aggrieved Employees will be issued a check for their share of the PAGA Amount, regardless of whether they validly opt-out of the class-action portion

of the Settlement, and shall be deemed to have released and discharged Defendant from all PAGA claims that are based on the Labor Code violations pled in the operative First Amended Complaint in the Action or Plaintiff's December 14, 2022 PAGA Notice Letter to the LWDA, or which could have been pled in the operative First Amended Complaint in the Action based on the factual allegations therein, that arose during the PAGA Period (the "PAGA Released Claims"). This release shall run from December 14, 2021 through the date of preliminary approval or February 24, 2024, whichever occurs sooner ("PAGA Period").

Conditions of Settlement. The Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate and in the best interests of the Settlement Class Members, and the entry of Judgment.

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your share of the Settlement, which has been calculated for you based on the formula set forth above, as stated in the accompanying Notice of Individual Settlement Payment. You also will be bound by the Settlement, including the release of claims stated above.

What other options do I have?

Dispute Information in Notice of Individual Settlement Payment. Your award is based on the proportionate number of workweeks you worked during the relevant time periods and whether your employment separated during the relevant time period. The information contained in Defendant's records regarding each of these factors, along with your estimated Individual Settlement Payment, is listed on the accompanying Notice of Individual Settlement Payment. If you disagree with the information in your Notice of Individual Settlement Payment, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Individual Settlement Payment. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Settlement Administrator and the Parties will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class Members. Should a consensus not be reached, any outstanding disputes will be submitted to the Court for a final determination.

Settlement Class Members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have forty-five (45) calendar days from the date of re-mailing, or until the <<RESPONSE DEADLINE>> has expired, whichever is later, to submit a dispute.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator the attached "Request for Exclusion Form" postmarked no later than <<RESPONSE DEADLINE>>, with your name, address, telephone number, last four digits of your social security number, your signature, and a statement that you wish to be excluded from the class action portion of the settlement. A Request for Exclusion Form is included with this Notice.

Send the Request for Exclusion directly to the Settlement Administrator at <<ADMINISTRATOR CONTACT INFO>>. Any person who submits a timely Request for Exclusion Form shall, upon receipt by the Settlement Administrator, no longer be a Settlement Class Member, shall be barred from participating in the class action portion of the Settlement, and shall receive no benefits from the class action portion of the Settlement. However, all PAGA Aggrieved Employees, including those who opt out, will be bound by the PAGA portion of the Settlement and will receive a portion from the PAGA Amount. **Do not submit both a Dispute and a Request for Exclusion.** If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement. The Court shall make the final determination regarding the validity and authenticity of any Requests for Exclusion.

Settlement Class Members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have forty-five (45) calendar days from the date of re-mailing, or until the <<RESPONSE DEADLINE>> has expired, whichever is later, to submit a Request for Exclusion.

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you should mail a written objection by <<RESPONSE DEADLINE>> to the Settlement Administrator at <<ADMINISTRATOR CONTACT INFO>>. Your written objection should include your full name and current address, as well as contact information for any attorney representing you regarding your objection, the case name and number, all objections and the factual and legal basis for the same, and any and all supporting papers, briefs, declarations, and/or other evidence supporting your objection. All objections or other correspondence must state the name and number of the case, which is *Miriam Moreno v. Beacon Day School, Inc.*, Orange County Superior Court Case No. 30-2022-01296662-CU-OE-CXC. Objections in writing must be postmarked on or before <<RESPONSE DEADLINE>>. Notwithstanding the foregoing, you do not need to object in writing to be heard at the Final Approval Hearing.

You may also appear at the Final Approval Hearing scheduled for February 7, 2025 at 1:30 p.m. in Department CX-103 of the Orange County Superior Court, located at 751 W. Santa Ana Blvd., Santa Ana, CA 92701. The location, date, and time of the Final Approval Hearing may be moved without further notice to you. You may contact Class Counsel using the contact information provided above to confirm the address and time of the hearing, if you wish to appear in person. You have the right to appear either in person or through your own attorney at this hearing, whether or not you submit a written objection. If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class Members who do not object. You do not need to object in writing to be heard at the Final Approval Hearing.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class Members who do not object.

Settlement Class Members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have forty-five (45) calendar days from the date of re-mailing, or until the <<RESPONSE DEADLINE>> has expired, whichever is later, to submit an Objection.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on February 7, 2025 at 1:30 p.m., in Department CX-103 of the Orange County Superior Court, located at 751 W. Santa Ana Blvd., Santa Ana, CA 92701. The Final Approval Hearing may be postponed without further notice to the Settlement Class. You may contact Class Counsel using the contact information provided above to confirm the address and time of the hearing. The Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses, the Enhancement Payments to the Class Representatives, the Settlement Administrator's costs, and the amount related to the PAGA civil penalties. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing.**

How can I get additional information?

This Notice is only a summary of the Action and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the Orange County Superior Court, located at 751 W. Santa Ana Blvd., Santa Ana, CA 92701, during regular court hours. You may also visit the Orange County Superior Court website at www.occourts.org to inspect the Court's files by going to the "Case Access" tab under "Online Services," selecting "Civil Case & Document Access," and entering the case number information for this case, which is Case No. 30-2022-01296662-CU-OE-CXC. You may also contact Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE THE COURT, DEFENDANT, OR ITS ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS

REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is <<**RESPONSE DEADLINE**>>.

NOTICE OF INDIVIDUAL SETTLEMENT PAYMENT

MIRIAM MORENO v. BEACON DAY SCHOOL, INC.
ORANGE COUNTY SUPERIOR COURT, CASE NO. 30-2022-01296662-CU-OE-CXC

Please complete, sign, date and return this Form to <<ADMINISTRATOR CONTACT INFO>> **ONLY IF** (1) your personal contact information has changed, and/or (2) you wish to dispute any of the information listed in Section (III), below. It is your responsibility to keep a current address on file with the Settlement Administrator.

(I) Please type or print your name:

(First, Middle, Last)

(II) Please type or print the following identifying information if your contact information has changed:

Former Names (if any)

New Street Address

City

State

Zip Code

(III) Information Used to Calculate Your Individual Settlement Payment:

According to Defendant's records:

- (a) You worked _____ workweeks during the Class Period;
- (b) You worked _____ workweeks between December 14, 2021 and the end of the Class Period (the Wage Statement/PAGA Period); and
- (c) Your employment with Defendant <<DID/DID NOT>> end between December 14, 2019 and the end of the Class Period (the Waiting Time Period).

Based on the above, your Individual Settlement Payment is estimated to be \$ _____.

(IV) If you disagree with items (a) - (c) in Section (III) above, please explain why in the space provided below and include copies of any supporting evidence or documentation with this form:

If you dispute the above information from Defendant's records, those records will control unless you are able to provide documentation that establishes that Defendant's records are mistaken. If there is a dispute about whether Defendant's information or yours is accurate, and the dispute cannot be resolved informally, the dispute will be resolved by the Parties and the Settlement Administrator as described in the Class Notice that accompanies this Form. Any unresolved disputes will be submitted to the Court for a final determination.

ANY DISPUTES, ALONG WITH ANY SUPPORTING DOCUMENTATION, MUST BE POSTMARKED NO LATER THAN <<RESPONSE DEADLINE>>.

Signature: _____

Date: _____

REQUEST FOR EXCLUSION FORM

MIRIAM MORENO v. BEACON DAY SCHOOL, INC.
ORANGE COUNTY SUPERIOR COURT, CASE NO. 30-2022-01296662-CU-OE-CXC

IF YOU DO NOT WISH TO BE PART OF THE CLASS ACTION PORTION OF THIS SETTLEMENT, YOU MUST COMPLETE, SIGN AND MAIL THIS FORM, POSTMARKED ON OR BEFORE [RESPONSE DEADLINE], ADDRESSED AS FOLLOWS:

PHOENIX SETTLEMENT ADMINISTRATORS
MIRIAM MORENO v. BEACON DAY SCHOOL, INC.
SETTLEMENT ADMINISTRATOR
<<ADMINISTRATOR CONTACT INFO>>

DO NOT SUBMIT THIS FORM IF YOU WISH TO RECEIVE A PAYMENT FOR THE CLASS ACTION PORTION OF THE SETTLEMENT.

By signing, filling out, and returning this form, I confirm that I do not want to be included in the class action portion of the Settlement of the lawsuit entitled *MIRIAM MORENO v. BEACON DAY SCHOOL, INC.*, Orange County Superior Court Case No. 30-2022-01296662-CU-OE-CXC.

I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE *MIRIAM MORENO v. BEACON DAY SCHOOL, INC.* LAWSUIT FILED IN THE ORANGE COUNTY SUPERIOR COURT, CASE NO. 30-2022-01296662-CU-OE-CXC. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE CLASS ACTION PORTION OF THE SETTLEMENT OF THIS LAWSUIT.

Name Telephone Number

Address

Date Signature

Last Four Digits of Social Security Number: ____ ____ ____ ____

EXHIBIT 3

HAINES LAW GROUP
EMPLOYMENT ATTORNEYS

December 14, 2022

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Re: *Miriam Moreno v. Beacon Day School, Inc., et al.*

To Whom It May Concern:

Please be advised that this law firm represents Miriam Moreno in claims arising from her employment with Beacon Day School, Inc. and Does 1 through 100 (“Defendants”). Ms. Moreno is an “aggrieved employee” within the meaning of Labor Code section 2699.3 as to all of the violations alleged herein. *See Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, 754 (“any Labor Code penalties recoverable by state authorities may be recovered in a PAGA action by a person who was employed by the alleged violator and affected by at least *one* of the violations alleged in the complaint.”) (emphasis added). The purpose of this letter is to comply with Labor Code § 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, “aggrieved employees” includes all of Defendants’ non-exempt employees who worked for Defendants in California during the one year immediately preceding the date of this letter through the present.

Defendants operate a private school specializing in the education and care of children with autism and related disorders. Ms. Moreno was employed by Defendants in the non-exempt position of “Behavioral Interventionist” from May 9, 2022 to October 25, 2022. Ms. Moreno’s job duties consisted of supervising and otherwise managing children in her care.

During Ms. Moreno’s employment with Defendants, Defendants utilized a timekeeping system, which upon information and belief, resulted in Ms. Moreno and other aggrieved employees not being compensated for all hours actually worked, whether by rounding, time-shaving, or otherwise. Specifically, Ms. Moreno and other aggrieved employees clocked in and out for work each day using Defendants’ timekeeping system which recorded the time to the minute. However, for payroll purposes, Defendant rounded these timekeeping entries to quarter-hour increments in a non-neutral manner resulting in Ms. Moreno and other aggrieved employees not being paid all minimum and overtime wages owed to them. *See Camp v. Home Depot U.S.A., Inc.* (2022) 84 Cal.App.5th 638, 654 (“[I]f an employer, as in this case, can capture and has captured the exact amount of

time an employee has worked during a shift, the employer must pay the employee for “all the time” worked.”)

In addition, Ms. Moreno and other aggrieved employees routinely worked in excess of 8 hours per workday but did not on all occasions receive overtime compensation equal to one and a half times their regular rate of pay for working overtime hours. Defendants paid Ms. Moreno and other aggrieved employees non-discretionary incentive pay and/or other forms of pay that are not excludable from an employee’s “regular rate” of compensation including but not limited to payments for remaining with Defendants for 90 days as a retention bonus (hereinafter referred to as “Incentive Pay”). As a result of paying Ms. Moreno and other aggrieved employees Incentive Pay, Defendants failed to properly calculate the regular rate of pay, resulting in unpaid overtime wages, and to the extent that Defendants ever paid meal and/or rest period premium payments, such premium payments were also underpaid during time periods when Incentive Pay was also earned.

Defendants failed to provide Ms. Moreno and other aggrieved employees with timely 30-minute meal periods commencing before the end of the fifth hour of work. Specifically, Defendant required Ms. Moreno and other aggrieved employees to care for students and otherwise remain on-duty throughout the workday. As a result of Defendant’s policies/practices, Defendant failed to provide Ms. Moreno and other aggrieved employees timely duty-free meal periods. In addition, Defendants failed to provide a second meal period for shifts exceeding 10 hours. Defendants also failed to provide Ms. Moreno and other aggrieved employees with an additional hour of premium pay for each instance in which a violation occurred and/or did not pay such premium at the correct rate of pay, as required by Labor Code § 226.7.

Ms. Moreno and other aggrieved employees were also not authorized and permitted to take a rest period for every 4 hours worked (or major fraction thereof) due to Defendants’ unlawful rest period policies/practices. Upon information and belief, Defendants did not maintain a lawful rest period policy and the nature of the work being performed by Ms. Moreno and other aggrieved employees did not permit for duty-free rest periods while working. Assuming *arguendo* that Ms. Moreno and the other aggrieved employees entered into a lawful written on-duty meal period agreement with Defendants, such an agreement inherently concedes that the nature of Ms. Moreno and other aggrieved employees’ work precluded duty-free rest periods. Defendants also failed to provide Ms. Moreno and other aggrieved employees with an additional hour of premium pay for each workday in which a rest period violation occurred, as required by Labor Code § 226.7

During their respective employments with Defendants, Ms. Moreno and other aggrieved employees were required to use their personal cell phones for work, as supervisors and coordinators would frequently call them on their personal cell phones for work-related communications. Despite this, Defendants failed to reimburse Ms. Moreno and other aggrieved employees for all necessary business expenses associated with using their personal cell phones in violation of Labor Code § 2802. *See Cochran v. Schwan’s*

Home Service, Inc. (2014) 228 Cal.App.4th 1137, 1144 (holding that employer who requires employees use their personal cell phone for business purposes must reimburse a reasonable percentage of the employee's cell phone bill).

As a result of Defendants' failure to pay all minimum wages, overtime wages, and meal and rest period premium wages, Defendants also maintained inaccurate payroll records and issued inaccurate wage statements to Ms. Moreno and other aggrieved employees and failed to pay all final wages owed to Ms. Moreno and other aggrieved employees upon their separation of employment. As described above, Defendants committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 5 ("Wage Order 5"):

Minimum Wage Violations

Defendants failed to conform their pay practices to the requirements of the law. This unlawful conduct includes Defendants' failure to pay Ms. Moreno and other aggrieved employees for all hours worked including, but not limited to, all hours they were subject to the control of Defendants and/or suffered or permitted to work under the California Labor Code and Wage Order 5. Wage Order 5, § 4 and California Labor Code §§ 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law. California Labor Code § 1198 makes unlawful the employment of an employee under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide that an employer who has failed to pay its employees the legal minimum wage is liable to pay those employees the unpaid balance of the unpaid wages as well as liquidated damages in an amount equal to the wages due and interest thereon.

Overtime Wage Violations

Defendants were required to properly pay Ms. Moreno and other aggrieved employees for all overtime hours worked pursuant to California Labor Code § 1194 and Wage Order 5. Wage Order 5, § 3 requires an employer to pay an employee "one and one-half (1½) times the employee's regular rate of pay" for work in excess of 8 hours per work day and/or in excess of 40 hours of work in the workweek. Defendants caused Ms. Moreno and other aggrieved employees to work overtime hours but did not compensate Ms. Moreno or other aggrieved employees at one and one-half times their regular rate of pay for all such hours.

Meal Period Violations

As alleged above, Defendants failed to provide Ms. Moreno and other aggrieved employees with all required and compliant meal periods. See Labor Code §§ 226.7 and 512; Wage Order 5, § 11. As a result, Ms. Moreno and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. See Labor Code § 226.7 ("If an employer fails to

provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."'). On information and belief, Defendants failed to provide Ms. Moreno and other aggrieved employees with an additional hour of premium pay for each instance in which a violation occurred and/or did not pay such a premium at the correct rate of pay.

Rest Period Violations

As described above, Defendants also failed, and continue to fail, to authorize and permit Ms. Moreno and similarly aggrieved employees to take all required and compliant rest periods. See Labor Code §§ 226.7 and 516; Wage Order 5, § 12. As a result, Ms. Moreno and similarly aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that all rest periods were not authorized and permitted. See Labor Code § 226.7.

Failure to Reimburse Necessary Business Expenses

Defendants failed to reimburse Ms. Moreno and other aggrieved employees for necessary work expenses, including the use of their personal cellular phones for business purposes. Defendants' policy of not providing reasonable reimbursement for necessary work-related expenses violates Wage Order 5, § 9, and Labor Code §§ 2802 and 2804 ("An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or obedience to the directions of the employer.") Ms. Moreno and other aggrieved employees are therefore entitled to reimbursement of such unpaid work expenses with interest.

Wage Statement Violations

Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Ms. Moreno and other aggrieved employees with complete and accurate wage statements with respect to gross wages earned, total hours worked, net wages earned, all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code § 226 *et seq.* Defendants' failures in furnishing Plaintiff and other aggrieved employees with complete and accurate itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all overtime and minimum wages as well as meal and rest period premium wages and deprived them of the information necessary to identify the discrepancies in Defendants' reported data and whether they have been paid all wages earned.

Waiting Time Penalties

Defendants failed to timely pay Ms. Moreno and other aggrieved employees all final wages due to them at the time of their separation which includes, among other things, unpaid overtime and minimum wages, and meal and rest period premium wages. Further, Ms. Moreno is informed and believes, and based thereon alleges, that as a matter of uniform policy and practice, Defendants continue to fail to pay other aggrieved employees all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203. Defendants' willful failure to timely pay Ms. Moreno and other aggrieved employees their earned wages upon separation from employment results in a continued payment of wages up to thirty (30) days from the time the wages were due.

As an "aggrieved employee", Ms. Moreno will initiate a civil action on behalf of herself and other aggrieved employees to recover damages, statutory penalties, and civil penalties (including an amount equal to the unpaid wages) resulting from the wage and hour violations alleged herein. Based on Ms. Moreno's own investigation, and on information and belief, Defendants committed and continue to commit the following Labor Code violations:

- a. Defendants violated Labor Code §§ 558, 1182.12, 1194, 1194.2, and 1197 by failing to pay Ms. Moreno and other aggrieved employees the statutory minimum wage for all hours worked;
- b. Defendants violated Labor Code §§ 204, 510, 558, 1194 and 1198 by failing to pay Ms. Moreno and other aggrieved employees all overtime compensation earned;
- c. Defendants violated Labor Code §§ 226.7, 512, and 558 by failing to provide all meal periods as required by law and failing to pay meal period premiums in all occasions and/or not paying the meal period premium at the correct rate of pay to Ms. Moreno and other aggrieved employees at these employees' respective regular rates of compensation for meal period violations;
- d. Defendants violated Labor Code §§ 226.7, 516, and 558 by failing to authorize and permit Ms. Moreno and similarly aggrieved employees to take all of their statutorily mandated, duty-free rest periods and failing to pay rest period premiums to Ms. Moreno and similarly aggrieved employees at these employees' respective regular rates of pay for rest period violations;
- e. Defendants violated Labor Code §§ 2802 and 2804 by failing to reimburse Ms. Moreno and other aggrieved employees for all work-related expenses incurred;

- f. Defendants violated Labor Code § 226 by failing to furnish Ms. Moreno and other aggrieved employees with accurate and compliant itemized wage statements;
- g. Defendants violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Ms. Moreno and other aggrieved employees;
- h. Defendants violated Labor Code § 204 by failing to pay Ms. Moreno and other aggrieved employees and aggrieved employees all wages earned at least twice during each calendar month;
- i. Defendants violated Labor Code §§ 558 and 1174 by failing to maintain accurate records on behalf of Ms. Moreno and aggrieved employees.

Pursuant to Labor Code § 2699.3, please notify us and Defendants if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
HAINES LAW GROUP, APC



Fletcher W. Schmidt

cc: Beacon Day School, Inc. c/o Mary Joann Lang, agent for service of process (via certified mail)

PROOF OF ACCEPTANCE (ELECTRONIC)

PRODUCED DATE: 12/15/2022

HAINES LAW GROUP:

The following is information for Certified Mail™/RRE item number:

9214 8901 9403 8398 6366 47

Our records indicate that this item was accepted by the USPS at:

SHIPMENT RECEIVED ACCEPTANCE PENDING EL SEGUNDO,CA 90245 12/14/2022

ORIGINAL INTENDED RECIPIENT:

BEACON DAY SCHOOL INC

C/O: MARY JOANN LANG

24 CENTERPOINTE DR

LA PALMA CA 90623-1028

JR



Mailer: Haines Law Group

Date Produced: 12/19/2022

ConnectSuite Inc.:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 9403 8398 6366 47. Our records indicate that this item was delivered on 12/16/2022 at 10:23 a.m. in LA PALMA, CA 90623. The scanned image of the recipient information is provided below.

Signature of Recipient :

A handwritten signature in black ink, appearing to read "A. J. S. S. A." with a stylized flourish above it.

Address of Recipient :

A handwritten address in black ink, appearing to read "24 Centerpointe Dr" with a horizontal line underneath.

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

This USPS proof of delivery is linked to the customers mail piece information on file as shown below:

BEACON DAY SCHOOL INC
C/O: MARY JOANN LANG
24 CENTERPOINTE DR
LA PALMA CA 90623-1028

Customer Reference Number: C3869115.23036182

Return Reference Number JR



State of California

Labor and Workforce Development Agency /
Department of Industrial Relations

Private Attorneys General Act (PAGA) – Filing

New PAGA Claim Notice

Your Information (Person Who is Filing)

Your First Name *

Fletcher

Your Last Name *

Schmidt

Firm Name (if any) *

Haines Law Group, APC

(Enter "in pro per" if you are representing yourself)

Your Email Address *

jramirez@haineslawgroup.

Your Street Name, Number and Suite/Apt *

2155 Campus Drive, Suite

Your Mobile Phone Number

Your City *

El Segundo

Your Work Phone Number

4242922350

Your State *

California

Your Zip/Postal Code *

90245

Plaintiff Information

Plaintiff/Aggrieved Employee Name *

Miriam Moreno

Plaintiff/Aggrieved Employee Occupation *

Behavioral Interventionist

[Add Additional Plaintiffs](#)

Employer Information

Employer Entity Type

Please select...

Employer Name *

Beacon Day School, Inc.

Maximum 80 Character Limit

Employer Street Name, Number and Suite/Apt *

Employer City *

24 Centerpointe Drive

La Palma

Employer State *

California ▼

Employer Zip/Postal Code *

90623

Employer Industry *

Other ▼

Employer Industry for "Other" *

Education

Add additional defendants

- ☐ Add any entity other than an individual
- ☐ Add an individual/sole proprietor employer

Notice General Information

Estimated Number of Employees Impacted by Violations *

100

Notice Violations – Check All that Apply *

Child Labor – Specify Ages

- ☐ Child Labor
- ☐ Misclassification Employee Classified as Contractor
- ☐ Misclassification NonExempt Classified as Exempt
- ☒ Minimum Wage
- ☒ Overtime
- ☐ Not paid for all hours worked
- ☒ Not paid wages due on termination
- ☐ Other Unpaid Wages
- ☐ Tips or Gratuities
- ☒ Payment or Reimbursement of Employee Expenses
- ☐ Improper Form of Payment Including NSF Checks
- ☐ Kickbacks
- ☒ Meal and Rest Breaks
- ☐ Sick Leave
- ☐ Lactation Accommodation (Labor Code 1030–1033)
- ☐ Not providing required time off, other
- ☐ Pay Discrimination on basis of sex, (Labor Code 1197.5)
- ☐ No Wage Statements
- ☒ Improper or Incomplete Wage Statements
- ☒ Other Notice or Posting or Recordkeeping
- ☐ Public Works (Labor Code 1720 – 1815)
- ☐ Apprenticeship (Labor Code 3070 – 3098)
- ☐ Occupational Safety and Health (Labor Code 6300 et seq)
- ☐ No Workers' Compensation
- ☐ Licensing, Registration, or Permit
- ☐ Unfair Immigration Activities
- ☐ Agricultural Labor Relations
- ☐ Industrial Homework
- ☐ Retaliation for Protected Status or Activity (Specify)
- ☒ Other

Provide Details of Other Violation *

Failure to pay twice monthly

Other(Maybe Multiple)

- ☐ Other Violation

PAGA Claim Type – Check All that Apply *

- ☒ Notice asserts one or more Labor Code violations listed in Labor Code 2699.5– not curable subject to 2699.3(a)
- ☐ Notice asserts one or more OSHA violations subject to requirements of 2699.3(b)
- ☒ Includes one or more violations not listed in Labor Code 2699.5 – curable subject to 2699.3(c)

Filing Fee

A filing fee of \$75 is required to file a new PAGA claim notice.

IFP

- ☐ I wish to claim In Forma Pauperis and am attaching a Confidential Request to Waive Court Fees (Judicial Council Court Form FW-001) or similar form to this submission.

Billing information

Billing First Name *

Paul

Billing Last Name *

Haines

Billing Email *

jramirez@haineslawgroup.

Billing Phone

4242922350

Billing Street Name, Number and Suite/Apt *

2155 Campus Drive, Suite 180

Billing City *

El Segundo

Billing State *

California

Billing Zip/Postal Code *

90245

Credit Card Type *

Visa

Credit Card Number *

4154178575546940

CVV Number *

182

Credit Card Expiration Month *

05

mm

Credit Card Expiration Year *

2024

yyyy

Notice and Other Attachments

PAGA Claim Notice (must be a .pdf) *

Choose File 2022-12-14 ...I LWDA Ltr.pdf

Other Attachment – (if any) (must be a .pdf)

Choose File No file chosen

[Add Another Attachment](#)

Should you have questions regarding this online form, please contact PAGInfo@dir.ca.gov

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer identification numbers; personal addresses, personal telephone numbers, personal email addresses, dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.

☒ I understand that, if I file, I must comply with the redaction rules consistent with this notice.

Previous Page

Submit

From: noreply@salesforce.com on behalf of [LWDA DO NOT REPLY](#)
To: [Jonathan Ramirez](#)
Subject: Thank you for submission of your PAGA Case.
Date: Wednesday, December 14, 2022 11:50:45 AM

12/14/2022

LWDA Case No. LWDA-CM-924353-22
Law Firm : Haines Law Group, APC
Plaintiff Name : Miriam Moreno
Employer: Beacon Day School, Inc.
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT 4