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FERNANDO PULIDO, individually, and
on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

FERNANDO PULIDO, an individual, on
behalf of himself and all others similarly
situated,

Plaintiff,

vs.

ANDREW LAUREN SURFACES, INC., a
California corporation; and DOES 1 through
50, inclusive,

Defendants.

Case No.: 23STCV04800

[Assigned for all purposes to the
Hon. Stephen P. Pfahler, Dept. 68]

**DECLARATION OF DALIA KHALILI IN
SUPPORT OF PLAINTIFF'S MOTION
FOR APPROVAL OF PAGA
SETTLEMENT**

RESERVATION ID: 772876167670

Date: June 11, 2025
Time: 8:30 a.m.
Dept.: 68

Action Filed: March 3, 2023
Trial Date: None Set

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I, DALIA KHALILI, hereby declare as follows:

1. I am a Senior Attorney and the Chief Operating Officer of Matern Law Group, PC (“MLG” or “PAGA Counsel”), counsel of record for Plaintiff Fernando Pulido (“Plaintiff”), in the above-entitled action, *Fernando Pulido. v. Andrew Lauren Surfaces, Inc., et al.* (Case No.: 23STCV04800) (the “Action”). I have personal knowledge of the facts set forth in this declaration, unless another basis appears from context, and as to all such matters I believe them to be true. If called as a witness, I could and would competently testify as to all matters stated herein.

2. I make this declaration on the basis of personal firsthand knowledge unless another source of information or belief clearly appears from the context, and as to all such matters, I believe them to be true. If called as a witness, I could and would readily and competently testify to all matters stated within.

3. I submit this declaration in support of Plaintiff's Motion for Approval of PAGA Settlement (the "Motion").

Background

4. Defendant Andrew Lauren Surfaces, Inc. (“Defendant”) operates a countertop installation company in Southern California specializing in the design, fabrication, and installation of natural stone, engineered stone, and solid surface products. Defendant provides services to a range of customers, including home builders and commercial contractors.

5. On December 21, 2022, pursuant to Labor Code § 2699.3, my office gave written notice on behalf of Plaintiff to the California Labor and Workforce Development Agency (“LWDA”) and Defendant of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations. A true and correct copy of this December 21, 2022 correspondence is attached hereto as **Exhibit A**. The LWDA did not provide notice to my firm that it intended to investigate the alleged violations.

6. On March 3, 2023, my office filed a complaint against Defendant, on behalf of Plaintiff, in Los Angeles Superior Court, alleging a single cause of action for penalties under the Labor Code Private Attorneys General Act of 2004 (“PAGA”).

7. On April 17, 2023, Defendant filed its answer to Plaintiff' complaint.

Discovery and Investigation

8. Prior to reaching the Settlement, Plaintiff and his counsel conducted an investigation into the claims alleged, performed legal research, and engaged in formal and informal discovery.

9. On May 24, 2023, Plaintiff served written discovery requests on Defendant, including form interrogatories, special interrogatories, requests for admission, and requests for production of documents.

10. On July 14, 2024, Defendant served responses to Plaintiff's discovery.

11. Prior to mediation, Defendant produced relevant written wage-and-hour policies and procedures and a 20% sampling of time and payroll data for the Aggrieved Employees. My office hired a data expert to analyze the time and payroll data, which consisted of records for 4,250 shifts. The expert analysis assisted my office in preparing a model of the potential civil penalties prior to the mediation. Based on this discovery and investigation, my office was able to act intelligently and effectively in negotiating the Settlement.

Settlement Negotiations

12. On April 18, 2024, the Parties participated in a private mediation with Hon. Brian Walsh (Ret.). At the conclusion of the mediation, the case settled and the Parties executed a Memorandum of Understanding with the material terms of the settlement, subject to entering into a comprehensive long-form agreement.

13. On November 7, 2024, the Parties fully the PAGA Settlement Agreement (“Settlement” or “Settlement Agreement”). A true and correct copy of the Settlement is attached hereto as **Exhibit B**. A true and correct copy of a redlined version of the Settlement, showing all modifications made to the Model Agreement is attached hereto as **Exhibit C**.

Amount in Controversy and Risks Associated with Proceeding with the Action

14. My office calculates the maximum potential civil penalties against Defendant to be approximately \$2,494,200 and believes this amount will be the maximum exposure in an “everything goes right” scenario if the case proceeded to trial. This estimate is based on an analysis of the timekeeping and payroll data produced by Defendant prior to mediation. A detailed

1 explanation of my office's valuation is set forth below:

2 **Failure to Provide Meal Periods (Labor Code §§ 512, 226.7):**

3 \$100 per employee x 4,157 PAGA pay periods = **\$415,700**

4 **Failure to Provide Rest Periods (Labor Code § 226.7):**

5 \$100 per employee x 4,157 PAGA pay periods = **\$415,700**

6 **Failure to Pay Overtime Wages (Labor Code § 510):**

7 \$100 per employee x 4,157 PAGA pay periods = **\$415,700**

8 **Failure to Pay Minimum Wages (Labor Code § 1194):**

9 \$100 per employee x 4,157 PAGA pay periods = **\$415,700**

10 **Failure to Furnish Accurate Itemized Wage Statements (Labor Code § 226(a)):**

11 \$100 per employee x 4,157 PAGA pay periods = **\$415,700**

12 **Failure to Indemnify for Necessary Business Expenses (Labor Code § 2802):**

13 \$100 per employee x 4,157 PAGA pay periods = **\$415,700**

14 **TOTAL POTENTIAL LIABILITY: \$2,494,200**

15
16
17 15. In reaching the Settlement, my office looked at various factors, including significant
18 risks in proceeding with litigation. My office recognizes that proving liability and PAGA penalties
19 at trial would be an expensive, time-consuming, and extremely uncertain proposition. Moreover,
20 continued litigation would very likely reduce and substantially delay any recovery to the state and
21 the Aggrieved Employees. Even if Plaintiff were to obtain a favorable judgment at trial, Defendant
22 would likely appeal the judgment, which would further delay any recovery. Additionally, this area of
23 the law is constantly evolving, creating uncertainty for employees.

24 16. My office also considered the reality that courts have discretion to substantially
25 reduce any award of civil penalties on the grounds that "to do otherwise would result in an award
26 that is unjust, arbitrary and oppressive, or confiscatory," pursuant to Labor Code § 2699(e)(2).

27 17. Further, while Plaintiff and MLG remain confident in the merits of the case, a
28 legitimate controversy exists as to each predicate Labor Code claim. For example, Plaintiff contends

1 that, due to Defendant's practices, Aggrieved Employees did not regularly receive timely,
2 uninterrupted meal and rest periods and were not paid all wages owed. On the other hand, Defendant
3 contends that Aggrieved Employees received meal and rest periods and were paid for all hours
4 worked. Defendant further contends that it maintained lawful meal and rest break policies. As a
5 result, Defendant contends that, throughout the PAGA Period, it complied with applicable California
6 law.

7 18. In evaluating the claims and the proposed settlement, Plaintiff's Counsel took these
8 factors into consideration, as well as Defendant's defenses to the underlying causes of action, the
9 unsettled state of the law, and the risks and costs of continued litigation. The Settlement obviates all
10 of these risks.

11 19. Indeed, because of the proposed Settlement, the State of California and the Aggrieved
12 Employees will receive timely relief and avoid the risk of an unfavorable judgment. The net PAGA
13 Payment is currently estimated to be approximately \$203,000.60, if the Court approves Plaintiff's
14 Representative Service Payment, the Administration Expenses Payment, the PAGA Counsel Fees
15 Payment, and the PAGA Counsel Litigation Expenses. The Settlement provides a substantial benefit
16 to the State of California, with the LWDA receiving approximately \$152,250.45 as 75 percent of the
17 PAGA Payment to assist with the enforcement of labor laws. The Settlement also provides a
18 substantial benefit to the Aggrieved Employees, who will share approximately \$50,750.15 as 25
19 percent of the PAGA Payment. Based thereon, it is currently estimated that each Aggrieved
20 Employee, on average, will receive an Individual PAGA Payment of approximately \$512.63 as part
21 of the Settlement, which is based on Defendant's estimate that there are approximately 99 Aggrieved
22 Employees who worked a total of 4,157 PAGA Pay Periods. Furthermore, the Gross Settlement
23 Amount of \$343,500.00 is significant enough to deter Defendant from future violations, creating a
24 disincentive for Defendant to engage in unlawful business practices.

25 20. Considering the risks of continued litigation, the burdens of proof necessary to
26 establish liability, the unsettled state of the law, the possibility that the Court would reduce an award
27 of civil penalties, and the probability of appeal of a favorable judgment, it is clear that the non-
28 reversionary settlement amount of \$343,500.00 is fair, adequate, and reasonable in light of PAGA's

1 purpose to remediate present labor law violations, to deter future violations, and to maximize
2 enforcement of the California Labor Code. Plaintiff objectively and knowledgeably balanced the
3 strengths and weaknesses of his claims against the risk of continued litigation and was able to
4 determine a realistic range of settlement recovery for PAGA penalties. Although Plaintiff and my
5 office were prepared to continue to litigate through trial and a possible appeal, we support the
6 proposed Settlement as being in the best interests of the Aggrieved Employees and the State of
7 California.

8 **Representative Service Payment to Plaintiff**

9 21. The Settlement provides that Plaintiff shall receive a Representative Service Payment
10 not to exceed Ten Thousand Dollars (\$10,000.00) in recognition of his efforts and risks in
11 prosecuting the Action. The payment is intended to recognize the substantial time and effort that
12 Plaintiff expended on behalf of the State of California and the Aggrieved Employees. Throughout
13 this litigation, Plaintiff cooperated with my office and took actions to protect the interests of the
14 State and the Aggrieved Employees. Plaintiff provided valuable information regarding potential
15 witnesses and Defendants' alleged Labor Code violations. Plaintiff kept informed of the
16 developments in the case and participated in decisions concerning the lawsuit and settlement. The
17 information and documentation provided by Plaintiff was instrumental in establishing the wage and
18 hour violations alleged in the complaint, and the recovery provided for in the Settlement Agreement
19 would have been impossible to obtain without his active participation.

20 22. Plaintiff faced many risks in bringing the Action. Plaintiff assumed the expense and
21 risk in prosecuting this matter and considered the best interests of the State of California and
22 Aggrieved Employees rather than his personal interests in agreeing to mediate and settle the Action.
23 Without the effort and risks taken by Plaintiff, the LWDA and the Aggrieved Employees likely
24 would not have received any financial benefit. Because of Plaintiff's efforts, the State of California
25 and approximately 99 Aggrieved Employees will now recover civil penalties for the wage and hour
26 violations they may never have known about on their own or been willing to pursue on their own. If
27 each Aggrieved Employee attempted to pursue civil penalties individually, each person would have
28 been required to expend a significant amount of his or her own monetary resources and time.

1 Plaintiff's willingness to assume the financial risk is significant, as California law provides that the
2 losing party must pay the prevailing party's costs. As such, if Plaintiff would not have prevailed in
3 this case, Defendant could have attempted to recover a cost award in the amount of several
4 thousands of dollars. Additionally, as a result of filing a representative PAGA action against his
5 employer, Plaintiff may face reputational risk among potential future employers that could adversely
6 impact his future job opportunities because he may be viewed as litigious by certain prospective
7 employers. This is a significant concern.

8 23. In short, the Action would not have been possible without the aid of Plaintiff, who put
9 his own time and effort into the litigation, sacrificed the value of his own individual claims, and
10 placed himself at risk for the sake of the other Aggrieved Employees and the State of California. By
11 actively prosecuting the Action, Plaintiff furthered PAGA's purpose of enforcing the State's labor
12 laws. The result of the Settlement is excellent and it will provide substantial penalties to the State of
13 California to enforce the California Labor Code and to deter future violations. The requested service
14 payment does not significantly reduce the total amount of the net settlement fund.

15 24. Furthermore, as part of the Settlement, Plaintiff has agreed to a general release of all
16 claims against the Released Parties and a waiver of California Civil Code § 1542.¹

17 25. For these reasons, I believe that a service award in the amount of \$10,000.00 to
18 Plaintiff is fair and reasonable to compensate Plaintiff for his active participation in the Action, the
19 risks he faced, and his general release of all claims.

20 26. I am not aware of any conflict of interest between Plaintiff and the Aggrieved
21 Employees or the Settlement Administrator.

22 **Attorneys' Fees**

23 27. The Settlement provides for attorneys' fees to PAGA Counsel in an amount up to one-
24 third of the Gross Settlement Amount, for a maximum fee award of \$114,500.00.

25 28. Based on my extensive experience in wage and hour class actions and PAGA actions, I

26 ¹ Plaintiff's release does not extend to Plaintiff's claims in his separate individual action currently
27 pending in Los Angeles Superior Court, Case No. 23STCV15739.
28

1 am informed and believe that the attorneys' fees provision in the Settlement Agreement is reasonable.
2 The fee percentage requested is less than that charged by my office for other employment cases and it
3 is in line with the one-third recovery that was recognized as standard for class actions in the *In re*
4 *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545. The efforts of PAGA Counsel have resulted in
5 substantial benefits to the State and Aggrieved Employees in the form of a significant settlement fund
6 established to assist with the enforcement of labor laws and to deter future Labor Code violations. On
7 information and belief, without the efforts of PAGA Counsel, the claims alleged in the Action would
8 likely have gone without penalties being imposed. My office invested time and resources in the case
9 over the course of almost two years with payment deferred to the end, and then, of course, contingent
10 on the outcome.

11 29. The efforts expended by my firm in prosecuting the Action to achieve the excellent
12 result on behalf of the State and the Aggrieved Employees include, but are not limited to, the
13 following: interviewing Plaintiff and reviewing documents provided by Plaintiff; drafting a PAGA
14 notice letter on behalf of Plaintiff; drafting the complaint; preparing for and attending court hearings
15 and status conferences; propounding discovery on behalf of Plaintiff; reviewing Defendant's discovery
16 responses; meeting and conferring with Defendant's counsel to obtain relevant documents and
17 information; reviewing time and payroll records and other employment records produced by
18 Defendant; retaining a data expert to analyze a sample of time records and corresponding payroll data;
19 performing legal research regarding Plaintiff's claims; drafting a mediation brief and preparing a
20 damages analysis; attending a private mediation session; negotiating, drafting, and revising the MOU
21 and Settlement; and drafting the Motion for Approval of PAGA Settlement and accompanying
22 documents.

23 30. The amount of requested attorneys' fees is also reasonable based upon PAGA
24 Counsel's lodestar with the application of a 1.28 multiplier. As of the filing date, MLG's lodestar for
25 the Action is **\$90,022.50** which is based upon **97.5 attorney hours** and **43.4 support staff hours** at
26 customary hourly rates. All of the hours were reasonable and necessary to achieve the excellent result
27 on behalf of the State and the Aggrieved Employees. This amount does not include any of the time I
28 have spent on this matter, nor does it include an estimate of the time MLG will invest to complete this

case following approval. Based upon my experience, I estimate that MLG will spend another 15-20 hours on this case, including preparing for and attending the hearing on the Motion for Approval of PAGA Settlement, filing any supplemental papers with the Court in support of the motion, monitoring the settlement administration process, and answering questions from Aggrieved Employees and the settlement administrator. We expect to have Aggrieved Employees calling our office to inquire about the settlement payments and to ask for further information. MLG also bears the risk of taking whatever actions are necessary if Defendant fails to pay.

31. The regular and customary practice at MLG is for all attorneys to maintain electronic time records setting forth the amount of time spent (rounded to the nearest one-tenth of an hour) on each task in each case, with explanatory descriptions of each task performed. My colleagues followed this practice throughout this litigation. To calculate my firm's lodestar for the Action, my bookkeeping department retrieved all of the attorney and support staff time records associated with the case. My office reviewed those records and exercised billing judgment in eliminating any time entries that may have been duplicative or inefficient. For example, my office excluded the time of all attorneys and support staff who billed fewer than three hours on the case. A table summarizing MLG's lodestar is as follows:

Name	Year Admitted	Hours	Rate	Fees
Attorneys				
Matthew J. Matern	1992	5.5	\$1,125.00	\$6,187.50
Matthew W. Gordon	2009	26.0	\$925.00	\$24,050.00
Vanessa M. Rodriguez	2017	66.0	\$725.00	\$47,850.00
Support Staff				
Michelle Hemer	N/A	3.7	\$275.00	\$1,017.50
Jasmin Hidalgo	N/A	13.6	\$275.00	\$3,740.00
Ivette Olguin	N/A	26.1	\$275.00	\$7,177.50
TOTAL LODESTAR:				\$90,022.50

PAGA Counsel's Qualifications

32. MLG is a 25-attorney law firm that is actively and continuously practicing in employment litigation, almost exclusively representing employees in both individual and class actions in both state and federal courts throughout California.

33. MLG is qualified to handle this litigation because the firm is experienced in litigating Labor Code violations in individual actions, class actions, and PAGA actions. MLG has handled, and is currently handling, numerous wage and hour class action and PAGA representative action lawsuits.

34. MLG has been counsel in a number of cases which resulted in published appellate victories including two of the leading “me-too” witness cases in California, *Pantoja v. Anton* (2011) 198 Cal.App.4th 87 and *Meeks v. AutoZone, Inc.* (2018) 24 Cal.App.5th 855. Recently, we obtained the published reversal of an adverse judgment in a PAGA bench trial, *Zuniga v. Alexandria Care Center, LLC* (2021) 67 Cal.App.5th 871. Other published appellate victories include *ABM Industries Overtime Cases* (2017) 19 Cal.App.5th 277; *Julian v. Glenair* (2017) 17 Cal.App.5th 853; *Ventura v. ABM Industries, Inc.* (2012) 212 Cal.App.4th 258; *Franco v. Arakelian Enterprises, Inc.* (2012) 211 Cal.App.4th 314; *Fuentes v. AutoZone, Inc.* (2011) 200 Cal.App.4th 1221; *Gutierrez v. California Commerce Club* (2010) 187 Cal.App.4th 969; *Franco v. Athens Disposal Company, Inc.* (2009) 171 Cal.App.4th 1277. Unpublished appellate successes include *Christman v. Apple Am. Grp. II, LLC*, No. B271937, 2017 WL 4402124 (Cal. Ct. App. Oct. 4, 2017); *Pauley v. CF Entm’t*, No. 14-55131, 2016 WL 1169425 (9th Cir. Mar. 25, 2016) (two related appeals); *Pauley v. CF Entm’t*, No. 17-56057, 2019 WL 2089930 (9th Cir. May 13, 2019) (three related appeals); *Navarro v. 4 Earth Farms, Inc.*, No. B28485, 2019 WL 493781 (Cal. Ct. App. Feb. 8, 2019); *Soto v. Superior Court of San Bernardino Cty.*, No. E071920, 2019 WL 4254631 (Cal. Ct. App. Sept. 9, 2019) (writ issued), and *Rojas v. Glenair, Inc.*, No. B302402, 2020 WL 4435156, (Cal. Ct. App. Aug. 3, 2020) review den. (Nov. 10, 2020). The California Supreme Court granted our request for depublishing of three opinions detrimental to workers: *Cacho v. Eurostar, Inc.*, No. S260295, *Starks v. Vortex Industries, Inc.*, No S264854 and *Salazar v. See’s Candy Shops, Inc.*, No. S269268.

35. Numerous experienced and well-regarded attorneys at MLG worked on this Action, including the following:

Matthew J. Matern

36. In 1992, Matthew J. Matern (“Mr. Matern”) founded the general partnership that later became known as Rastegar & Matern, Attorneys at Law, A Professional Corporation. In 2012, Mr. Matern founded the Law Offices of Matthew J. Matern, which changed its name to Matern Law

1 Group in January 2014, and then to Matern Law Group, PC in May 2016. Since 1992, Mr. Matern
2 has been heavily, successfully, and continuously involved in active litigation and trial work,
3 including extensive work in employment litigation and wage and hour class actions.

4 37. Over the course of Mr. Matern's career, Mr. Matern has served as plaintiff's counsel
5 in over 150 putative class and representative action settlements, with many of them settling in the
6 seven-figure range, including settlements in the amount of \$140 million, \$50 million, \$26 million,
7 and \$18 million. He has represented clients in numerous wage and hour class action lawsuits that
8 settled with per-class-member recoveries in a range similar to the anticipated per-class-member
9 recovery in this case. Mr. Matern has represented clients in numerous wage and hour class action
10 lawsuits that settled with per-class-member recoveries in a range similar to the anticipated per-class-
11 member recovery in the instant case.

12 38. Of the 25 attorneys at MLG, Mr. Matern is the attorney with the most active trial and
13 pretrial calendar. Mr. Matern has personally tried approximately 25 cases, including approximately
14 20 jury trials.

15 39. Mr. Matern's work has led him to be recognized as a Southern California Super
16 Lawyer every year since 2009.

17 40. Based on his skill and experience, Mr. Matern's 2024 hourly billing rate of \$1,125.00
18 is reasonable.

19 **Dalia Khalili**

20 41. I am a 2007 graduate of UC College of the Law San Francisco (formerly known as UC
21 Hastings College of the Law) and received my undergraduate degree from UCLA. I have been an
22 active member of the California State Bar in good standing since December 2007 and am admitted to
23 practice law before this Court. I have been practicing law at both MLG and, formerly, at Rastegar &
24 Matern, since May of 2008. I have over sixteen years of experience handling plaintiff's side wage and
25 hour class action cases and individual employment cases, and have been appointed Class Counsel in
26 numerous cases in state and federal courts in California.

27 42. I have prevailed in both bench and jury trials on employment matters that I first-
28 chaired. Most noteworthy was a \$2,500,000 judgment in a sexual harassment case that I obtained on

1 behalf of two plaintiffs. *Juana Barba v. Blue Boys, Inc.*, Los Angeles County Superior Court, Case
2 Number BC352054.

3 43. I have been recognized as a Southern California Super Lawyer Rising Star every year
4 from 2015 through 2021 and was included on the Southern California Rising Stars' Up-and-Coming
5 50 Women List for 2020 and 2021, as well as the Southern California Rising Stars' Up-and-Coming
6 100 List for 2021. I was also recognized as a Southern California Super Lawyer for 2023 and 2024.

7 44. The current prevailing billing rates of attorneys of background and specialization in
8 employment law from \$500 to \$1,125 per hour. My 2024 billing rate is \$975 per hour which I believe
9 is consistent with other attorneys of my background and specialized employment law experience.
10 Over my career, I have become familiar with the fees charged by attorneys in employment actions
11 throughout California, with experience comparable to mine, as well as the other MLG attorneys who
12 worked on this matter. I have obtained this familiarity in several ways: (1) by reviewing attorney fee
13 applications and awards received by other attorneys practicing employment law; (2) by reviewing
14 declarations regarding prevailing market rates and other factors filed in other employment cases in Los
15 Angeles County; (3) by reviewing surveys and articles on attorney's fees in legal newspapers, journals
16 and treatises; and (4) by discussing fees in employment cases with other attorneys. Based on this
17 information, I believe that my billing rate is consistent with the market rate for attorneys with
18 comparable expertise, experience, and qualifications in Los Angeles County.

19 **Matthew W. Gordon**

20 45. Matthew W. Gordon is a senior associate at MLG. Mr. Gordon graduated *summa cum*
21 *laude* from Princeton University in 1995, and he was elected to Phi Beta Kappa. He received his J.D.
22 from the University of California, Los Angeles School of Law in 2009. He became a member of the
23 State Bar of California in December 2009, and he has been an active member in good standing
24 continuously since then. Mr. Gordon has concentrated his practice exclusively in employment
25 litigation since he was admitted to the Bar. He has worked on numerous motions for class
26 certification in wage and hour cases and obtained approval of dozens of class action and PAGA
27 settlements. Mr. Gordon has argued two appeals in the California Courts of Appeal, both of which
28 resulted in decisions advancing workers' rights, including *Eda Sanchez Olivares v. Fountain Valley*

1 *Regional Hospital and Medical Center*, No. G053514, 2018 WL 330134 (Cal. Ct. App. Jan. 9,
2 2018)), a case in which the Court of Appeal affirmed the denial of a motion to compel arbitration of
3 a wage and hour class action, and *Tellez v. Rich Voss Trucking, Inc.* (2015) 240 Cal.App.4th 1052, a
4 published opinion reversing the trial court's order denying class certification. Mr. Gordon was
5 selected to the Southern California Rising Stars list in 2016, 2017, 2018, and 2019. Mr. Gordon was
6 selected to Southern California Super Lawyers in 2024. Based on his skill and experience, Mr.
7 Gordon's 2024 hourly billing rate of \$925.00 is reasonable.

8 **Vanessa M. Rodriguez**

9 46. Vanessa M. Rodriguez is an associate attorney at MLG. Ms. Rodriguez received her
10 undergraduate degree from the University of Wisconsin-Madison in 2013, graduating *cum laude*, and
11 graduated from the University of Wisconsin Law School in 2017. Ms. Rodriguez was admitted to the
12 Wisconsin State Bar in May 2017 and the California State Bar in November 2017. Since gaining
13 admission to the California Bar, Ms. Rodriguez has focused her practice exclusively in employment
14 litigation. She has handled numerous wage-and-hour cases and also represents employees in single-
15 plaintiff disputes. Ms. Rodriguez successfully second chaired a sexual harassment trial in November
16 2021, securing a \$445,000 verdict in favor of her client, and settled a wage and hour class and
17 representative action for \$50 million in 2022. Ms. Rodriguez authored "The Compelling Evidence of
18 'Me Too,'" which was published in the Los Angeles Lawyer in September 2019 (Volume 42, No. 6,
19 pp. 26-30) and "The \$7 Million Reason to Pay Attention to the Fair Employment and Housing Act,"
20 which was published in the Daily Journal on April 11, 2024 (p. 5). Ms. Rodriguez was selected to the
21 Southern California Rising Stars list in 2021, 2022, 2023, and 2024. Based on her skill and experience,
22 Ms. Rodriguez's 2024 hourly billing rate of \$725 is reasonable.

23 47. The following MLG support staff members worked on this case:

24 A. Former MLG legal assistant Ivette Olguin was employed by MLG for
25 approximately 7 months. She received her B.A. in Sociology from the University of California,
26 Santa Cruz in 2017. Ms. Olguin developed substantial experience preparing documents for filing in
27 state and federal courts and drafting and responding to discovery. Ms. Olguin is fluent in Spanish
28 and assisted in translating for clients. She is knowledgeable about Westlaw and proficient in a broad

1 range of office software including Microsoft Word, Adobe Acrobat, Excel, PowerPoint, and ProLaw

2 B. Jasmin Hidalgo has been a legal assistant at MLG since April 2022. She
3 received her B.S. in Business Administration with the option of Business Law from California State
4 University, Northridge. Ms. Hidalgo has substantial experience preparing documents for filing in
5 state and federal courts, as well as drafting and responding to discovery and preparing pretrial
6 documents. Ms. Hidalgo has experience running trial software, such as Trial Director. She is
7 knowledgeable about Westlaw and proficient in a broad range of office software including Microsoft
8 Word, Adobe Acrobat, Excel, PowerPoint, Litify (Salesforce), and ProLaw. Ms. Hidalgo is bilingual
9 and translates documents and interprets for MLG's Spanish speaking clients.

10 C. Michelle Hemer has been a legal assistant at MLG since August 2023. She
11 received her B.A. in Political Science in 2023 from California State University, Los Angeles. Ms.
12 Hemer has substantial experience preparing documents for filing in state and federal courts, as well
13 as drafting and responding to discovery and preparing pretrial documents. Ms. Hemer is
14 knowledgeable about Westlaw and proficient in a broad range of office software including Microsoft
15 Word, Adobe Acrobat, Excel, PowerPoint, and ProLaw. Ms. Hemer is bilingual and translates
16 documents and interprets for MLG's Spanish speaking clients.

17 48. The current billing rate for all of the MLG support staff members above is \$275,
18 which I believe is reasonable based on their skill and experience. *See In re Linkedin User Priv.*
19 *Litig.*, 309 F.R.D. 573, 591 (N.D. Cal. 2015) (reasonable rate for litigation support staff from \$150
20 to \$240 in 2015).

21 49. My office requests the foregoing billable rates be applied in this case, as the rates are
22 more than reasonable in the Southern California legal market for attorneys who handle complex
23 class actions and PAGA actions involving hundreds of employees. Throughout my practice as an
24 attorney, I have become familiar with customary billing rates for attorneys of comparable
25 background, training, and experience as mine in California federal and state courts. I have obtained
26 knowledge of the prevailing hourly rates in the community for work of a similar nature and
27 complexity to the work in this case from a variety of sources, including: (a) my communications
28 with other employment law attorneys about their rates; (b) my familiarity with fee applications and

1 orders in other cases; (c) my independent research and knowledge of the prevailing market rates
2 based on fee requests of other counsel and my familiarity with rates charged in other law firms; and
3 (d) my independent reading and research of legal newspapers, journals, and treatises regarding law
4 firms' billing rates. Based on this information, I believe that MLG's current rates are fully consistent
5 with the market rate for attorneys with comparable expertise, experience, and qualifications.

6 50. The hourly rates for MLG attorneys are commensurate with MLG's experience in
7 litigating complex cases. Indeed, MLG has been awarded fees by various courts based on MLG's
8 historical rates, including in the following cases:

9 A. In *Escamilla v. Ono Hawaiian BBQ*, Los Angeles County Superior Court, Case
10 No. BC651992, the court awarded MLG attorneys' fees based on a lodestar crosscheck, based in part
11 on the following 2023 hourly rates: Matthew J. Matern: \$1,075; Matthew W. Gordon: \$875; Vanessa
12 M. Rodriguez: \$675.

13 B. In *Phan v. Marshall Medical Center*, El Dorado County Superior Court, Case
14 No. PC20190029, the court awarded MLG attorneys' fees based on a lodestar crosscheck, with the
15 application of a 4.76 multiplier, based in part on the following 2021 hourly rates: Matthew J. Matern:
16 \$975; Matthew W. Gordon: \$775; Vanessa M. Rodriguez: \$575.

17 C. In *Campos v. Borba Dairy Farms*, Merced County Superior Court, Case No.
18 19CV-03966, the court awarded MLG attorneys' fees based on a lodestar cross-check involving the
19 following MLG attorneys' 2021 hourly rates: Matthew J. Matern: \$975; Matthew W. Gordon: \$775;
20 and Vanessa M. Rodriguez: \$575.

21 D. In *Negrete v. ConAgra Foods, Inc.*, United States District Court for the Central
22 District of California Case No. 2:16-cv-00631-FMO-AJW, the Honorable Fernando M. Olguin
23 awarded MLG attorneys' fees based on a lodestar cross-check, with an approximate multiplier of 1.81,
24 which was supported by Matthew J. Matern's 2021 rate of \$975.00 per hour.

25 E. In *Ayard v. Kuni Redwood Motors, LLC*, Santa Clara Superior Court Case No.
26 20CV367003, the Honorable Drew C. Takaichi entered an order awarding MLG attorneys' fees based
27 on its lodestar, with the application of a 1.63 multiplier, and finding that the following 2021 hourly
28 rates "are reasonable and in line with rates prevailing in the community": Matthew J. Matern, \$975;

1 Matthew W. Gordon, \$775; Vanessa M. Rodriguez, \$575.

2 F. In *Cordova v. St. George Warehouse and Trucking Inc.*, LASC Case No.
3 20STCV04563, the Honorable Robert B. Broadbelt awarded MLG attorneys' fees based on Matthew
4 J. Matern's 2021 hourly rate of \$975, with application of a 2.01 multiplier, finding that MLG's rates
5 "are reasonable and in line with rates prevailing in the community."

6 G. In *Viamontes v. Adriana's Insurance Services, Inc.*, LASC Case No. BC502472,
7 the Honorable Kenneth R. Freeman awarded MLG attorneys' fees based in part on Matthew J.
8 Matern's hourly rate of \$975.

9 H. In *Lopez v. Kintetsu World Express (USA), Inc.*, LASC Case No. BC677417, the
10 Honorable Yvette M. Palazuelos awarded MLG attorneys' fees, finding that the requested fees were
11 "well-supported by the lodestar," which was based in part on Matthew J. Matern's 2021 hourly rate of
12 \$975, with application of a 1.49 multiplier.

13 I. In *Wilson v. Hydro Systems, Inc.*, LASC Case No. 19STCV41455, the
14 Honorable Daniel J. Buckley awarded MLG attorneys' fees based on its lodestar with the application
15 of a 3.0 multiplier, which was based in part on Matthew J. Matern's hourly rate of \$975.

16 J. In *Leon v. Bristol Farms*, LASC Case No. BC597687, the Honorable Elihu M.
17 Berle awarded MLG attorneys' fees based on its lodestar, with the application of a 1.06 multiplier,
18 finding that the following MLG attorneys' 2020 hourly rates are "reasonable and in line with rates
19 prevailing in the community": Matthew J. Matern: \$950; Matthew W. Gordon: \$725; and Vanessa M.
20 Rodriguez: \$525.

21 K. In *Ramirez v. Zepexco, Inc.*, Orange County Superior Court Case Number 30-
22 2019-01095469-CU-OE-CXC, the Honorable Randall J. Sherman entered an order awarding MLG
23 attorneys' fees based on its lodestar, with the application of a 1.208 multiplier, and finding that the
24 following 2020 hourly rates "are reasonable and in line with rates prevailing in the community":
25 Matthew J. Matern, \$950; Matthew W. Gordon, \$725; Vanessa M. Rodriguez, \$525.

26 L. In *Fan v. Delta Air Lines, Inc.*, United States District Court Case No. 2:19-cv-
27 04599-SVW-SS, the Honorable Stephen V. Wilson awarded MLG attorneys' fees with a multiplier of
28 1.78, finding that the following MLG attorneys' 2020 hourly rates were "appropriately justified":

1 Matthew J. Matern: \$950.00 and Matthew W. Gordon: \$725.00.

2 M. In *Kuhia v. California Supply, Inc.*, LASC Case No. BC668430, the Honorable
3 Daniel J. Buckley awarded MLG attorneys' fees based on the following 2019 billing rates: Matthew J.
4 Matern: \$925; Matthew W. Gordon: \$675; Vanessa Rodriguez: \$475.

5 N. In *Ramos-Rios v. Encore Hospitality Services, LLC*, LASC Case No.
6 BC685624, the Honorable Daniel J. Buckley awarded MLG attorneys' fees based on its lodestar,
7 which was based on the following MLG attorneys' 2019 hourly rates: Matthew J. Matern: \$925;
8 Matthew W. Gordon: \$675; and Vanessa M. Rodriguez: \$475.

9 O. In *Garcia v. Clougherty Packing, LLC*, LASC Case No. BC620644, the
10 Honorable Elihu M. Berle awarded MLG attorneys' fees according to MLG's lodestar, which was
11 based on the following 2019 hourly rates: Matthew J. Matern: \$925; Matthew W. Gordon: \$675; and
12 Vanessa M. Rodriguez: \$475.

13 P. In *Espinoza v. Team Blaze*, LASC Case No. BC664645, the Honorable Carolyn
14 B. Kuhl awarded MLG attorneys' fees based on MLG's lodestar which was based on the following
15 2019 hourly rates: Matthew J. Matern: \$925; Matthew W. Gordon: \$675; and Vanessa M. Rodriguez:
16 \$475.

17 Q. In *Lopez Contreras v. CoreCare III LP, et al.*, Orange County Superior Court,
18 Case No. 30-2016-00851086-CU-OE-CXC, the court awarded MLG attorneys' fees based on its
19 lodestar, which was based on the following MLG attorneys' 2019 hourly rates: Matthew J. Matern:
20 \$925; Matthew W. Gordon: \$675.

21 51. MLG's hourly rates are also in line with the rates approved in other cases. *See Roberti*
22 *v. OSI Sys., Inc.*, No. CV1309174MWFMRW, 2015 WL 8329916, at *7 (C.D. Cal. Dec. 8, 2015)
23 (finding rates between \$525 and \$975 per hour reasonable); *Rodriguez v. County of Los Angeles*, 96
24 F.Supp.3d 1012, 1023 (C.D. Cal. 2014) (approving attorney rates in 2014 from \$500 to \$975); *Perfect*
25 *10, Inc. v. Giganews, Inc.*, No. CV 11-07098-AB SHX, 2015 WL 1746484, at *15-18 (C.D. Cal. Mar.
26 24, 2015), *aff'd*, 847 F.3d 657 (9th Cir. 2017) (finding hourly rates of \$825-\$930 for a senior partner,
27 \$350-\$690 for associates, and \$290 and \$240 for support staff—for work performed in 2011 and
28 2014—to be reasonable and prevailing market rates at that time).

1 52. Additionally, several courts have awarded MLG attorneys' fees in similar cases based
2 upon the common fund method:

3 A. In 2021, in the matter of *Petrelli v. Bakkavor Foods USA, Inc.*, LASC Case No.
4 BC595726, Judge Carolyn B. Kuhl awarded MLG's attorney fee request of one-third of the Maximum
5 Settlement Amount, finding that it is "reasonable under the common fund method."

6 B. In 2020, in the matter of *Lenard v. Buy Buy Baby, Inc.*, LASC Case No.
7 BC647134, Judge Maren E. Nelson awarded MLG's attorney fee request for one-third of the
8 Maximum Settlement Amount, stating that the request "is reasonable under the common fund
9 method."

10 C. In 2020, in the matter of *Morales v. Berkley Valley Convalescent Hospital, Inc.*,
11 LASC Case No. BC576116, Judge Daniel J. Buckley approved MLG's one-third fee request, finding
12 that it is "reasonable under the common fund method."

13 D. In 2020, in the matter of *Gunn v. Shimadzu Precision Instruments, Inc.*, LASC
14 Case No. BC719424, Judge Daniel J. Buckley approved MLG's fee request for 33.33% of the
15 Settlement Fund, finding that it is reasonable "as a percentage of the common fund."

16 E. In 2020, in the matter of *Arzmanians v. Wireless Advocates, LLC*, LASC Case
17 No. BC633344, Judge Amy D. Hogue found that MLG's requested fee "is reasonable under the
18 common fund...method[]."

19 53. PAGA Counsel also bear the risk of taking whatever actions are necessary if
20 Defendants fail to pay. In two recent cases, my firm spent over 500 hours post-final approval in efforts
21 to collect on behalf of the class.

22 54. MLG took the Action on a contingent basis and has put a substantial amount of time
23 and energy into representing Plaintiff for over two years while receiving no payment. The risk was
24 significant given that, if the Action was unsuccessful, MLG would have not received any
25 compensation for the time spent litigating it. The significant outlay of monetary and personnel
26 resources has been completely at risk and wholly dependent upon obtaining a substantial recovery for
27 the Aggrieved Employees. Because most individuals cannot afford to pay for representation in
28 litigation on an hourly basis, MLG represents its employment law clients on a contingency-fee basis.

Pursuant to this arrangement, we are not compensated for our time unless we prevail at trial or successfully settle our clients' cases.

55. The efforts of PAGA Counsel have resulted in substantial benefits to the State of California and Aggrieved Employees in the form of a settlement fund established to penalize Defendant for the alleged violations, to deter future violations, to assist the LWDA with the enforcement of state labor laws, and to compensate Aggrieved Employees for, among other things, noncompliant meal and rest periods and overtime wages. I am informed and believe that, without the efforts of PAGA Counsel, the Labor Code violations alleged in the complaint would have gone without remedy.

PAGA Counsel's Litigation Costs

56. The Settlement provides for reimbursement of PAGA Counsel's litigation costs and expenses not to exceed \$25,000.00. MLG's current litigation costs in the Action total \$13,089.40. MLG expects to incur \$60.00 in future costs for the motion filing fee, for a total of **\$13,149.40** in costs. All of these costs are reasonable expenses which a fee-paying client would ordinarily have to pay, were necessary to prosecute the Action, and were incurred for the benefit of the State of California and PAGA Members. The following table shows a breakdown of the costs incurred by MLG in this case:

Cost Description	Amount
Court Costs / Filing Fees / Service / Delivery and Postage Fees	\$740.17
Court Reporters	\$811.50
Mediation Fees	\$7,400.00
Expert Services	\$4,120.00
Research Services	\$17.73
Total Current MLG Costs:	\$13,089.40
Projected Future Costs (Filing Fee)	\$60.00
Total Current and Projected MLG Costs:	\$13,149.40

57. I am not aware of any conflict of interest between MLG and the Aggrieved Employees.

Settlement Administration Costs

58. The parties have agreed to use Phoenix Settlement Administrators as the third-party

1 Settlement Administrator. No one at MLG has any financial interest in or otherwise has a
2 relationship with Phoenix Settlement Administrators which would create a conflict of interest. Given
3 the number of Aggrieved Employees and the scope of the duties to be performed by the Settlement
4 Administrator, I believe that the settlement administration costs, which are estimated not to exceed
5 \$2,850.00, are reasonable.

6 **Submission of Proposed Settlement Agreement to LWDA**

7 59. On December 18, 2024 my office submitted a copy of the proposed Settlement, the
8 Motion for Approval of PAGA Settlement, and all supporting papers to the LWDA through its
9 online portal. Attached hereto as **Exhibit D** is a true and correct copy of the December 18, 2024
10 auto-reply email from the California LWDA DIR PAGA Unit, confirming receipt of our submission
11 of the proposed Settlement Agreement and other documents.

12
13 I declare under penalty of perjury under the laws of the State of California that the foregoing is
14 true and correct. Executed on December 18, 2024 at Redondo Beach, California.

15
16 
17 _____
18 DALIA KHALILI

EXHIBIT A



MATERN LAW GROUP, PC

1230 Rosecrans Avenue, Suite 200
Manhattan Beach, California 90266
www.maternlawgroup.com
Tel: (310) 531-1900 | Fax: (310) 531-1901

December 21, 2022

Via Online Submission

California Labor & Workforce
Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

**Via Certified U.S. Mail – Return
Receipt Requested**

Andrew Lauren Surfaces, Inc.
c/o Michael G. Wastvedt
12626 High Bluff Drive Ste. 300
San Diego, CA 92130

**Via Certified U.S. Mail – Return
Receipt Requested**

Andrew Lauren Surfaces, Inc.
13220 Cambridge St
Santa Fe Springs, CA 90670-4902

**Via Certified U.S. Mail – Return
Receipt Requested**

Andrew Lauren Surfaces, Inc.
8909 Kenamar Drive Ste. 101
San Diego, CA 92121

Re: Notice Pursuant to California Labor Code § 2699.3 and 2810.3(d)
Employee: Fernando Pulido
Employers: Andrew Lauren Surfaces, Inc.

To Whom It May Concern:

This office represents Fernando Pulido (“Mr. Pulido”), who was employed by Andrew Lauren Surfaces, Inc. (“ALS”). Pursuant to the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor Code § 2698, *et seq.*, this letter sets forth the specific provisions of the Labor Code and Industrial Welfare Commission (“IWC”) Wage Order No. 16-2001, which Mr. Pulido alleges ALS has violated, including the facts and theories to support the alleged violations. Please be advised that this letter constitutes written notice required by Labor Code § 2699.3, subdivisions (a)(1)(A) and (c)(1)(A) and may lead to immediate action against Employers in a court of law and/or administrative proceedings, as well as the imposition of substantial penalties and other remedies against Employers. Enclosed please find a draft of Mr. Pulido’s proposed complaint, which is incorporated by reference into this notice. Pursuant to Labor Code § 2699.3, subdivisions (a)(1)(B) and (c)(1)(B), our office is submitting a \$75.00 filing fee to the Accounting Unit of the Department of Industrial Relations.

This letter also serves as notice of Mr. Pulido’s demand for preservation and non-spoilation of evidence, requesting that all relevant documents and data be saved and that all electronic files and hard-copy documents that are related to Mr. Pulido’s employment and potential claims must be preserved, even without a court order.

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Spoliation of evidence may result in legal claims for damages and monetary and evidentiary sanctions, including “adverse inference” jury instructions. Furthermore, intentional spoliation of evidence may carry criminal consequences pursuant to California Penal Code § 135.

We are investigating a potential class and representative action on behalf of ALS’ current and former non-exempt employees in the State of California regarding, among other things, the following violations: failure to provide meal and rest periods to employees in violation of Labor Code §§ 226.7 and 512 and Wage Order No. 16-2001, §§ 11-12; failure to pay one additional hour of compensation at the employee’s regular rate of compensation for each workday that a meal or rest period is not provided in violation of Labor Code § 226.7 and Wage Order No. 16-2001, §§ 11(B) and 12(B); failure to pay employees minimum wages for all hours worked in violation of Labor Code §§ 1194, 1197 and 1197.1 and Wage Order No. 16-2001, § 4; failure to pay employees overtime wages in violation of Labor Code §§ 510 and 1194 and Wage Order No. 16-2001, § 3; failure to timely pay employees all wages earned in violation of Labor Code § 204; willful failure to pay all wages due to discharged and quitting employees in violation of Labor Code §§ 201-203; failure to furnish accurate itemized wage statements to employees in violation of Labor Code § 226; failure to maintain required records pursuant to Labor Code §§ 226, 1174 and 1174.5 and Wage Order No. 16-2001, § 7; and unlawful deductions and withholdings from employees’ wages in violation of Labor Code §§ 221, 223 and 224.

The allegations made by Mr. Pulido on behalf of themselves and all other similarly-situated current and former non-exempt employees of ALS in the State of California during the four years preceding the date of this notice are based on the following facts and theories: meal periods were less than thirty minutes, late (first meal periods starting after the fifth hour of work and/or second meal periods starting after the tenth hour), not given at all (including second meal periods after ten hours of work), or interrupted; rest periods were less than ten minutes, not provided, interrupted, and/or late; employees were not provided one hour of pay at the regular rate of pay for each workday a meal period was not provided; employees were not provided one hour of pay at the regular rate of pay for each workday a rest break was not authorized and permitted; and employees were not paid proper minimum and overtime wages for all hours worked as required by California law.¹ Given the overtime, meal period and rest period violations and ALS’ failure to compensate its employees fully, as set forth above, employees’ wage statements were inaccurate and failed to comply with California law. In short, ALS’ unlawful employment practices and policies have deprived their employees of earned wages and other compensation.

Failure to Provide Meal Periods

Pursuant to Labor Code §§ 226.7 and 512 and Wage Order No. 16-2001, § 11, an employer is required to provide meal periods to its employees. An employer must provide a meal period to any employee who works a shift of more than five (5) hours and a second meal period to any

¹ “[T]he statement that defendant has not provided its employees with proper rest periods states both the facts and the theory.” *Gutierrez v. California Commerce Club, Inc.* (2010) 187 Cal.App.4th 969, 979 n.5.

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employee who works a shift of more than ten (10) hours. Furthermore, an employer must pay one extra hour of compensation for each workday a meal period is not provided.

If an employee is not relieved of all duty during a meal period, the meal period shall be considered an “on duty” meal period and counted as time worked. A paid “on duty” meal period is permitted only when 1) the nature of the work prevents an employee from being relieved of all duty and 2) the parties have agreed in writing to on duty meal periods.

Mr. Pulido and other aggrieved employees are non-exempt employees and are entitled to the protections of California Labor Code §§ 226.7 and 512 and Wage Order No. 16-2001, § 11. ALS failed to provide their employees timely and uninterrupted thirty-minute meal breaks. In fact, Mr. Pulido’s and other aggrieved employees’ meal periods were short (less than thirty minutes), late (first meal periods after the fifth hour of work and second meal periods after the tenth hour), interrupted and/or missed. ALS consistently failed to provide Mr. Pulido and other aggrieved employees meal breaks because Mr. Pulido and other aggrieved employees were given too much work to perform to take meal breaks.

ALS further violated Labor Code § 226.7 and Wage Order No. 16-2001 by failing to compensate Mr. Pulido and other aggrieved employees who were not provided with meal periods in accordance with California law one additional hour of pay at each employee’s regular rate of compensation for each workday a meal period was not provided.

Failure to Authorize and Permit Rest Periods

Pursuant to Labor Code § 226.7 and Wage Order No. 16-2001, § 12, an employer is required to provide rest periods to its employees. An employer must provide a ten (10) minute rest period for every four (4) hours worked or major action thereof which insofar as practicable shall be in the middle of each work period. Furthermore, an employer must pay one extra hour of compensation for each workday a rest period is not authorized and permitted.

Mr. Pulido and other aggrieved employees were and are non-exempt employees and are entitled to the protections of Labor Code § 226.7 and Wage Order No. 16-2001. ALS failed to authorize and permit their employees to take required rest periods. Specifically, ALS maintained a policy or practice of not authorizing and permitting Mr. Pulido and other aggrieved employees to take one 10-minute rest break for shifts 3.5-6.0 hours, a second rest break for shifts greater than 6 hours and less than or equal to 10 hours, and a third rest break for shifts in excess of 10 hours. ALS consistently failed to authorize and permit Mr. Pulido and other similarly-situated individuals to take rest breaks because Mr. Pulido and other similarly-situated individuals were given too much work to perform to take rest breaks. When Mr. Pulido and other aggrieved employees were able to take rest breaks, ALS failed to authorize and permit Mr. Pulido and other aggrieved employees to take their rest breaks in the middle of each work period insofar as practicable.

ALS further violated Labor Code § 226.7 and Wage Order No. 16-2001, § 12 by failing to pay Mr. Pulido and other aggrieved employees one additional hour of pay at each employee’s regular rate of compensation for each workday a rest period was not authorized and permitted.

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Failure to Pay Minimum Wages

Pursuant to Labor Code §§ 1194 and 1197 and Wage Order No. 16-2001, § 4, payment to an employee of less than the applicable minimum wage for all hours worked in a payroll period is unlawful.

Mr. Pulido and other aggrieved employees are current and former non-exempt employees and are entitled to the protections of Labor Code §§ 1194 and 1197 and Wage Order No. 16-2001, § 4. ALS failed to pay Mr. Pulido and other aggrieved employees minimum wages for all hours worked by, among other things: requiring, suffering or permitting Mr. Pulido and other similarly-situated individuals to work off-the-clock, including requiring Mr. Pulido and other similarly-situated individuals to don their uniform before clocking in for their scheduled shifts; requiring, suffering or permitting Mr. Pulido and other aggrieved employees to work through their meal breaks but not compensating them for this time; illegally and inaccurately recording time worked by Mr. Pulido and other aggrieved employees; failing to properly maintain Mr. Pulido's and other aggrieved employees' records; failing to provide accurate itemized wage statements to Mr. Pulido and other aggrieved employees for each pay period; and other methods to be discovered.

ALS' conduct violates Labor Code §§ 1194 and 1197 and Wage Order No. 16-2001, § 4.

Failure to Pay Overtime Wages

Pursuant to California Labor Code §§ 510 and 1194 and Wage Order No. 16-2001, § 3, an employer must compensate its employees for all overtime, which is calculated at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the first eight (8) hours on the seventh consecutive work day, with double time for all hours worked in excess of eight (8) hours on the seventh day of any workweek, or after twelve (12) hours in any workday.

Mr. Pulido and other aggrieved employees are current and former non-exempt employees and are entitled to the protections of Labor Code §§ 510 and 1194 and Wage Order No. 16-2001. ALS failed to compensate Mr. Pulido and other aggrieved employees for all overtime hours worked as required under the foregoing provisions of the Labor Code and IWC Wage Order by, among other things: failing to pay overtime at one and one-half (1 ½) times or double the regular rate of pay as provided by Labor Code §§ 510 and 1194 and Wage Order No. 16-2001, § 3, including but not limited to failing to include all remuneration in the calculation of the regular rate of pay for overtime purposes; requiring, suffering or permitting Mr. Pulido and other aggrieved employees to work off-the-clock, including requiring Mr. Pulido and other similarly-situated individuals to don their uniform before clocking in for their scheduled shifts; requiring, suffering or permitting Mr. Pulido and other aggrieved employees to work through meal periods but not compensating them for this time; illegally and inaccurately recording time worked by Mr. Pulido and other aggrieved employees; failing to properly maintain Mr. Pulido's and other aggrieved employees' records through falsifying hours worked; failing to provide accurate itemized statements to Mr. Pulido and other aggrieved employees for each pay period; and other methods to be discovered.

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In violation of California law, ALS has refused to perform its obligations to compensate Mr. Pulido and other aggrieved employees for all wages earned and all hours worked. ALS' conduct violates Labor Code §§ 510 and 1194 and Wage Order No. 16-2001, § 3.

Failure to Timely Pay All Wages Earned

Pursuant to Labor Code § 204, an employer must pay its employees at least twice a month for all wages earned during the preceding pay period. Labor Code § 204 provides that labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. An employer using an alternate payday schedule must pay wages within seven calendar days of the end of the payroll period in which the wages were earned.

ALS failed to pay Mr. Pulido and other aggrieved employees on their regularly scheduled payday for all work performed during the preceding pay period. Specifically, ALS required Mr. Pulido and other aggrieved employees to work off-the-clock without compensation, including requiring Mr. Pulido and other similarly-situated individuals to don their uniform before clocking in for their scheduled shifts, and required Mr. Pulido and other aggrieved employees to work through required meal breaks without compensation. Additionally, ALS failed to pay Mr. Pulido and other aggrieved employees premium wages owed for each workday a meal period was not provided and each workday a rest period was not authorized and permitted.

ALS also failed to pay Mr. Pulido and other aggrieved employees for the overtime wages they earned in violation of Labor Code § 204. Labor Code § 204 requires an employer to pay overtime wages no later than the payday for the next regular payroll period following the payroll period in which the overtime wages were earned. ALS knew it was required to pay overtime wages, yet on many occasions failed to pay Mr. Pulido and other aggrieved employees overtime wages on any payday.

Failure to Pay All Wages Due Upon Separation

Pursuant to Labor Code § 201, 202 and 203, an employer is required to pay all earned and unpaid wages to an employee upon separation. Labor Code § 201 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid at the time of discharge are due and payable immediately. Pursuant to Labor Code § 202, an employer is required to pay all accrued wages due to an employee no later than 72 hours after the employee quits his or her employment, unless the employee provided 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

Labor Code § 203 provides that if an employer willfully fails to pay, in accordance with Labor Code §§ 201 and 202, any wages of an employee who is discharged or who quits, the

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employer is liable for waiting time penalties in the form of continued compensation to the employee at the same rate for up to thirty (30) days.

ALS willfully failed to pay accrued wages and other compensation to Mr. Pulido and other aggrieved employees in accordance with Labor Code §§ 201 and 202. Because ALS required Mr. Pulido and other aggrieved employees to work off-the-clock without compensation and through required meal breaks without compensation and failed to pay Mr. Pulido and other aggrieved employees the proper premium wages for all meal periods which were not provided and all rest periods which were not authorized or permitted, ALS failed and continues to fail to pay the full earned and unpaid wages due to Mr. Pulido and other aggrieved employees upon separation.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226 requires every employer to furnish each of its employees an accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

ALS failed to provide Mr. Pulido and other aggrieved employees with timely and accurate itemized wage statements in writing showing each employee's gross wages earned, total hours worked, the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, all deductions made, net wages earned, the inclusive dates of the period for which the employee is paid, the name and address of the legal entity or entities employing Mr. Pulido and other aggrieved employees, and all applicable hourly rates in effect during each pay period and the corresponding number of hours worked at each hourly rate, in violation of Labor Code § 226 and Wage Order No. 16-2001, § 7.

Specifically, ALS had knowledge it was not providing employees with proper meal and rest breaks; nevertheless, ALS knowingly failed to include in the wage statements the extra hour of compensation at the regular rate of pay owed for each workday a meal break was not provided and each workday a rest break was not authorized and permitted. As a result, Mr. Pulido and other aggrieved employees lost wages. In addition, ALS had knowledge it was requiring employees to work off-the-clock and were not properly compensating their employees for all hours worked, yet ALS knowingly failed to include this time worked in the wage statements. As a result, Mr. Pulido and other aggrieved employees lost wages. ALS also did not properly calculate the regular rate of pay of Mr. Pulido and other aggrieved employees. As a result, Mr. Pulido's and other aggrieved employees' wage statements did not include all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate.

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Failure to Maintain Required Records

ALS failed to maintain records as required under Labor Code §§ 226 and 1174 and Wage Order No. 16-2001, § 7, including but not limited to the following records: total daily hours worked by each employee; applicable rates of pay; all deductions; meal periods; time records showing when each employee begins and ends each work period; and accurate itemized statements.

Specifically, ALS had knowledge it was not providing employees with proper meal and rest breaks; nevertheless, ALS knowingly failed to include in the wage statements the extra hour of compensation at the regular rate of pay owed for each workday a meal break was not provided and each workday a rest break was not authorized and permitted. In addition, ALS had knowledge it was requiring employees to work off-the-clock and were not properly compensating their employees for all hours worked, yet ALS knowingly failed to include this time worked in the regular rate of pay of aggrieved employees.

Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties

Labor Code § 2802(a) requires an employer to indemnify an employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of her his or her duties, or of his or her obedience to the directions of the employer. ALS failed to indemnify Mr. Pulido and other aggrieved employees for all business expenses and/or losses incurred in direct consequence of the discharge of their duties while working under the direction of ALS, including but not limited to expenses for uniforms, tools, safety equipment, boots, and other employment-related expenses, in violation of Labor Code § 2802.

This notice is hereby given to ALS and any and all related and/or alter ego companies, corporations, partnerships, and/or business entities, as well as against any and all officers, owners, directors, managers, managing agents, or entities who are or may be liable under California law for any of the violations alleged herein as to any locations or employees who worked at any time in the State of California.

This notice is made on behalf of all persons who are, were, or will be non-exempt employees of ALS, or any related or alter-ego company, corporation, partnership, and/or business entity at any time on or after a date four years prior to the date of this letter in the State of California.

This notice shall be construed as extending without limitation to any past, present, future, or continuing violation of the Labor Code, the applicable IWC Wage Order, or any applicable regulation which might be discovered as a result of a reasonable and diligent investigation made pursuant to this notice.

MATERN LAW GROUP, PC

December 21, 2022

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This notice shall further represent Mr. Pulido's reasonable attempt to settle his dispute with ALS prior to litigation. Pursuant to *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to apprise ALS of Mr. Pulido's aforementioned grievances and the proposed remedies as detailed below, while affording ALS reasonable opportunity to meet Mr. Pulido's demands.

Demand is hereby made that ALS shall agree, in writing received at this office no later than 30 calendar days from the postmark date of this notice, as follows:

1. ALS shall pay Mr. Pulido and all other similarly-situated persons employed by ALS at any time during the past 48 months back pay and compensation for the above-referenced violations.

2. ALS shall comply with all California labor laws and ensure that its non-exempt employees are paid proper overtime compensation and given required meal and rest periods.

3. ALS shall conduct a survey or interview all current and former non-exempt employees in California during the past 48 months to obtain information from them regarding the number of meal breaks which were not provided, the number of rest breaks which were not authorized and permitted, and the number of employees who were required to pay for uniforms, or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.

4. ALS shall pay each employee one hour of pay for each workday he or she was not authorized and permitted one or more rest periods, as required by Labor Code § 226.7. ALS also shall pay each employee one hour of pay for each workday he or she was not provided one or more and meal periods, as required by Labor Code § 226.7.

5. ALS shall reimburse those employees who were forced to pay for any business expenses incurred for ALS' benefit, including but not limited to uniforms, tools, safety equipment, and boots.

6. ALS shall pay waiting time penalties, equal to thirty days of pay, to each former employee who was not paid all wages due as described herein.

7. ALS shall pay accrued interest to all employees at the rate of ten percent per annum for said unpaid wages.

8. ALS shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code § 2698 *et seq.*, including but not limited to penalties under Labor Code §§ 206.5, 210, 225.5, 226.3, 558, 1174.5, 1182.12, 1197.1, 1198, 1199 and 2699 and Wage Order No. 16-2001, § 20.

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MATERN LAW GROUP, PC

December 21, 2022

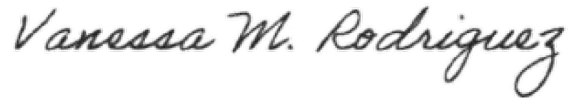
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If the Labor and Workforce Development Agency intends to investigate the allegations set forth herein, please notify this office of that decision by certified mail addressed to Matern Law Group, PC, 1230 Rosecrans Avenue, Suite 200, Manhattan Beach, California 90266. Additionally, please advise us if the LWDA or ALS require additional information regarding Mr. Pulido's allegations.

Thank you for your prompt attention to this matter.

Very truly yours,

MATERN LAW GROUP, PC

A handwritten signature in cursive script that reads "Vanessa M. Rodriguez".

Vanessa M. Rodriguez, Esq.

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2 MATTHEW J. MATERN (SBN 159798)
3 mmatern@maternlawgroup.com
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8 1230 Rosecrans Avenue, Suite 200
9 Manhattan Beach, CA 90266
10 Telephone: (310) 531-1900
11 Facsimile: (310) 531-1901

12 Attorneys for Plaintiff
13 FERNANDO PULIDO, individually and on
14 behalf of all others similarly situated

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

FERNANDO PULIDO, an individual, on
behalf of himself and all others similarly
situated,

Plaintiff,

vs.

ANDREW LAUREN SURFACES, INC., a
California corporation; and DOES 1 through 50,
inclusive,

Defendant.

CASE NO.:

CLASS ACTION

[DRAFT] COMPLAINT

1. Failure to Provide Required Meal Periods
2. Failure to Provide Required Rest Periods
3. Failure to Pay Overtime Wages
4. Failure to Pay Minimum Wages
5. Failure to Pay All Wages Due to Discharged and Quitting Employees
6. Failure to Furnish Accurate Itemized Wage Statements
7. Failure to Maintain Required Records
8. Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties
9. Unfair and Unlawful Business Practices

REPRESENTATIVE ACTION:

10. Penalties under the Labor Code Private Attorneys General Act, as Representative Action

DEMAND FOR JURY TRIAL

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1 5. PLAINTIFF brings this action on behalf of himself and the following similarly
2 situated class of individuals ("CLASS MEMBERS"): all current and former non-exempt
3 employees of DEFENDANT in the State of California at any time within the period beginning
4 four (4) years prior to the filing of this action and ending at the time this action settles or the
5 class is certified (the "CLASS PERIOD"). PLAINTIFF reserves the right to name additional
6 class representatives.

7 6. PLAINTIFF is informed and believes, and thereon alleges, that Defendant ALS, is,
8 and at all times relevant hereto was, a California corporation. PLAINTIFF is further informed
9 and believes, and thereon alleges, that Defendant ALS, is authorized to conduct business in the
10 State of California, and does conduct business in the State of California. Specifically, Defendant
11 ALS, maintains offices and facilities and conducts business in, and engages in illegal payroll
12 practices or policies in, the County of Los Angeles, State of California.

13 7. The true names and capacities of DOES 1 through 50, inclusive, are unknown to
14 PLAINTIFF at this time, and PLAINTIFF therefore sues such DOE DEFENDANT under
15 fictitious names. PLAINTIFF is informed and believes, and thereon alleges, that each Defendant
16 designated as a DOE is in some manner highly responsible for the occurrences alleged herein, and
17 that PLAINTIFF and CLASS MEMBERS' injuries and damages, as alleged herein, were
18 proximately caused by the conduct of such DOE DEFENDANT. PLAINTIFF will seek leave of
19 the court to amend this Complaint to allege their true names and capacities of such DOE
20 DEFENDANT when ascertained.

21 8. At all relevant times herein, DEFENDANT were the joint employers of
22 PLAINTIFF and CLASS MEMBERS. PLAINTIFF is informed and believes, and thereon alleges,
23 that at all times material to this complaint DEFENDANT were the alter egos, divisions, affiliates,
24 integrated enterprises, joint employers, subsidiaries, parents, principals, related entities, co-
25 conspirators, authorized agents, partners, joint venturers, and/or guarantors, actual or ostensible,
26 of each other. Each Defendant was completely dominated by his, her or its co-Defendant, and
27 each was the alter ego of the other.

28 9. At all relevant times herein, PLAINTIFF and CLASS MEMBERS were employed

1 by DEFENDANT under employment agreements that were partly written, partly oral, and partly
2 implied. In perpetrating the acts and omissions alleged herein, DEFENDANT, and each of them,
3 acted pursuant to, and in furtherance of, their policies and practices of not paying PLAINTIFF
4 and CLASS MEMBERS all wages earned and due, through methods and schemes which include,
5 but are not limited to, failing to pay overtime premiums; failing to provide rest and meal periods;
6 failing to properly maintain records; failing to provide accurate itemized statements for each pay
7 period; failing to properly compensate PLAINTIFF and CLASS MEMBERS for necessary
8 expenditures; and requiring, permitting or suffering the employees to work off the clock, in
9 violation of the California Labor Code and the applicable Welfare Commission ("IWC") Orders.

10 10. PLAINTIFF is informed and believes, and thereon allege, that each and every one
11 of the acts and omissions alleged herein were performed by, and/or attributable to, all
12 DEFENDANT, each acting as agents and/or employees, and/or under the direction and control of,
13 each of the other DEFENDANT, and that said acts and failures to act were within the course and
14 scope of said agency, employment and/or direction and control.

15 11. Pursuant to California Labor Code § 558.1, DEFENDANT and any person acting
16 on behalf of any of the DEFENDANT, are liable for violating, or causing to violate, any
17 provision regulating minimum wages or hours and days of work in any order of the Industrial
18 Welfare Commission, or Labor Code §§ 203, 226, 226.7, 1193.6, 1194, or 2802.

19 12. As a direct and proximate result of the unlawful actions of DEFENDANT,
20 PLAINTIFF and CLASS MEMBERS have suffered, and continue to suffer, from loss of earnings
21 in amounts as yet unascertained, but subject to proof at trial, and within the jurisdiction of this
22 Court.

23 **CLASS ACTION ALLEGATIONS**

24 13. This action is appropriately suited for a Class Action because:

25 a. The potential class is a significant number. Joinder of all current and
26 former employees individually would be impractical.

27 b. This action involves common questions of law and fact to the potential
28 class because the action focuses on DEFENDANT systematic course of illegal payroll practices

1 and policies, which was applied to all non-exempt employees in violation of the Labor Code, the
2 applicable IWC wage order, and the Business and Professions Code which prohibits unfair
3 business practices arising from such violations.

4 c. The claims of PLAINTIFF are typical of the class because DEFENDANT
5 subjected all non-exempt employees to identical violations of the Labor Code, the applicable
6 IWC wage order, and the Business and Professions Code.

7 d. PLAINTIFF is able to fairly and adequately protect the interests of all
8 members of the class because it is in his best interests to prosecute the claims alleged herein to
9 obtain full compensation due to them for all services rendered and hours worked.

10 **FIRST CAUSE OF ACTION**

11 **Failure to Provide Required Meal Periods**

12 **[Cal. Labor Code §§ 226.7, 510, 512, 1194, 1197; IWC Wage Order No. 16-2001, § 11]**

13 **(Against DEFENDANT)**

14 14. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
15 allegations in the foregoing paragraphs.

16 15. During the CLASS PERIOD, as part of DEFENDANT illegal payroll policies and
17 practices to deprive their non-exempt employees all wages earned and due, DEFENDANT
18 required, permitted or otherwise suffered PLAINTIFF and CLASS MEMBERS to take less than
19 the 30-minute meal period, or to work through them, and have failed to otherwise provide the
20 required meal periods to PLAINTIFF and CLASS MEMBERS pursuant to California Labor Code
21 § 226.7, 512 and IWC Order No. 16-2001, § 11.

22 16. DEFENDANT further violated California Labor Code §§ 226.7 and IWC Wage
23 Order No. 16-2001, § 11 by failing to compensate PLAINTIFF and CLASS MEMBERS who
24 were not provided with a meal period, in accordance with the applicable wage order, one
25 additional hour of compensation at each employee's regular rate of pay for each workday that a
26 meal period was not provided.

27 17. DEFENDANT further violated California Labor Code §§ 226.7, 510, 1194, 1197,
28 and IWC Wage Order No. 16-2001 by failing to compensate PLAINTIFF and CLASS

1 MEMBERS for all hours worked during their meal periods.

2 18. As a proximate result of the aforementioned violations, PLAINTIFF and CLASS
3 MEMBERS have been damaged in an amount according to proof at trial, and seek all wages
4 earned and due, interest, penalties, expenses, and costs of suit.

5 **SECOND CAUSE OF ACTION**

6 **Failure to Provide Required Rest Periods**

7 **[Cal. Labor Code §§ 226.7, 512; IWC Wage Order No. 16-2001, § 12]**

8 **(Against DEFENDANT)**

9 19. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
10 allegations in the foregoing paragraphs.

11 20. At all times relevant herein, as part of DEFENDANT illegal payroll policies and
12 practices to deprive their non-exempt employees all wages earned and due, DEFENDANT failed
13 to provide rest periods to PLAINTIFF and CLASS MEMBERS as required under California
14 Labor Code §§ 226.7 and 512, and IWC Wage Order No. 16-2001, § 12.

15 21. DEFENDANT further violated California Labor Code § 226.7 and IWC Wage
16 Order No. 16-2001, § 12 by failing to pay PLAINTIFF and CLASS MEMBERS who were not
17 provided with a rest period, in accordance with the applicable wage order, one additional hour of
18 compensation at each employee's regular rate of pay for each workday that a rest period was not
19 provided.

20 22. As a proximate result of the aforementioned violations, PLAINTIFF and CLASS
21 MEMBERS have been damaged in an amount according to proof at trial, and seek all wages
22 earned and due, interest, penalties, expenses, and costs of suit.

23 **THIRD CAUSE OF ACTION**

24 **Failure to Pay Overtime Wages**

25 **[Cal. Labor Code §§ 510, 1194, 1198; IWC Wage Order No. 16-2001, § 3]**

26 **(Against DEFENDANT)**

27 23. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
28 allegations in the foregoing paragraphs.

1 24. Pursuant to California Labor Code §§ 510, 1194, and IWC Wage Order No. 16-
2 2001, § 3, DEFENDANT are required to compensate PLAINTIFF and CLASS MEMBERS for
3 all overtime, which is calculated at one and one-half (1 ½) times the regular rate of pay for all
4 hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the
5 first eight (8) hours on the seventh consecutive workday, with double time for all hours worked in
6 excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours
7 on the seventh consecutive day of work in any workweek.

8 25. PLAINTIFF and CLASS MEMBERS are current and former non-exempt
9 employees entitled to the protections of California Labor Code §§ 510, 1194, and IWC Wage
10 Order No. 16-2001. During the CLASS PERIOD, DEFENDANT failed to compensate
11 PLAINTIFF and CLASS MEMBERS for all overtime hours worked as required under the
12 foregoing provisions of the California Labor Code and IWC Wage Order by, among other things:
13 failing to pay overtime at one and one-half (1 ½) or double the regular rate of pay as provided by
14 California Labor Code §§ 510, 1194, and IWC Wage Order No. 16-2001, § 3; requiring,
15 permitting or suffering PLAINTIFF and CLASS MEMBERS to work off the clock; requiring,
16 permitting or suffering PLAINTIFF and CLASS MEMBERS to work through meal and rest
17 breaks; illegally and inaccurately recording time in which PLAINTIFF and CLASS MEMBERS
18 worked; failing to properly maintain PLAINTIFF's and CLASS MEMBERS' records; failing to
19 provide accurate itemized wage statements to PLAINTIFF for each pay period; and other
20 methods to be discovered.

21 26. In violation of California law, DEFENDANT have knowingly and willfully
22 refused to perform their obligations to compensate PLAINTIFF and CLASS MEMBERS for all
23 wages earned and all hours worked. As a proximate result, PLAINTIFF and CLASS MEMBERS
24 have suffered, and continue to suffer, substantial losses related to the use and enjoyment of such
25 wages, lost interest on such wages, and expenses and attorneys' fees in seeking to compel
26 DEFENDANT to fully perform their obligations under state law, all to their respective damages
27 in amounts according to proof at time of trial, and within the jurisdiction of this Court.

28 27. DEFENDANT conduct described herein violates California Labor Code §§ 510,

1 1194, 1198 and IWC Wage Order No. 16-2001, § 3. Therefore, pursuant to California Labor
2 Code §§ 200, 203, 226, 558, 1194, 1197.1, and other applicable provisions under the California
3 Labor Code and IWC Wage Orders, PLAINTIFF and CLASS MEMBERS are entitled to recover
4 the unpaid balance of wages owed to them by DEFENDANT, plus interest, penalties, attorneys'
5 fees, expenses, and costs of suit.

6 **FOURTH CAUSE OF ACTION**

7 **Failure to Pay Minimum Wages**

8 **[Cal Labor Code §§ 1194, 1197; IWC Wage Order No. 16-2001, § 4]**

9 **(Against DEFENDANT)**

10 28. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
11 allegations in the foregoing paragraphs.

12 29. Pursuant to California Labor Code §§ 1194, 1197, and IWC Wage Order No. 16-
13 2001, § 4, payment to an employee of less than the applicable minimum wage for all hours
14 worked in a payroll period is unlawful.

15 30. During the CLASS PERIOD, DEFENDANT failed to pay PLAINTIFF and
16 CLASS MEMBERS minimum wages for all hours worked by, among other things: requiring,
17 permitting or suffering PLAINTIFF and CLASS MEMBERS to work off the clock; requiring,
18 permitting or suffering PLAINTIFF and CLASS MEMBERS to work through meal and rest
19 breaks; illegally and inaccurately recording time in which PLAINTIFF and CLASS MEMBERS
20 worked; failing to properly maintain PLAINTIFF's and CLASS MEMBERS' records; failing to
21 provide accurate itemized wage statements to PLAINTIFF and CLASS MEMBERS for each pay
22 period; and other methods to be discovered.

23 31. DEFENDANT conduct described herein violates California Labor Code §§ 1194,
24 1197, and IWC Wage Order No. 16-2001, § 4. As a proximate result of the aforementioned
25 violations, PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to
26 proof at trial. Therefore, pursuant to California Labor Code §§ 200, 203, 226, 558, 1194, 1197.1,
27 and other applicable provisions under the Labor Code and IWC Wage Orders, PLAINTIFF and
28 CLASS MEMBERS are entitled to recover the unpaid balance of wages owed to them by

1 DEFENDANT, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

2 **FIFTH CAUSE OF ACTION**

3 **Failure to Pay All Wages Due to Discharged and Quitting Employees**

4 **[Cal. Labor Code §§ 201, 202, 203]**

5 **(Against DEFENDANT)**

6 32. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
7 allegations in the foregoing paragraphs.

8 33. Pursuant to California Labor Code § 201, 202, and 203, DEFENDANT are
9 required to pay all earned and unpaid wages to an employee who is discharged. California Labor
10 Code § 201 mandates that if an employer discharges an employee, the employee's wages accrued
11 and unpaid at the time of discharge are due and payable immediately.

12 34. Furthermore, pursuant to California Labor Code § 202, DEFENDANT are
13 required to pay all accrued wages due to an employee no later than 72 hours after the employee
14 quits his or her employment, unless the employee provided 72 hours previous notice of his or her
15 intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

16 35. California Labor Code § 203 provides that if an employer willfully fails to pay, in
17 accordance with California Labor Code §§ 201 and 202, any wages of an employee who is
18 discharged or who quits, the employer is liable for waiting time penalties in the form of continued
19 compensation to the employee at the same rate for up to 30 workdays.

20 36. During the CLASS PERIOD, DEFENDANT have willfully failed to pay accrued
21 wages and other compensation to PLAINTIFF and CLASS MEMBERS in accordance with
22 California Labor Code §§ 201 and 202.

23 37. As a result, PLAINTIFF and CLASS MEMBERS are entitled to all available
24 statutory penalties, including the waiting time penalties provided in California Labor Code § 203,
25 together with interest thereon, as well as other available remedies.

26 38. As a proximate result of DEFENDANT unlawful actions and omissions,
27 PLAINTIFF and CLASS MEMBERS have been deprived of compensation in an amount
28 according to proof at the time of trial, but in excess of the jurisdiction of this Court, and are

entitled to recovery of such amounts, plus interest thereon, and attorneys' fees and costs, pursuant to California Labor Code §§ 1194 and 2699.

SIXTH CAUSE OF ACTION

Failure to Furnish Accurate Itemized Wage Statements

[Cal. Labor Code §§ 226; IWC Wage Order No. 16-2001, § 7]

(Against DEFENDANT)

39. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the allegations in the foregoing paragraphs.

40. During the CLASS PERIOD, DEFENDANT routinely failed to provide PLAINTIFF and CLASS MEMBERS with timely, accurate, and itemized wage statements in writing showing each employee's gross wages earned, total hours worked, the number of piece-rate units earned and any applicable piece rate, all deductions made, net wages earned, the name and address of the legal entity or entities employing PLAINTIFF and CLASS MEMBERS, the inclusive dates of the period for which the employee is paid, only the last four digits of the employees social security number or an employee identification number other than a social security number, and all applicable hourly rates in effect during each pay period and the corresponding number of hours worked at each hourly rate, in violation of California Labor Code § 226 and IWC Wage Order No. 16-2001, § 7.

41. During the CLASS PERIOD, DEFENDANT knowingly and intentionally failed to provide PLAINTIFF and CLASS MEMBERS with timely, accurate, and itemized wage statements in accordance with California Labor Code § 226(a).

42. As a proximate result of DEFENDANT unlawful actions and omissions, PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to proof at trial, and seek all wages earned and due, plus interest thereon. Additionally, PLAINTIFF and CLASS MEMBERS are entitled to all available statutory penalties, including but not limited to civil penalties pursuant to California Labor Code §§ 226(e), 226.3, and 1174.5, and an award of costs, expenses, and reasonable attorneys' fees, including but not limited to those provided in California Labor Code § 226(e), as well as other available remedies.

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(Against DEFENDANT)

43. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the allegations in the foregoing paragraphs.

44. During the CLASS PERIOD, as part of DEFENDANT illegal payroll policies and practices to deprive PLAINTIFF and CLASS MEMBERS of all wages earned and due, DEFENDANT knowingly and intentionally failed to maintain records as required under California Labor Code §§ 226, 1174, and IWC Wage Order No. 16-2001, § 7, including but not limited to the following records: total daily hours worked by each employee; applicable rates of pay; all deductions; meal periods; time records showing when each employee begins and ends each work period; and accurate itemized statements.

45. As a proximate result of DEFENDANT unlawful actions and omissions, PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to proof at trial, and are entitled to all wages earned and due, plus interest thereon. Additionally, PLAINTIFF and CLASS MEMBERS are entitled to all available statutory penalties, including but not limited to civil penalties pursuant to California Labor Code §§ 226(e), 226.3, and 1174.5, and an award of costs, expenses, and reasonable attorneys' fees, including but not limited to those provided in California Labor Code § 226(e), as well as other available remedies.

Duties

(Against DEFENDANT)

46. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the allegations in the foregoing paragraphs.

47. California Labor Code § 2802(a) requires an employer to indemnify an employee

1 for all necessary expenditures or losses incurred by the employee in direct consequence of the
2 discharge of his or her duties, or of his or her obedience to the directions of the employer.

3 48. During the CLASS PERIOD, DEFENDANT knowingly and willfully failed to
4 indemnify PLAINTIFF and CLASS MEMBERS for all business expenses and/or losses incurred
5 in direct consequence of the discharge of their duties while working under the direction of
6 DEFENDANT, including but not limited to expenses for tools, uniforms, safety equipment,
7 boots, and other employment-related expenses, in violation of California Labor Code § 2802.

8 49. As a proximate result of DEFENDANT unlawful actions and omissions,
9 PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to proof at
10 trial, and seek reimbursement of all necessary expenditures, plus interest thereon pursuant to
11 California Labor Code § 2802(b). Additionally, PLAINTIFF and CLASS MEMBERS are
12 entitled to all available statutory penalties and an award of costs, expenses, and reasonable
13 attorneys' fees, including those provided in California Labor Code § 2802(c), as well as other
14 available remedies.

15 **NINTH CAUSE OF ACTION**

16 **Unfair and Unlawful Business Practices**

17 **[Cal. Bus. & Prof. Code §§ 17200 et. seq.]**

18 **(Against DEFENDANT)**

19 50. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
20 allegations in the foregoing paragraphs.

21 51. Each and every one of DEFENDANT acts and omissions in violation of the
22 California Labor Code and/or the applicable IWC Wage Order as alleged herein, including but
23 not limited to DEFENDANT failure and refusal to provide required meal periods, DEFENDANT
24 failure and refusal to provide required rest periods, DEFENDANT failure and refusal to pay
25 overtime compensation, DEFENDANT failure and refusal to pay minimum wages,
26 DEFENDANT failure and refusal to pay all wages due to discharged or quitting employees,
27 DEFENDANT failure and refusal to furnish accurate itemized wage statements; DEFENDANT
28 failure and refusal to maintain required records, DEFENDANT failure and refusal to indemnify

1 PLAINTIFF and CLASS MEMBERS for necessary expenditures and/or losses incurring in
2 discharging their duties, constitutes an unfair and unlawful business practice under California
3 Business and Professions Code § 17200 et seq.

4 52. DEFENDANT violations of California wage and hour laws constitute a business
5 practice because DEFENDANT aforementioned acts and omissions were done repeatedly over a
6 significant period of time, and in a systematic manner, to the detriment of PLAINTIFF and
7 CLASS MEMBERS.

8 53. DEFENDANT have avoided payment of wages, overtime wages, meal periods,
9 rest periods, and other benefits as required by the California Labor Code, the California Code of
10 Regulations, and the applicable IWC Wage Order. Further, DEFENDANT have failed to record,
11 report, and pay the correct sums of assessment to the state authorities under the California Labor
12 Code and other applicable regulations.

13 54. As a result of DEFENDANT unfair and unlawful business practices,
14 DEFENDANT have reaped unfair and illegal profits during the CLASS PERIOD at the expense
15 of PLAINTIFF, CLASS MEMBERS, and members of the public. DEFENDANT should be made
16 to disgorge their ill-gotten gains and to restore them to PLAINTIFF and CLASS MEMBERS.

17 55. DEFENDANT unfair and unlawful business practices entitle PLAINTIFF and
18 CLASS MEMBERS to seek preliminary and permanent injunctive relief, including but not
19 limited to orders that DEFENDANT account for, disgorge, and restore to PLAINTIFF and
20 CLASS MEMBERS the wages and other compensation unlawfully withheld from them.
21 PLAINTIFF and CLASS MEMBERS are entitled to restitution of all monies to be disgorged
22 from DEFENDANT in an amount according to proof at the time of trial, but in excess of the
23 jurisdiction of this Court.

24 **TENTH CAUSE OF ACTION**

25 **Representative Action for Civil Penalties**

26 **[Cal. Labor Code §§ 2698–2699.5]**

27 **(Against DEFENDANT)**

28 56. PLAINTIFF incorporates herein by specific reference as though fully set forth the

1 allegations in all preceding paragraphs, with exception of the allegations in paragraph 16 and the
2 subparagraphs thereto.

3 57. PLAINTIFF is an “aggrieved employee” within the meaning of California Labor
4 Code § 2699(c), and a proper representative to bring a civil action on behalf of himself and other
5 current and former employees of DEFENDANT pursuant to the procedures specified in
6 California Labor Code § 2699.3, because PLAINTIFF was employed by DEFENDANT and one
7 or more of the alleged violations of the California Labor Code was committed against
8 PLAINTIFF.

9 58. Pursuant to the California Private Attorneys General Act of 2004 (“PAGA”),
10 Labor Code §§ 2698–2699.5, PLAINTIFF seeks to recover civil penalties, including but not
11 limited to penalties under California Labor Code §§ 2699, 210, 226.3, 558, 1174.5, 1197.1, and
12 IWC Wage Order No. 16-2001, § 20, from DEFENDANT in a representative action for the
13 violations set forth above committed against himself and other aggrieved employees of
14 DEFENDANT, including but not limited to violations of California Labor Code §§ 201, 202, 203,
15 204, 226, 226.7, 510, 512, 1174, 1194, 1197, 1198, and 2802. PLAINTIFF is also entitled to an
16 award of reasonable attorneys’ fees and costs pursuant to California Labor Code § 2699(g)(1).

17 59. Pursuant to California Labor Code §§ 2699.3, PLAINTIFF gave written notice on
18 December 21, 2022 by online filing to the California Labor and Workforce Development Agency
19 (“LWDA”) and by certified mail to DEFENDANT of the specific provisions of the California
20 Labor Code and IWC Wage Orders alleged to have been violated, including the facts and theories
21 to support the alleged violations. More than sixty-five (65) days have passed and the LWDA has
22 not provided notice to PLAINTIFF that it intends to investigate the alleged violations.

23 60. Therefore, PLAINTIFF has complied with all of the requirements set forth in
24 California Labor Code § 2699.3 to commence a representative action under PAGA.

25 **PRAYER FOR RELIEF**

26 **WHEREFORE**, PLAINTIFF, individually and on behalf of all other persons similarly
27 situated, respectfully prays for relief against DEFENDANT and DOES 1 through 50, inclusive,
28 and each of them, as follows:

1. For compensatory damages in an amount to be ascertained at trial;
2. For restitution of all monies due to PLAINTIFF and CLASS MEMBERS, as well as disgorged profits from DEFENDANT unfair and unlawful business practices;
3. For meal and rest period compensation pursuant to California Labor Code § 226.7 and IWC Wage Order No. 16-2001;
4. For liquidated damages pursuant to California Labor Code §§ 1194.2 and 1197.1;
5. For preliminary and permanent injunctive relief enjoining DEFENDANT from violating the relevant provisions of the California Labor Code and the IWC Wage Orders, and from engaging in the unlawful business practices complained of herein;
6. For waiting time penalties pursuant to California Labor Code § 203;
7. For statutory and civil penalties according to proof, including but not limited to all penalties authorized by the California Labor Code §§ 226(e) and §§ 2698–2699.5;
8. For interest on the unpaid wages at 10% per annum pursuant to California Labor Code §§ 218.6, 1194, 2802, California Civil Code §§ 3287, 3288, and/or any other applicable provision providing for pre-judgment interest;
9. For reasonable attorneys’ fees and costs pursuant to California Labor Code §§ 218.5, 1194, 2699, 2802, California Civil Code § 1021.5, and any other applicable provisions providing for attorneys’ fees and costs;
10. For declaratory relief;
11. For an order requiring and certifying the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, and Ninth Causes of Action as a class action;
12. For an order appointing PLAINTIFF as class representative, and PLAINTIFF’s counsel as class counsel; and

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13. For such further relief that the Court may deem just and proper.

DATED: December 21, 2022

Respectfully submitted,

MATERN LAW GROUP, PC

By: _____

MATTHEW J. MATERN
MATTHEW W. GORDON
VANESSA M. RODRIGUEZ
Attorneys for Plaintiff
FERNANDO PULIDO, individually and on
behalf of all others similarly situated

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DATED: December 21, 2022

MATERN LAW GROUP, PC

MATTHEW J. MATERN
MATTHEW W. GORDON
VANESSA M. RODRIGUEZ
Attorneys for Plaintiff
FERNANDO PULIDO, individually and on
behalf of all others similarly situated

EXHIBIT B

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff Fernando Pulido (“Plaintiff”) and Defendant Andrew Lauren Surfaces, Inc. (“Defendant” and collectively with Plaintiff as “the Parties”).

1. DEFINITIONS.

- 1.1 “Action” means the Plaintiff’s PAGA lawsuit filed on March 3, 2023, alleging wage and hour violations against Defendant captioned *Fernando Pulido v. Andrew Lauren Surfaces, Inc., et al.*, Los Angeles Superior Court, Case No. 23STCV04800.
- 1.2 “Administrator” means Phoenix Settlement Administrators, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3 “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.
- 1.4 “Aggrieved Employee” means all current and former non-exempt employees of Defendant in the State of California at any time during the period between December 28, 2021 to June 18, 2024.
- 1.5 “Aggrieved Employee Data” means Aggrieved Employees’ identifying information in Defendant’s possession including each Aggrieved Employee’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.
- 1.6 “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Settlement Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.
- 1.7 “Approval Order” means the proposed Court Order Granting Approval of PAGA Settlement.
- 1.8 “Court” means the Superior Court of California, County of Los Angeles.
- 1.9 “Defendant” means Defendant Andrew Lauren Surfaces, Inc.
- 1.10 “Defense Counsel” means Ogletree, Deakins, Nash, Smoak & Stewart, P.C., including Andrew B. Levin.
- 1.11 “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement and (b)

the Judgment is final. The Judgment shall be final on the day the Court enters Judgment.

- 1.12 “Gross Settlement Amount” means \$343,500.00, which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, the Representative Service Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment.
- 1.13 “Individual PAGA Payment” means the Settlement Member’s pro rata share of 25% of the PAGA Payment calculated according to the number of Pay Periods the Settlement Member worked during the PAGA Period.
- 1.14 “Judgment” means the judgment entered by the Court based upon the final approval.
- 1.15 “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.16 “LWDA PAGA Payment” means the 75% of the PAGA Payment paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.17 “Net Settlement Amount” means the Gross Settlement Amount minus the Representative Service Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment.
- 1.18 “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.19 “PAGA Counsel” means Matern Law Group, PC (“MLG”), including Matthew J. Matern, Matthew W. Gordon, and Vanessa M. Rodriguez.
- 1.20 “PAGA Counsel Fees Payment” and “PAGA Counsel Litigation Expenses Payment” mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.21 “PAGA Notice” means Plaintiff’s December 21, 2022 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.22 “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.23 “PAGA Payment” means the Gross Settlement Amount minus Plaintiff’s Representative Service Payment, the Administration Expenses Payment, the PAGA Counsel Fees Payment, and the PAGA Counsel Litigation Expenses. The PAGA Payment will be allocated so that 75% of the payment will be paid to the

LWDA and 25% will be paid to Aggrieved Employees.

- 1.24 “PAGA Period” means the period between December 28, 2021 to June 18, 2024.
- 1.25 “Plaintiff” means Fernando Pulido, the named plaintiff in the Action.
- 1.26 “Released PAGA Claims” means the claims being released by Plaintiff and Aggrieved Employees as described in Paragraph 5 below.
- 1.27 “Released Parties” means: Defendant and all affiliated predecessor and successor entities, and each such entity’s respective present and former subsidiaries, affiliates, parents, agents, employees, former employees, partners, owners, director’s, officers, attorneys, trustees, insurers, representatives, predecessors, successors and assigns.
- 1.28 “Representative Service Payment” means the payment to the Plaintiff for initiating the Action, providing services in support of the Action, and for a broader release of claims
- 1.29 “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

2. RECITALS.

- 2.1. On March 3, 2023, Plaintiff commenced this Action by filing a Complaint alleging a cause of action against Defendant for Penalties Under the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), as a Representative Action, Los Angeles Superior Court Case No. 23STCV04800. The Complaint is the operative complaint in the Action (the “Operative Complaint.”). Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.
- 2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.
- 2.3. On April 18, 2024, the Parties participated in an all-day mediation presided over by Honorable Brian Walsh (Ret.) which led to this Agreement to settle the Action.
- 2.4. In advance of the mediation, Defendant sent Plaintiff relevant information, including the total number of alleged Aggrieved Employees, the total number of pay periods during the PAGA period, Aggrieved Employees’ average rate of pay, Plaintiff’s personnel file, a 20% sampling of Aggrieved Employees’ time and payroll records, and employee handbooks and policies applicable to Aggrieved Employees. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 77.

- 2.5. As of the time of execution, and to the best of their knowledge, the Parties, PAGA Counsel, and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

- 3.1 Gross Settlement Amount. Defendant promises to pay \$343,500.00 and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Settlement Members to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

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

3.2.1 To Plaintiff: A Representative Service Payment to the Plaintiff of not more than \$10,000.00 (in addition to any Individual PAGA Payment Plaintiff is entitled to receive as an Aggrieved Employee). Defendant will not oppose Plaintiff's request for a Representative Service Payment that does not exceed this amount. As part of the motion for PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, Plaintiff will seek Court approval for any Representative Service Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Representative Service Payment.

3.2.2 To PAGA Counsel: A PAGA Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be \$114,500.00 and PAGA Counsel Litigation Expenses Payment in an amount not to exceed \$25,000.00. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA

Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3 To the Administrator: An Administration Expenses Payment, not to exceed \$2,850.00, except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$2,850.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4 To the LWDA and Aggrieved Employees: A PAGA Payment shall be paid from the Net Settlement Amount, with 75% of the Net Settlement Amount allocated to the LWDA PAGA Payment and 25% allocated to the Individual PAGA Payments.

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

3.2.4.2 The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1 PAGA Pay Periods. Based on a reasonable review of its records in advance of the mediation in April 2024, Defendant estimates there are 93 Aggrieved Employees who worked a total of 3,435 PAGA Pay Periods.

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

use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

- 4.3 Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator by (i) January 13, 2025, or (ii) within sixty (60) days after approval of the Settlement, whichever is later.
- 4.4 Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks or wire funds for all Individual PAGA Payments, the Representative Service Payment, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Fees Payment, and the PAGA Counsel Expenses Payment. Disbursement of the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.
- 4.4.1 The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
- 4.4.2 The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check, the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.
- 4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is not cashed within 180 days of payment, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.
- 4.4.4 The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. **RELEASES OF CLAIMS.** Effective on the date when Defendant fully funds the entire

Gross Settlement Amount, Plaintiff and Aggrieved Employees will release claims against all Released Parties as follows:

5.1. Plaintiff's Release. Plaintiff and his respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the PAGA Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint and the PAGA Notice ("Plaintiff's Release"), including, but not limited to, failure to provide required meal and rest periods, failure to pay overtime wages, failure to pay minimum wages, failure to timely pay wages during employment, failure to pay all wages at termination/resignation, failure to provide accurate wage statements, failure to maintain required records, and failure to reimburse business expenses. Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the PAGA Period. Plaintiff's release also does not extend to Plaintiff's claims in his separate individual action currently pending in Los Angeles Superior Court, Case No. 23STCV15739, however Plaintiff's Release in this matter does release his wage and hour claims and he agrees he cannot seek waiting time penalties in the individual action. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

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

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party.¹

5.2. Release by Aggrieved Employees. All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties during the PAGA Period that were or reasonably could have been alleged based on the facts contained in the Operative Complaint and the PAGA Notice ("Released PAGA Claims"), including, but not limited to, failure to provide required meal and rest periods,

¹ This release does not extend to Plaintiff's claims in his separate individual action currently pending in Los Angeles Superior Court, Case No. 23STCV15739.

failure to pay overtime wages, failure to pay minimum wages, failure to timely pay wages during employment, failure to pay all wages at termination/resignation, failure to provide accurate wage statements, failure to maintain required records, and failure to reimburse business expenses. The Released PAGA Claims expressly exclude all other claims including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, and workers' compensation.

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT. Plaintiff will prepare and file a motion for approval of this Settlement.

6.1 Plaintiff's Responsibilities. Plaintiff will prepare all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2)) including (i) a draft proposed Order Granting Approval of Gross Settlement; (ii) a signed declaration from PAGA Counsel attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (iii) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (iv) all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In their Declarations, Plaintiff and PAGA Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2 Responsibilities of PAGA Counsel. PAGA Counsel is responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement and obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering evidence of the Court's Approval to the Administrator and the LWDA.

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

7. SETTLEMENT ADMINISTRATION.

7.1. Selection of Administrator. The Parties have jointly selected Phoenix Settlement Administrators to serve as the Administrator and verified that, as a condition of appointment, Phoenix Settlement Administrators agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for

payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

- 7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of providing reports to state and federal tax authorities.
- 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.
- 7.4. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8. AGGRIEVED EMPLOYEE SIZE ESTIMATES. Based on a reasonable review of its records prior to the April 2024 mediation, Defendant estimates that there are 93 Aggrieved Employees who worked 3,435 PAGA Pay Periods.

9. CONTINUING JURISDICTION OF THE COURT. The Parties agree that the Court shall retain continuing jurisdiction over this case under CCP Section 664.6 to ensure the continuing implementation of the provisions of this settlement and that the time within which to bring this action to trial under CCP Section 583.310 shall be extended from the date of the signing of this agreement by all parties until the entry of the final approval order and judgment or if not entered the date this agreement shall no longer be of any force or effect.

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

10. ADDITIONAL PROVISIONS.

- 10.1 No Opt-Out. Aggrieved Employees may not object or opt out of this Settlement.
- 10.2 No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims.

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

- 10.3 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 10.4 Enforcement. The Parties agree that, if any party breaches a material term of this Agreement, the Agreement shall be admissible in court for the purpose of enforcing the terms of the Agreement, and the prevailing party shall be entitled to an award of reasonable attorney's fees and costs.
- 10.5 Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 10.6 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 10.7 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 10.8 No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant, nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury

Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

- 10.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties, or their representatives, and approved by the Court.
- 10.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 10.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 10.12 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 10.13 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement. Plaintiff and Class Counsel agree not to disclose or publicize the Settlement, including the fact of the Settlement, its terms or contents, and the negotiations underlying the Settlement, in any manner or form, directly or indirectly, to any person or entity, except as may be strictly required to effectuate the terms of the Settlement. For the avoidance of doubt, this section includes Plaintiff and PAGA Counsel's agreement not to issue press releases, communicate with, or respond to any media or publication entities, publish information in manner or form, whether printed or electronic, on any medium or otherwise communicate, whether by print, video, recording or any other medium, with any person or entity concerning the Settlement, including the fact of the Settlement, its terms or contents and the negotiations underlying the Settlement, except as shall be contractually required to effectuate the terms of the Settlement. However, PAGA Counsel may disclose the name of the Parties in this action, the venue/case number, and settlement details available in the public record, for the limited purpose of allowing PAGA Counsel to prove adequacy as counsel in other actions. PAGA Counsel may also disclose the terms of the Settlement to Aggrieved Employees that inquire about the terms of the Settlement.
- 10.14 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 10.15 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

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

To Plaintiff:

Matthew J. Matern, Matthew W. Gordon, Vanessa M. Rodriguez
Matern Law Group, P.C.
1320 Rosecrans Avenue, Suite 200
Manhattan Beach, California 90266

To Defendant:

Andrew B. Levin
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
2415 E. Camelback Road, Suite 800
Phoenix, AZ 85016

- 10.17 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 10.18 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement, and pursuant to Code of Civil Procedure § 583.330(a), the Parties agree to extend the time within which the Action must be brought to trial by that period of time from the date of execution of this Agreement to the date on which the Court enters judgment or the date on which the Court enters an order declining to grant approval of this Agreement, and that said period of time shall not be included in the computation of the five-year period specified in Code of Civil Procedure § 583.310.

Dated: Oct 25, 2024, 2024


Fernando Juan Pulido (Oct 25, 2024 17:58 PDT)

Plaintiff Fernando Pulido

Dated: _____, 2024

Defendant Andrew Lauren Surfaces, Inc.

By: _____

Its: _____

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

To Plaintiff:

Matthew J. Matern, Matthew W. Gordon, Vanessa M. Rodriguez
Matern Law Group, P.C.
1320 Rosecrans Avenue, Suite 200
Manhattan Beach, California 90266

To Defendant:

Andrew B. Levin
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
2415 E. Camelback Road, Suite 800
Phoenix, AZ 85016

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

- 10.18 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement, and pursuant to Code of Civil Procedure § 583.330(a), the Parties agree to extend the time within which the Action must be brought to trial by that period of time from the date of execution of this Agreement to the date on which the Court enters judgment or the date on which the Court enters an order declining to grant approval of this Agreement, and that said period of time shall not be included in the computation of the five-year period specified in Code of Civil Procedure § 583.310.

Dated: _____, 2024

Plaintiff Fernando Pulido

Dated: 10/21, 2024

Defendant Andrew Lauren Surfaces, Inc.

By: _____

Its: _____
LOO

Dated: October 25, 2024

MATERN LAW GROUP, PC

By: 

MATTHEW J. MATERN
MATTHEW W. GORDON
VANESSA M. RODRIGUEZ
Attorneys for Plaintiff Fernando Pulido

Dated: _____, 2024

OGLETREE DEAKINS

By: _____
ANDREW B. LEVIN
Attorneys for Defendant Andrew Lauren Surfaces,
Inc.

Dated: _____, 2024

MATERN LAW GROUP, PC

By: _____
MATTHEW J. MATERN
MATTHEW W. GORDON
VANESSA M. RODRIGUEZ
Attorneys for Plaintiff Fernando Pulido

Dated: November 7, 2024 OGLETREE DEAKINS

By:  _____
ANDREW B. LEVIN
Attorneys for Defendant Andrew Lauren Surfaces,
Inc.

EXHIBIT C

[MODEL] PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Agreement”) is made by and between **plaintiff**

~~—Plaintiff Fernando Pulido (“Plaintiff”) and defendant XYZ (“XYZ”). The Agreement refers to Plaintiff Defendant Andrew Lauren Surfaces, Inc. (“Defendant” and XYZ collectively with Plaintiff as “the Parties,” or individually as “Party.”).~~

1. DEFINITIONS.

~~1.1.1.1~~ “Action” means the Plaintiff’s PAGA lawsuit filed on March 3, 2023, alleging wage and hour violations against ~~XYZ Defendant~~ captioned ~~initiated on — and pending in~~ Fernando Pulido v. Andrew Lauren Surfaces, Inc., et al., Los Angeles Superior Court of the State of California, County of Los Angeles, Case No. 23STCV04800.

~~1.2.1.2~~ “Administrator” means Phoenix Settlement Administrators, the neutral entity the Parties have agreed to appoint to administer the Settlement.

~~1.3.1.3~~ “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.

~~1.4.1.4~~ “Aggrieved Employee” means ~~for example, a person employed by XYZ all current and former non-exempt employees of Defendant in the State of California and classified as a — who worked for XYZ at any time during the PAGA Period~~ period between December 28, 2021 to June 18, 2024.

~~1.5.1.5~~ “Aggrieved Employee Data” means Aggrieved ~~Employee~~ Employees’ identifying information in ~~XYZ’s Defendant’s~~ possession including ~~the~~ each Aggrieved Employee’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.

~~1.6.1.6~~ “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current ~~Aggrieved Employee~~ Settlement Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.

1.7 “Approval Order” means the proposed Court Order Granting Approval of PAGA Settlement.

~~1.7.1.8~~ “Court” means the Superior Court of California, County of Los Angeles.

1.9 “Defendant” means Defendant Andrew Lauren Surfaces, Inc.

~~1.8.~~1.10 _____ “Defense Counsel” means

_____. Ogletree, Deakins, Nash, Smoak
& Stewart, P.C., including Andrew B. Levin.

~~1.9.~~1.11 “Effective Date” means the date by when both of the following have occurred: (a)
the Court enters a Judgment on its Order Approving the PAGA Settlement and (b)
the Judgment is final. The Judgment ~~is~~shall be final ~~as of the latest of the following
occurrences: (a)~~on the day the Court enters Judgment.

~~1.10.~~ _____ “Gross Settlement Amount” means \$ 343,500.00, which is the
total amount ~~XYZ~~Defendant agrees to pay under the Settlement except as provided in
Paragraph 9 below. The

1.12 Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, the Representative Service Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator's Administration Expenses Payment.

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

1.12.1.14 "Judgment" means the judgment entered by the Court based upon the Final Approval final approval.

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

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

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

1.18 "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

1.17.1.19 "PAGA Counsel" means _____, the attorneys representing the Plaintiff in the Action Matern Law Group, PC ("MLG"), including Matthew J. Matern, Matthew W. Gordon, and Vanessa M. Rodriguez.

1.18.1.20 "PAGA Counsel Fees Payment" and "PAGA Counsel Litigation Expenses Payment" mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.

1.21 "PAGA Notice" means Plaintiff's December 21, 2022 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

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

1.23 "PAGA Payment" means the Gross Settlement Amount minus Plaintiff's Representative Service Payment, the Administration Expenses Payment, the

PAGA Counsel Fees Payment, and the PAGA Counsel Litigation Expenses. The PAGA Payment will be allocated so that 75% of the payment will be paid to the LWDA and 25% will be paid to Aggrieved Employees.

1.20. ~~_____~~ “PAGA Period” means the period from _____ to _____.ⁱⁱ

~~1.22.1.1 “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698, et seq.).~~

1.24. ~~_____~~ “PAGA Notice” means Plaintiff’s _____ letter to XYZ and the LWDA
{and Plaintiff’s _____ letter to XYZ and the LWDA} providing notice
pursuant to Labor Code section 2699.3, subd.(a).

~~1.26.1.24 “PAGA Penalties” means the total amount of PAGA civil penalties between
December 28, 2021 to be paid from the Gross Settlement Amount, allocated 25% to the
Aggrieved Employees June 18, 2024.
(\$ _____) and the 75% to LWDA (\$ _____) in settlement of PAGA claims.~~

~~1.27.~~1.25 “Plaintiff” means _____Fernando Pulido, the
named plaintiff in the Action.

~~1.28.~~ “Approval Order” means the proposed Court Order Granting Approval of PAGA
Settlement.

~~1.29.~~1.26 “Released PAGA Claims” means the claims being released by ~~the~~ Plaintiff and
PAGA Counsel and Aggrieved Employees as described in Paragraph 5 below.

~~1.30.~~1.27 “Released Parties” means: XYZ Defendant and all affiliated predecessor and
successor entities, and each of ~~its former and~~ such entity’s respective present
~~directors and~~ former subsidiaries, affiliates, parents, agents, employees, former
employees, partners, owners, director’s, officers, ~~shareholders, owners, [members],~~
attorneys, trustees, insurers, representatives, predecessors, successors, and assigns-
~~[subsidiaries] [affiliates].~~

1.28 “Representative Service Payment” means the payment to the Plaintiff for initiating
the Action, providing services in support of the Action, and for a broader release of
claims

~~1.31.~~1.29 “Settlement” means the disposition of the Action effected by this Agreement and
the Judgment.

~~1.32.~~ “XYZ” means named Defendant _____.

2. RECITALS.

2.1. On _____March 3, 2023, Plaintiff commenced this Action by filing a
Complaint alleging ~~causes a~~ cause of action against XYZ Defendant for _____.
~~[Penalties Under the California Labor Code Private Attorneys General Act of 2004~~
(“PAGA”), as a Representative Action, Los Angeles Superior Court Case No.
23STCV04800. The Complaint is the operative complaint in the Action (the
“Operative Complaint.”) ~~[On _____,~~
~~Plaintiff filed a [e.g., First Amended Complaint] alleging causes of action against~~
~~XYZ for _____. The [e.g., First Amended] Complaint is the operative complaint in~~
~~the Action (the “Operative Complaint.”)]. XYZ.”). Defendant~~ denies the allegations
in the Operative Complaint, denies any failure to comply with the laws identified in
in the Operative Complaint and denies any and all liability for the causes of action
alleged.

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

~~0.0.~~ On _____ (type in additional dates) _____;

☐ 2.3. April 18, 2024, the Parties participated in an all-day mediation presided over by
_____Honorable Brian Walsh (Ret.) which led to this Agreement to settle the

Action.

☐ _____ (describe alternative means of negotiation) _____.

2.3. ~~Prior to ☐ mediation ☐ negotiating the Settlement, Plaintiff obtained, through~~

~~☐ formal ☐ informal discovery, _____.~~

~~The~~

2.4. In advance of the mediation, Defendant sent Plaintiff relevant information, including the total number of alleged Aggrieved Employees, the total number of pay periods during the PAGA period, Aggrieved Employees' average rate of pay, Plaintiff's personnel file, a 20% sampling of Aggrieved Employees' time and payroll records, and employee handbooks and policies applicable to Aggrieved Employees. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 77.

2.4.2.5. As of the time of execution, and to the best of their knowledge, the Parties, PAGA Counsel, and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

~~3.1.3.1~~ Gross Settlement Amount. ~~Except as otherwise provided by Paragraph 9 below,~~ XYZDefendant promises to pay \$____343,500.00 and no more as the Gross Settlement Amount. XYZDefendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph ~~6.14.3~~ of this Agreement.ⁱⁱⁱ The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved EmployeesSettlement Members to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to XYZDefendant.

~~3.2.3.2~~ Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the ~~Final Approval~~final approval:

~~3.2.1~~ ~~To PAGA Counsel: A PAGA Counsel Fees Payment of not more than __% which is currently estimated to be \$____ and PAGA Counsel Litigation Expenses Payment of not more than \$____.~~ XYZTo Plaintiff: A Representative Service Payment to the Plaintiff of not more than \$10,000.00 (in addition to any Individual PAGA Payment Plaintiff is entitled to receive as an Aggrieved Employee). Defendant will not oppose Plaintiff's request for a Representative Service Payment that does not exceed this amount. As part of the motion for PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, Plaintiff will seek Court approval for any Representative Service Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Representative Service Payment.

~~3.2.1.3.2.2~~ To PAGA Counsel: A PAGA Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be \$114,500.00 and PAGA Counsel Litigation Expenses Payment in an amount not to exceed \$25,000.00. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using

one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds ~~XYZ~~Defendant harmless, and indemnifies ~~XYZ~~Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

~~3.2.2.~~ To the Administrator: An ~~Administrator~~Administration Expenses Payment, not to exceed

~~3.2.3~~ \$- \$2,850.00, except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$~~2,850.00~~, the Administrator will retain the remainder in the Net Settlement Amount.

~~3.2.3.~~ To the LWDA and Aggrieved Employees: A PAGA ~~Penalties in the amount of~~

~~3.2.4~~ \$- to Payment shall be paid from the ~~Gross~~Net Settlement Amount, with 75% ~~(Amount)~~of the Net Settlement Amount allocated to the LWDA PAGA Payment and 25% (~~\$~~_____) allocated to the Individual PAGA Payments. _

~~_____~~ The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of ~~the~~ PAGA ~~Penalties~~ (~~\$~~_____) Payment by the total number of PAGA ~~Period~~ Pay Periods worked

3.2.4.1 by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA ~~Period~~ Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

~~3.2.3.2.3.2.4.2 If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount.~~ The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1.4.1 Aggrieved Employee PAGA Pay Periods. Based on a reasonable review of its records ~~to date, XYZ~~ in advance of the mediation in April 2024, Defendant estimates there are 93 Aggrieved Employees who worked a total 3,435 PAGA Pay Periods.

4.2.4.2 Aggrieved Employee Data. Within ~~[e.g., 15]~~ 30 days, ~~XYZ of the Court granting Approval of the Settlement, Defendant~~ will ~~simultaneously~~ deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved ~~Employee~~ Employees' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. ~~XYZ Defendant~~ has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which ~~XYZ Defendant~~ must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

4.3.4.3 Funding of Gross Settlement Amount. ~~XYZ Defendant~~ shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator ~~no later than [14]~~ by (i) January 13, 2025, or (ii) within sixty (60) days after approval of the Effective Date Settlement, whichever is later.

4.4.4.4 Payments from the Gross Settlement Amount. Within ~~[e.g., 14]~~ days after ~~XYZ Defendant~~ funds the Gross Settlement Amount, the Administrator will mail checks or wire funds for all Individual PAGA Payments, the Representative Service Payment, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Fees Payment, and the PAGA Counsel Expenses Payment. Disbursement of the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

~~4.4.0.~~ The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement

4.4.1 Administrator must update the recipients' mailing addresses using the National Change of Address Database.

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

4.4.2.4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is ~~uncashed and cancelled after the void date~~ not cashed within 180 days of payment, the Administrator shall transmit the funds represented by such checks ~~to~~ the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.

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

5. **RELEASES OF CLAIMS.** Effective on the date when ~~XYZ~~ Defendant fully funds the entire Gross Settlement Amount, Plaintiff and ~~PAGA Counsel~~ Aggrieved Employees will release claims against all Released Parties as follows:

5.15.1. —Plaintiff's Release. Plaintiff and his ~~or her~~ respective former and present spouses, representatives, agents, attorneys ~~(including PAGA Counsel)~~, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences ~~that~~ occurred during the PAGA Period~~;~~, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint and the PAGA Notice ("Plaintiff's Release"), including, but not limited to, failure to provide required meal and rest periods, failure to pay overtime wages, failure to pay minimum wages, failure to timely pay wages during employment, failure to pay all wages at termination/resignation, failure to provide accurate wage statements, failure to maintain required records, and failure to reimburse business expenses. Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the PAGA Period. Plaintiff's release also does not extend to Plaintiff's claims in his separate individual action currently pending in Los Angeles Superior Court, Case

No. 23STCV15739, however Plaintiff's Release in this matter does release his wage and hour claims and he agrees he cannot seek waiting time penalties in the individual action. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

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

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party.¹

5.2—Release by Aggrieved Employees:

5.2. . All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties during the PAGA Period that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated/contained in the Operative Complaint [] and the PAGA Notice (“Released PAGA Claims”), including, but not limited to, failure to provide required meal and rest periods, failure to pay overtime wages, failure to pay minimum wages, failure to timely pay wages during employment, failure to pay all wages at termination/resignation, failure to provide accurate wage statements, failure to maintain required records, and failure to reimburse business expenses. The Released PAGA Claims expressly exclude all other claims including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, and workers’ compensation.

5.2—Release by PAGA Counsel:

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

6.—MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT. The Parties

6. agree to jointly/Plaintiff will prepare and file ~~an application or a~~ motion for approval of this Settlement.

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

¹ This release does not extend to Plaintiff’s claims in his separate individual action currently pending in Los Angeles Superior Court, Case No. 23STCV15739.

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

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

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

7. SETTLEMENT ADMINISTRATION.

~~7.1~~ Selection of Administrator. The Parties have jointly selected

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

~~7.27.2.~~ Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of ~~calculating payroll tax withholdings and~~ providing reports to state and federal tax authorities.

~~7.37.3.~~ Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

~~7.47.4.~~ Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8. **AGGRIEVED EMPLOYEE SIZE ESTIMATES** ~~[and ESCALATOR CLAUSE].~~ Based on a reasonable review of its records prior to the April 2024 mediation, Defendant estimates that there are 93 Aggrieved Employees who worked 3,435 PAGA Pay Periods. Based on its records, XYZ estimates that, as of the date of this Settlement Agreement, (1) there are _____ Aggrieved Employees who worked _____ Pay Periods during the

~~PAGA Period.~~^{iv}

9. **CONTINUING JURISDICTION OF THE COURT.** The Parties agree that, ~~after entry of Judgment,~~ the Court ~~will~~shall retain continuing jurisdiction over ~~the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing this case under CCP Section 664.6 to ensure the continuing implementation of the provisions of this settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted~~ and that the time within which to bring this action to trial under CCP Section 583.310 shall be extended from the date of the signing of this agreement by ~~law~~all parties until the entry of the final approval order and judgment or if not entered the date this agreement shall no longer be of any force or effect.

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

10. ADDITIONAL PROVISIONS.

10.1 No Opt-Out. Aggrieved Employees may not object or opt out of this Settlement.

~~10.1~~10.2 ~~No Admission of Liability or Representative Manageability for Other Purposes.~~

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

~~10.2~~10.3 ~~Integrated Agreement.~~ Upon execution by all Parties and their counsel, this Agreement ~~together with its attached exhibits~~ shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

10.4 Enforcement. The Parties agree that, if any party breaches a material term of this Agreement, the Agreement shall be admissible in court for the purpose of enforcing the terms of the Agreement, and the prevailing party shall be entitled to an award of reasonable attorney's fees and costs.

~~10.3~~10.5 Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and ~~XYZ~~Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

~~10.4~~Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things,

~~10.6~~ modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

~~10.5~~~~10.7~~ No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

~~10.6~~~~10.8~~ No Tax Advice. Neither Plaintiff, PAGA Counsel, ~~XYZ~~Defendant, nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

~~10.7~~~~10.9~~ Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties, or their representatives, and approved by the Court.

~~10.8~~~~10.10~~ Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

~~10.9~~~~10.11~~ Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

~~10.10~~~~10.12~~ Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

~~10.11~~~~10.13~~ Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement. Plaintiff and Class Counsel agree not to disclose or publicize the Settlement, including the fact of the Settlement, its terms or contents, and the negotiations underlying the Settlement, in any manner or form, directly or indirectly, to any person or entity, except as may be strictly required to effectuate the terms of the Settlement. For the avoidance of doubt, this section includes Plaintiff and PAGA Counsel's agreement not to issue press releases, communicate with, or respond to any media or publication entities, publish information in manner or form, whether printed or electronic, on any medium or otherwise communicate, whether by print, video, recording or any other medium, with any person or entity concerning the Settlement, including the fact of the Settlement, its terms or contents and the negotiations underlying the Settlement, except as shall be

contractually required to effectuate the terms of the Settlement. However, PAGA Counsel may disclose the name of the Parties in this action, the venue/case number, and settlement details available in the public record, for the limited purpose of allowing PAGA Counsel to prove adequacy as counsel in other actions. PAGA Counsel may also disclose the terms of the Settlement to Aggrieved Employees that inquire about the terms of the Settlement.

~~10.11 — Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by XYZ in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data received from XYZ unless, prior to the Administrator's payment of all~~

~~Settlement Funds, XYZ makes a written request to PAGA Counsel for the return, rather than the destructions, of Aggrieved Employee Data.~~

~~10.12~~10.14 **Headings.** The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

~~10.13~~10.15 **Calendar Days.** Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

~~10.14~~10.16 **Notice.** All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Matthew J. Matern, Matthew W. Gordon, Vanessa M. Rodriguez
Matern Law Group, P.C.
1320 Rosecrans Avenue, Suite 200
Manhattan Beach, California 90266

To ~~XYZ~~Defendant:

Andrew B. Levin
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
2415 E. Camelback Road, Suite 800
Phoenix, AZ 85016

~~10.15~~10.17 **Execution in Counterparts.** This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

~~10.16~~10.18 **Stay of Litigation.** The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement ~~that,~~ and pursuant to CCP section Code of Civil Procedure § 583.330(a), the Parties agree to extend the ~~date to bring a case~~time within which the Action must be brought to

~~LASC CIV 298 NEW 06/22~~
~~For Optional Use~~

ⁱ This Form PAGA Settlement Agreement has been approved by the Court, the complex litigation judges and a 2022 Ad Hoc Wage and Hour Committee co-chaired by Judge David Cunningham and Judge Amy Hogue and comprised of 16 attorneys who regularly represent plaintiffs and defendants in wage and hour cases. It was drafted for settlements of single plaintiff PAGA claims against a single employer (XYZ). The parties will need to revise this form if there are multiple Plaintiffs or multiple Defendants. For settlements of wage and hour class actions that include PAGA claims, please use the Form Class Action and PAGA Settlement Agreement and Class Notice.

ⁱⁱ ~~See endnote ii above. THE COURT ASKS ALL COUNSEL USING THIS MODEL AGREEMENT TO ATTACH A REDLINED VERSION TO THEIR MOTIONS OR APPLICATIONS FOR APPROVAL SO THAT THE COURT CAN EASILY SEE EXACTLY HOW THE PARTIES HAVE MODIFIED THIS MODEL AGREEMENT.~~

ⁱⁱⁱ ~~The Parties are free to negotiate a payment plan structure, if appropriate, and payment deadlines may fall earlier as necessary thereto.~~

^{iv} ~~Insert negotiated terms, if any, addressing the possibility that XYZ's estimates of the number of Aggrieved Employees or Pay Periods turn out to be understated such as an ADR clause imposing a duty to engage in good faith negotiations or mediation or an "escalator" clause memorializing XYZ's promise to increase the Gross Settlement Amount in an agreed upon proportion to the percentage by which the calculated number of Aggrieved Employees or Pay Periods exceeds XYZ's estimates.~~

Dated: _____, 2024 OGLETREE DEAKINS

By: _____
ANDREW B. LEVIN
Attorneys for Defendant Andrew Lauren Surfaces,
Inc.

EXHIBIT D