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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SACRAMENTO

11 CHARLES BAINBRIDGE, individually, and
12 on behalf of other members of the general public
similarly situated,

13 Plaintiff,

14 vs.

15 AVANTI INSTALL CALIFORNIA, LLC, an
Iowa limited liability company; AVANTI
16 WINDOWS & DOORS, LLC, an Iowa limited
liability company; and DOES 1 through 10,
17 inclusive,

18 Defendants.
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Case No. 34-2022-00331897-CU-OE-GDS

Assigned to the Hon. Jill Talley

**NOTICE OF MOTION AND MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT;
MEMORANDUM OF POINTS AND
AUTHORITIES**

Date: June 28, 2024
Time: 9:00 a.m.
Place: Department 23

Complaint Filed: December 23, 2022
Trial Date: Nonet Set

1 **TO THE HONORABLE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

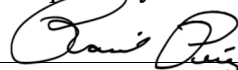
2 **PLEASE TAKE NOTICE** that on June 28, 2024 at 9:00 a.m., or as soon thereafter as counsel
3 may be heard, in Department 23 of the above-captioned court, located at 720 9th Street Sacramento,
4 California 95814, the Honorable Jill H. Talley presiding, Plaintiff Charles Bainbridge will, and hereby
5 does, move this Court to:

- 6 1. Preliminarily approve the settlement set forth in the Joint Stipulation of Class Action and
7 PAGA Settlement and Release, attached as Exhibit 1 to the Declaration of Raul Perez;
- 8 2. Conditionally certify the proposed Settlement Class;
- 9 3. Appoint Charles Bainbridge as the representative for the Settlement Class;
- 10 4. Appoint Capstone Law APC as Class Counsel;
- 11 5. Approve distribution of the proposed Notice of Class Action Settlement to the
12 Settlement Class;
- 13 6. Appoint CPT Group, Inc. as the Settlement Administrator; and
- 14 7. Set a hearing date for final approval of the settlement.

15 This Motion is based upon: (1) this Notice of Motion and Motion; (2) the Memorandum of
16 Points and Authorities in support of Motion for Preliminary Approval of Class Action and PAGA
17 Settlement; (3) the Declaration of Raul Perez; (4) the Joint Stipulation of Class Action and PAGA
18 Settlement and Release; (5) the Notice of Class Action Settlement; (6) the [Proposed] Order Granting
19 Preliminary Approval of Class Action Settlement; (7) the records, pleadings, and papers filed in this
20 action; and (8) upon such other documentary and oral evidence or argument as may be presented to the
21 Court at or prior to the hearing of this Motion. As this Motion is unopposed, the Parties respectfully
22 request relief from the page limit requirement set by California Rules of Court, Rule 3.1113(d).

23 Dated: June 5, 2024

Respectfully submitted,

24 by: 

25 Raul Perez
26 Robert J. Drexler, Jr.
27 Molly Ann DeSario
28 Jonathan Lee
CAPSTONE LAW APC

Attorney for Plaintiff Charles Bainbridge

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Charles Bainbridge (“Plaintiff”) seeks preliminary approval of the Joint Stipulation of Class Action and PAGA Settlement and Release,¹ which if approved, would provide considerable monetary relief for approximately 150 current and former employees of Defendants Avanti Install California, LLC, and Avanti Windows & Doors, LLC (“Defendants”) (collectively with Plaintiff, the “Parties”). The principal terms of the Settlement provide for the following:

- (1) Conditional certification of a Settlement Class defined as: All non-exempt hourly California employees who were employed by Defendants during the period from December 27, 2018 through June 16, 2024 (“Class Members”).
- (2) A **non-reversionary** Gross Fund of \$340,000. The Gross Fund includes:
 - (a) A Net Settlement Fund of \$146,667 (the Gross Fund minus the requested Attorneys’ Fees and Costs, Settlement Administration Costs, the PAGA Settlement Amount, and the Class Representative Enhancement Payment), which will be allocated to all Class Members on a pro-rata basis according to the number of weeks each Class Member worked during the Class Period. **The Entire Net Settlement Fund will be paid to all Class Members who do not opt out of the Settlement Class, and without the need to submit claims for payment.**
 - (b) Attorneys’ fees in the amount of one-third of the Gross Fund (or \$113,333), and litigation costs and expenses not to exceed \$20,000, to Capstone Law APC (“Plaintiff’s Counsel”).
 - (c) Settlement administration costs of approximately \$10,000, to be paid to the jointly selected Settlement Administrator, CPT Group, Inc.
 - (d) A \$40,000 PAGA settlement, of which 75% (\$30,000) will be paid to the Labor & Workforce Development Agency (“LWDA”), and the remaining 25% (\$10,000) (“PAGA Fund”), will be payable to PAGA Members, defined as: All non-exempt hourly California employees who were employed by Defendants during the period from January 23, 2022 through June 16, 2024. **The Entire PAGA Fund will be paid to all PAGA Members, and without the need to submit claims for payment.**
 - (e) A Class Representative Enhancement Payment of \$10,000 to Charles Bainbridge for his service on behalf of the Settlement Class, the risks he took in bringing the action on behalf of the class, and for a general release of all claims arising out of his employment with Defendants.

An objective evaluation of the Settlement confirms that the relief negotiated on the Settlement

¹ Hereinafter “Settlement Agreement” or “Settlement.” Unless indicated otherwise, capitalized terms used herein have the same meaning as those defined by the Settlement Agreement.

1 Class’s behalf is fair, reasonable, and valuable. The Settlement was negotiated by the Parties at arm’s
2 length with helpful guidance from Daniel Turner, Esq., an experienced and well-respected class action
3 mediator, and the Settlement confers substantial benefits to Class Members. This relief—averaging
4 approximately \$975 per Class Member from the Net Settlement Fund—is particularly impressive when
5 viewed against the difficulties encountered by plaintiffs pursuing wage and hour cases. Moreover, by
6 settling now rather than proceeding to trial, Class Members will not have to wait (possibly years) for
7 relief, nor will they have to bear the risk of class certification being denied or of Defendants prevailing at
8 trial, or of Plaintiff prevailing at trial but losing on appeal.

9 As discussed below, the proposed Settlement satisfies all criteria for preliminary settlement
10 approval under California law and falls within the range of reasonableness. Accordingly, Plaintiff
11 respectfully requests that this Court grant preliminary approval of the Settlement Agreement.

12 **II. FACTS AND PROCEDURE**

13 **A. Brief Overview of the Litigation and Settlement Negotiations**

14 Defendants manufacture and install vinyl windows and door systems for single-family
15 homebuilders in Arizona, Nevada, Texas and California, including in Fresno and Sacramento counties.
16 Defendants employed Plaintiff as a non-exempt Installer and Service Trainee in Sacramento, California
17 from approximately March 2022 to July 2022. (Complaint ¶ 4.) Plaintiff’s job duties included
18 performing window and door installations and repairs. (*Id.*)

19 Plaintiff filed this wage and hour action against Defendants on December 23, 2022. (Declaration
20 of Raul Perez [“Perez Decl.”] ¶ 2.) Plaintiff’s operative First Amended Complaint (“FAC”) alleges that
21 Defendants violated the following sections of the California Labor Code² and Business and Professions
22 Code: (1) Sections 510 and 1198 (unpaid overtime); (2) Sections 1182.12, 1194, 1197, 1197.1, and 1198
23 (unpaid minimum wages); (3) Sections 226.7, 512(a), 516, and 1198 (failure to provide meal periods);
24 (4) Sections 226.7, 516, and 1198 (failure to authorize and permit rest periods); (5) Sections 226(a),
25 1174(d), and 1198 (non-compliant wage statements and failure to maintain payroll records); (6) Sections
26 201 and 202 (wages not timely paid upon termination); (7) Section 204 (failure to timely pay wages
27

28 ² Unless indicated otherwise, further statutory references are to the California Labor Code.

during employment); (8) Section 2802 (unreimbursed business expenses); (9) Sections 2698, *et seq.* (PAGA); (10) California Business & Professions Code sections 17200, *et seq.* (unlawful business practices); and (11) California Business & Professions Code sections 17200, *et seq.* (unfair business practices). (*Id.*)

On October 18, 2023, the Parties participated in a mediation with Daniel Turner, Esq., an experienced mediator of wage and hour class actions. (Perez Decl. ¶ 3.) Mr. Turner helped to manage the Parties' expectations and provided a useful, neutral analysis of the issues and risks to both sides. (*Id.*) With Mr. Turner's guidance, the Parties were eventually able to negotiate a complete settlement of Plaintiff's claims. (*Id.*) The terms of the settlement are now set forth in complete and final form in the Joint Stipulation of Class Action and PAGA Settlement and Release. (*Id.*, Ex. 1.) At all times, the Parties' negotiations were adversarial and non-collusive. (*Id.*) The Settlement therefore constitutes a fair, adequate, and reasonable compromise of the claims at issue. (*Id.*)

B. The Proposed Settlement Fully Resolves Plaintiff's Claims

1. Composition of the Settlement Class

The proposed Settlement Class consists of all non-exempt hourly California employees who were employed by Defendants during the Class Period. (Settlement Agreement ¶ 5.) There are approximately 150 Class Members.

2. Settlement Consideration

Plaintiff and Defendants have agreed to settle the underlying class claims in exchange for the Gross Fund of \$340,000. The Gross Fund includes: (1) automatic payments to all Participating Class Members—meaning, all Class Members except those who submit timely and valid Requests for Exclusion—from the Net Settlement Fund; (2) \$113,333 in attorneys' fees (i.e., one-third of the common fund) and up to \$20,000 in litigation costs to Plaintiff's Counsel; (3) Settlement Administration Costs of approximately \$10,000; (4) a \$30,000 payment to the LWDA and a \$10,000 payment to PAGA Members; and (5) a Class Representative Enhancement Payment of \$10,000 for Plaintiff's service on behalf of the Settlement Class, the risks he took in bringing his representative claims, and for a general release of all claims arising out of his employment with Defendants. (Settlement Agreement ¶¶ 32-36.)

Subject to the Court approving Attorneys' Fees and Costs, Settlement Administration Costs, the

1 payment to the LWDA, and the Class Representative Enhancement Payment, the Net Settlement Fund
2 will be distributed to Participating Class Members in full. (Settlement Agreement ¶ 38.) Likewise, the
3 entire PAGA Fund will be distributed to PAGA Members. (*Id.* at ¶ 39.)

4 **3. Formula for Calculating Payments from the Net Settlement Fund**

5 Payments to Class Members will be made from the Net Settlement Fund. (Settlement
6 Agreement ¶ 40(a).) The individual allocations will be calculated on a pro-rata basis using the number of
7 weeks worked by each Class Member during the Class Period. (*Id.*) This is a fair and equitable means of
8 apportioning the Net Settlement Fund to Class Members. Class Members who worked for a longer
9 duration during the Class Period will receive proportionally larger payments than those employees who
10 worked for shorter durations. Given that there are approximately 150 Class Members, the average net
11 recovery will be approximately \$975. This average net recovery is significantly greater than many other
12 wage and hour class action settlements approved by California state and federal courts.³

13 **4. Formula for Calculating Payments from the PAGA Fund**

14 Payments to PAGA Members will be made from the PAGA Fund. (Settlement Agreement ¶
15 40(b).) The individual allocations will be calculated on a pro-rata basis using the number of weeks
16 worked by each PAGA Member during the PAGA Period. (*Id.*) This is a fair and equitable means of
17 apportioning the PAGA Fund to PAGA Members. PAGA Members who worked for a longer duration
18 during the PAGA Period will receive proportionally larger payments than those employees who worked
19 for shorter durations.

20
21 ³ See, e.g., *Sandoval v. Nissho of Cal., Inc.*, Case No. 37-2009-00091861 (San Diego County
22 Super. Ct. Dec. 7, 2010) (average net recovery of approximately \$145); *Fukuchi v. Pizza Hut*, Case No.
23 BC302589 (L.A. County Super. Ct. Sept. 29, 2006) (average net recovery of approximately \$120);
24 *Contreras v. United Food Group, LLC*, Case No. BC389253 (L.A. County Super. Ct. Sept. 10, 2009)
25 (average net recovery of approximately \$120); *Ressler v. Federated Department Stores, Inc.*, Case No.
26 BC335018 (L.A. County Super. Ct. Jan. 27, 2009) (average net recovery of approximately \$90); *Doty v.*
27 *Costco Wholesale Corp.*, Case No. CV05-3241 FMC-JWJx (C.D. Cal. May 14, 2007) (average net
28 recovery of approximately \$65); *Sorenson v. PetSmart, Inc.*, Case No. 2:06-CV-02674-JAM-DAD (E.D.
Cal. Dec. 17, 2008) (average net recovery of approximately \$60); *Lim v. Victoria's Secret Stores, Inc.*,
Case No. 04CC00213 (Orange County Super. Ct. Jan. 20, 2006) (average net recovery of approximately
\$35); *Gomez v. Amadeus Salon, Inc.*, Case No. BC392297 (L.A. Super. Ct. July 23, 2010) (average net
recovery of approximately \$20); *Jones v. Bath & Body Works, Inc.*, No. 2:13-cv-05206-FMO-AJW
(C.D. Cal. July 11, 2016) (average net recovery of approximately \$50); and *Palencia v. 99 Cents Only*
Stores, No. 34-2010-00079619 (Sacramento County Super. Ct. Oct. 11, 2012) (average net recovery of
approximately \$80).

1 **5. Releases by Participating Class Members and PAGA Members**

2 In exchange for the Gross Fund, Plaintiff and Participating Class Members will agree to release
3 the Released Class Claims during the Class Period:

4 All claims, rights, demands, liabilities, and causes of action, reasonably arising
5 from, or reasonably related to, the facts and matters that were alleged in the First
6 Amended Complaint and Plaintiff's LWDA letter, or that could reasonably have
7 been alleged based on the facts and matters alleged in the First Amended
8 Complaint or Plaintiff's LWDA letter, which includes claims for minimum wages,
9 overtime, rest breaks, meal breaks, inaccurate wage statements, failure to maintain
10 payroll records, failure to timely pay wages during employment and at
11 termination, waiting time penalties, failure to reimburse necessary business
12 expenses, and unfair business practices, and includes claims under Labor Code
13 sections 201-204, 226, 226.7, 510, 512, 516, 1182.12 *et seq.*, 1174, 1194, 1197,
14 1197.1, 1198, 2802, and the corresponding provisions of the CA wage orders, and
15 Bus. & Prof. Code sections 17200 *et seq.*, arising during the Class Period.

16 (Settlement Agreement ¶¶ 24, 52.)

17 And in exchange for the PAGA Settlement Amount, Plaintiff, the LWDA, and PAGA Members
18 will agree to release the Released PAGA Claims during the PAGA Period:

19 All claims for civil penalties under California Labor Code §§ 2698, *et seq.*,
20 reasonably arising from, or reasonably related to, the same facts and matters
21 alleged in the First Amended Complaint and Plaintiff's LWDA letter, during the
22 PAGA Period.

23 (Settlement Agreement ¶¶ 25, 53.)

24 **III. ARGUMENT**

25 **A. The Court Should Preliminarily Approve the Proposed Class Action Settlement**

26 **1. Courts Review Class Action Settlements to Ensure that the Terms Are**
27 **Fair, Adequate, and Reasonable**

28 California Rule of Court ("Rule"), Rule 3.769 requires litigants to obtain court approval of class
action settlements. Approval occurs in two steps: (1) an early "preliminary" review by the trial court; and
(2) a subsequent "final" review after notice of the settlement has been distributed to class members for
their comments and objections. Cal. R. Ct. 3.769(c)-(g); *Cellphone Termination Fee Cases*, 180 Cal.
App. 4th 1110, 1118 (2010) (the court first "preliminarily approves the settlement" and later "conducts a
final approval hearing to inquire into the fairness of the proposed settlement"). The motion for
preliminary approval must be accompanied by (1) the settlement agreement, (2) proposed notice to the

1 class, and (3) the proposed order. *Id.* at 3.769(c). The motion must also identify any agreement
2 concerning the payment of attorneys’ fees. *Id.* at 3.769(b).

3 If the trial court grants preliminary approval of a settlement, Rule 3.769(f) requires the court to
4 (1) schedule a final approval hearing and (2) approve the method by which the parties are to provide
5 notice to the class of the hearing and “an explanation of the proposed settlement.” The court must also
6 approve a procedure for class members to file objections to the settlement. *Id.* at 3.769(f). At the final
7 approval hearing, the court must conduct an inquiry into the fairness of the proposed settlement. *Id.* at
8 3.769(g).

9 Although Rule 3.769 does not provide detail as to the scope of review of the proposed
10 settlement, preliminary approval is warranted if the settlement falls within a “reasonable range.” *See*
11 *North County Contractor’s Assn., Inc. v. Touchstone Ins. Services*, 27 Cal. App. 4th 1085, 1089-90
12 (1994); Conte & Newberg, *Newberg on Class Actions*, §§ 11.26 (4th ed. 2002) (“Newberg”).

13 Reasonableness and fairness are presumed where, as here: (1) the settlement is reached through
14 “arms-length bargaining;” (2) investigation and discovery are “sufficient to allow counsel and the court
15 to act intelligently;” (3) counsel is “experienced in similar litigation;” and (4) the percentage of objectors
16 “is small” (collectively, “Dunk Factors”). *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1802 (1996).⁴

17 **2. The Investigation and Discovery Are “Sufficient To Allow Counsel and** 18 **The Court To Act Intelligently”**

19 As set forth in greater in Plaintiff’s Counsel’s declaration in support of this Motion, based on
20 their analysis of documents and class data produced by Defendants—including Defendants’ California
21

22 ⁴ The presumption of fairness is consistent with California’s public policy goal of favoring
23 settlements. *Stambaugh v. Super. Ct.*, 62 Cal. App. 3d 231, 236 (1976) (“the law wisely favors
24 settlements”); *Cellphone Termination Fee Cases*, 180 Cal. App. 4th at 1118 (“public policy generally
25 favors the compromise of complex class action litigation”); *7-Eleven Owners for Fair Franchising v.*
26 *Southland Corp.*, 85 Cal. App. 4th 1135, 1151 (2000) (“voluntary conciliation and settlement are the
27 preferred means of dispute resolution . . . [t]his is especially true in complex class action litigation”);
28 *Skulnick v. Roberts Express, Inc.*, 2 Cal. App. 4th 884, 891 (1992) (“public policy strongly discourages
litigation and encourages settlement [because settlements] can produce peace and goodwill in the
community while reducing the expense and persistency of litigation”). Additionally, in reviewing the
fairness of a class action settlement, due regard should be given to what is “otherwise a private
consensual agreement between the parties.” *Cellphone Termination Fee Cases*, 180 Cal. App. 4th at
1117. The inquiry “must be limited to the extent necessary to reach a reasoned judgment that the
agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties,
and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.” *Id.* at 1118.

1 labor policies and procedures manuals, time and wage records for most Class Members (time data was
2 provided for 100 employees, pay data for 127 employees)—Plaintiff’s Counsel were able to realistically
3 assess the value of Plaintiff’s claims and intelligently engage defense counsel in settlement discussions
4 that culminated in the proposed settlement now before the Court. (Perez Decl. ¶¶ 4-8.)

5 By engaging in a thorough investigation and evaluation of Plaintiff’s claims, Plaintiff’s Counsel
6 can opine that the Settlement, for the consideration and on the terms set forth in the Settlement
7 Agreement, is fair, reasonable, and adequate, and is in the best interests of Class Members in light of all
8 known facts and circumstances, including the risk of significant delay and uncertainty associated with
9 litigation, various defenses asserted by Defendants. (*Id.* at ¶ 9.)

10 **3. The Settlement Was Reached Through Arm’s-Length Bargaining in which**
11 **All Parties Were Represented by Experienced Counsel**

12 “[W]hat transpires in settlement negotiations is highly relevant to the assessment of a proposed
13 settlement’s fairness.” *State of Cal. v. Levi Strauss & Co.*, 41 Cal. 3d 460, 482 (1986). Courts presume
14 the absence of fraud or collusion in the negotiation of a settlement, unless evidence to the contrary is
15 offered; thus, there is a presumption that settlement negotiations are conducted in good faith. Newberg, §
16 11.51.

17 As explained above, the Parties participated in a mediation with Mr. Turner, an experienced
18 mediator of wage and hour class actions. Mr. Turner helped manage the Parties’ expectations and
19 provided a useful, neutral analysis of the issues and risks to both sides. *See In re Bluetooth Headset Prod.*
20 *Liab. Litig.*, 654 F.3d 935, 948 (9th Cir. 2011) (the presence of a neutral mediator is a factor weighing in
21 favor of finding of no collusion); *In re Apple Computer, Inc. Derivative Litig.*, No. C 06-4128 JF (HRL),
22 2008 WL 4820784, at *3 (N.D. Cal. Nov. 5, 2008) (mediator’s participation weighs considerably against
23 any inference of a collusive settlement); *D’Amato v. Deutsche Bank*, 236 F.3d 78, 85 (2d Cir. 2001) (a
24 “mediator’s involvement in pre-certification settlement negotiations helps to ensure that the proceedings
25 were free of collusion and undue pressure.”); *Villegas v. J.P. Morgan Chase & Co.*, No. 09-00261, 2012
26 WL 5878390, at *6 (N.D. Cal. Nov. 21, 2012) (participation in mediation “tends to support the
27 conclusion that the settlement process was not collusive”); *Ogbuehi v. Comcast of*
28 *California/Colorado/Fla./Oregon, Inc.*, 303 F.R.D. 337, 350 (E.D. Cal. 2014) (accord). At all times, the

Parties' negotiations were adversarial and non-collusive. (Perez Decl. ¶ 3.)

The Parties were represented by experienced class action counsel throughout the negotiations resulting in this Settlement. Plaintiff is represented by Capstone Law APC. Plaintiff's Counsel employ seasoned class action attorneys who regularly litigate wage and hour claims through certification and on the merits, and have considerable experience settling wage and hour class actions. (Perez Decl. ¶¶ 10-18, Ex. 2.) Defendants are represented by Littler Mendelson, P.C., a respected defense firm.

B. The Consideration Provided for the Class Claims Is Fair and Reasonable in Light of the Amount in Controversy Discounted by the Risks of Continued Litigation

In seeking approval, a settling party must provide sufficient information to "enable the court to make an independent assessment of the adequacy of the settlement terms." *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 131-32 (2008). Settling parties are not, however, required to partake in a hypothetical accounting exercise: "**Kullar does not ... require any such explicit statement of [maximum] value**; it requires a record which allows 'an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation.'" *Munoz v. BCI Coca-Cola Bottling Co.*, 186 Cal. App. 4th 399, 409-10 (2010) (quoting *Kullar*, 168 Cal. App. 4th at 120 (emphasis added)). Overall, "the most important factor" in determining "whether a settlement is fair and reasonable" is the "strength of the case for plaintiffs on the merits, balanced against the amount offered in the settlement." *Id.* at 409 n.6 (quoting *Kullar*, 168 Cal. App. 4th at 130). As explained in detail below, the Gross Fund is within the range of reasonableness in light of the nature and magnitude of the claims being settled and the various potential impediments to recovery.

Defendants' Exposure for the Class Claims	
Off-the-Clock Claim ⁵	\$73,584.00
Meal Period Claim ⁶	\$294,336.00
Overtime Claim ⁷	\$110,376.00
Rest Period Claim ⁸	\$294,336.00

⁵ ≈ 7,200 weeks worked in aggregate by all Class Members during the Class Period × \$20.44 average hourly wage × at least 30 minutes of off-the-clock work per week.

⁶ ≈ 7,200 weeks worked in aggregate by all Class Members during the Class Period × \$20.44 average hourly wage × at least 2 meal period violations per week.

⁷ ≈ 7,200 weeks worked in aggregate by all Class Members during the Class Period × \$30.66 average overtime rate × at least 30 minutes of off-the-clock work per week at the overtime rate of pay.

⁸ ≈ 7,200 weeks worked in aggregate by all Class Members during the Class Period × \$20.44 average hourly wage × at least 2 rest period violations per week.

Defendants' Exposure for the Class Claims	
Business Expense Reimbursement Claim ⁹	\$36,000.00
Wage Statement Claim ¹⁰	\$80,000.00
Final Pay Claim ¹¹	\$416,976.00
Total	\$1,305,608.00

This estimate assumes that each and every one of Plaintiff's claims would have been certified for class-wide resolution, that Plaintiff's would have prevailed at trial, and that the jury's verdict would have been affirmed on appeal. Understandably, for purposes of evaluating the settlement's reasonableness, this estimate must be "tempered by factors such as the risk of losing at trial, the expense of litigating the case, and the expected delay in recovery (often measured in years)." *In re Toys R Us-Delaware, Inc.-- Fair & Accurate Credit Transactions Act (FACTA) Litig.*, 295 F.R.D. 438, 453 (C.D. Cal. 2014).

Ultimately, Plaintiff's Counsel determined an appropriate range of recovery for settlement purposes by offsetting Defendants' maximum theoretical liability by: (i) the strength of the defenses to the merits of Plaintiff's claims; (ii) the risk of class certification being denied; (iii) the risk of losing on any of a number of dispositive motions that could have been brought between certification and trial (e.g., motions to decertify the class, motions for summary judgment, and/or motions in limine) that might have eliminated all or some of Plaintiff's claims, or barred evidence/testimony in support of the claims; (iv) the risk of losing at trial; (v) the chances of a favorable verdict being reversed on appeal; and (vi) the difficulties attendant to collecting on a judgment (collectively, the "Discount Factors").

After taking into account the Discount Factors, Plaintiff's Counsel determined that it would be reasonable to settle for a portion of Defendants' maximum potential exposure for the class claims (PAGA discussed in the following section), or approximately 26%. Such a discount is inherently reasonable given that Plaintiff would have had to overcome **multiple, dependent** contingencies to prevail on his claims. If anything, the projected odds for each of the above contingencies is generous to

⁹ $\approx$ 7,200 weeks worked in aggregate by all Class Members during the Class Period $\times$ average of at least \$5 in weekly expenses.

¹⁰ $\approx$ 1,600 wage statements issued during the 1-year statute of limitations period $\times$ \$50 penalty for each violation.

¹¹ This estimate is based on the following: Approximately 85 employee terminations during the 3-year statute of limitations period $\times$ 30 days of waiting-time penalties $\times$ 8-hour average shift length $\times$ \$20.44 average hourly wage.

the class’s position, since plaintiffs in employment cases rarely prevail on **all of the claims** at any of these dispositive stages. Courts routinely approve settlements that provide a similar discounted range of the maximum potential recovery.¹²

C. The Consideration Provided for the PAGA Claim Is Fair and Reasonable In Light of the Amount in Controversy Discounted by the Risks of Continued Litigation

Pursuant to the Settlement Agreement, \$40,000 from the Gross Fund shall be allocated to the resolution of the PAGA claim, of which 75% (\$30,000) will be paid directly to the LWDA, and the remaining 25% (\$10,000) will be paid to PAGA Members. (Settlement Agreement ¶ 36.)

This result was reached after good-faith negotiation between the parties. The amount was valued as follows: Based on information and evidence produced by Defendants during discovery, Plaintiff’s Counsel determined that aggrieved employees worked a combined total of approximately 1,600 pay periods during the PAGA statute of limitations period (“PAGA Period”). Statutory penalties would be calculated according to Labor Code 2699(f)(2): If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

However, a number of courts have found that the “subsequent” penalty under PAGA applies only after a court or the Labor Commissioner determines that the employer has violated the Labor Code. *See Gunther v. Alaska Airlines, Inc.*, 72 Cal. App. 5th 334, 356 (2021) (“the increased \$200 civil penalty for ‘subsequent violation[s]’ does not apply unless [Plaintiff] presents evidence that the Labor Commission or a court notified [Defendant] that it was in violation of the Labor Code.”); *Bernstein v. Virgin Am., Inc.*, 990 F.3d 1157, 1173 (9th Cir. 2021) (reversing judgment as to “heightened civil

¹² *See, e.g., In re Warfarin Sodium Antitrust Litig.*, 212 F.R.D. 231, 256-58 (D. Del. 2002) (recognizing that a reasonable settlement amount can be 1.6% to 14% of the total estimated damages); *In re Armored Car Antitrust Litig.*, 472 F. Supp. 1357, 1373 (N.D. Ga. 1979) (settlements with a value of 1% to 8% of the estimated total damages were approved); *In re Four Seasons Secs. Laws Litig.*, 58 F.R.D. 19, 37 (W.D. Okla.1972) (approving 8% of damages); *Balderas v. Massage Envy Franchising, LLP*, 2014 WL 3610945, at *5 (N.D. Cal. July 21, 2014) (finding that settlement which amounted to 8% of maximum recovery “[fell] within the range of possible initial approval based on the strength of plaintiff’s case and the risk and expense of continued litigation.”); *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1042 (N.D. Cal. 2008) (approving settlement of 6% to 8% of estimated damages).

penalties” because the defendant was not given notice by the Labor Commissioner when the “subsequent” violations occurred).¹³ Under this line of cases, Defendants’ exposure would be approximately \$160,000 = 1,600 violative pay periods × \$100.

It should be noted that PAGA gives the Court wide latitude to reduce the amount of civil penalties “based on the facts and circumstances of a particular case” when “to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.” Cal. Lab. Code § 2699(h). In reducing PAGA penalties, courts have considered issues including whether the employees suffered actual injury from the violations, whether the defendant was aware of the violations, and the employer’s willingness to fix the violation. *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504, 528 (2018) (awarding PAGA penalties of only 0.2% of the maximum); *see also Cotter v. Lyft, Inc.*, 193 F. Supp. 3d 1030, 1037 (N.D. Cal. 2016); *Fleming v. Covidien Inc.*, No. ED CV 10-01487 RGK (OPX), 2011 WL 7563047, at *4 (C.D. Cal. Aug. 12, 2011).

For example, during the penalty phase of trial in *Carrington*, the plaintiff requested PAGA penalties in the amount of approximately \$70 million. The trial court instead awarded only \$150,000—**or 0.21% of the maximum**—and stated that this reduction was warranted because (a) the Court did not believe it was appropriate to impose multiple penalties per pay period in which a violation occurred and (b) imposing the maximum penalty would be “unjust, arbitrary, and oppressive” based on Starbucks’s “good faith attempts” to comply with meal period obligations and because the court found the violations were minimal. *Carrington*, 30 Cal. App. 5th at 517-18. The Court of Appeal affirmed the lower court’s reduced award of a \$150,000 penalty under PAGA. *Id.* at 529. If a similar reduction had been applied

¹³ *See also Vieyara-Flores v. Sika Corp.*, No. EDCV19606JVSKKX, 2019 WL 2436998, at *5 (C.D. Cal. June 10, 2019) (“employers are not subject to heightened penalties . . . until a court or commissioner notifies the employer that it is in violation of the Labor Code . . . [Plaintiff] has not offered evidence that the Labor Commission or a court has notified them of PAGA violations [thus] PAGA’s heightened penalty of \$200 for subsequent violations will not be calculated to determine the amount in controversy”); *Chen v. Morgan Stanley Smith Barney, LLC*, No. 8:14-CV-01077 ODW (FFMx), 2014 WL 4961182 (C.D. Cal., October 2, 2014) (“Under the Labor Code, if an employer does not have notice that they are committing a violation, they are not subject to the heightened penalties.”); *Trang v. Turbine Engine Components Technologies Corp.*, No. CV 12-07658 DDP (RZx), 2012 WL 6618854 (C.D. Cal. Dec. 19, 2012) (“courts have held that employers are not subject to heightened penalties for subsequent violations unless and until a court or commissioner notifies the employer that it is in violation of the Labor Code”), citing *Amaral v. Cintas Corp. No. 2*, 163 Cal. App. 4th 1157 (2008).

here, Plaintiff would have recovered only approximately \$336 (\$160,000 × 0.0021 reduction).¹⁴

Plaintiff therefore determined an appropriate range of settlement for PAGA penalties as a percentage of the settlement range that was consistent with other hybrid class/PAGA settlements approved by California courts.¹⁵ Where PAGA penalties are negotiated in good faith and “there is no indication that [the] amount was the result of self-interest at the expense of other Class Members,” such amounts are generally considered reasonable. *Hopson v. Hanesbrands Inc.*, No. CV-08-0844 EDL, 2009 WL 928133, at *9 (N.D. Cal. Apr. 3, 2009); *see, e.g., Nordstrom Com. Cases*, 186 Cal. App. 4th 576, 579 (2010) (“[T]rial court did not abuse its discretion in approving a settlement which does not allocate any damages to the PAGA claims.”).

D. The Court Should Preliminarily Approve the Negotiated Class Representative Enhancement Payment

Enhancement payments “are fairly typical in class action cases.” *Cellphone Termination Fee Cases*, 186 Cal. App. 4th 1380, 1393 (2010) (affirming incentive awards of \$10,000); *Rodriguez v. West Publishing Corp.*, 563 F.3d 948, 958 (9th Cir. 2009), citing 4 Newberg on Class Actions (4th ed. 2002) § 11:38, and Eisenberg & Miller, *Incentive Awards to Class Action Plaintiffs: An Empirical Study*, 53 UCLA L. Rev. 1303 (2006). Enhancement payments “are intended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing

¹⁴ Likewise, in *Covidien*, the Court reduced the potential penalties by over 82%, awarding \$500,000 instead of maximum penalties of \$2.8 million. *Covidien*, 2011 WL 7563047 at *4; *see also Thurman v. Bayshore Transit Mgmt.*, 203 Cal. App. 4th 1112, 1135-36 (2012) (affirming 30% reduction under specified PAGA claim where the employer produced evidence that it took its obligations seriously); *Elder v. Schwan Food Co.*, No. B223911, 2011 WL 1797254, at *5-*7 (Cal. Ct. App. May 12, 2011) (reversing trial court decision denying any civil penalties where violations had been proven, remanding for the trial court to exercise discretion to reduce, but not wholly deny, civil penalties); *Li v. A Perfect Day Franchise, Inc.*, No. 5:10-CV-01189-LHK, 2012 WL 2236752, at *17 (N.D. Cal. June 15, 2012) (denying PAGA penalties for violation of California Labor Code section 226 as redundant with recovery on a class basis pursuant to California Labor Code section 226, directly); *Aguirre v. Genesis Logistics*, No. SACV 12-00687 JVS (ANx), 2013 WL 10936035 at *2-*3 (C.D. Cal. Dec. 30, 2013) (reducing penalty for past PAGA violations from \$1.8 million to \$500,000, after rejecting numerous other PAGA claims).

¹⁵ *Dearaujo v. Regis Corp.*, No. 2:14-cv-01408-KJM-AC, 2016 WL 3549473 at *3 (E.D. Cal. June 29, 2016) (preliminarily approving \$1.95 million settlement containing \$10,000 PAGA penalties with \$7,500 paid to LWDA); *Garcia v. Gordon Trucking, Inc.*, No. 1:10-CV-0324 AWI SKO, 2012 WL 5364575 at *7 (E.D. Cal. Oct. 31, 2012) (approving \$3.7 million settlement containing \$10,000 PAGA penalties with \$7,500 paid to LWDA); *Chu v. Wells Fargo Invst., LLC*, No. C 05-4526 MHP, 2011 WL 672645 at *1 (N.D. Cal. Feb. 16, 2011) (approving \$6.9 million settlement containing \$10,000 PAGA penalties with \$7,500 paid to LWDA).

1 the action, and, sometimes, to recognize their willingness to act as a private attorney general.” *Rodriguez*,
2 563 F.3d at 958–59. “[T]he rationale for making enhancement or incentive awards to named plaintiffs is
3 that they should be compensated for the expense or risk they have incurred in conferring a benefit on
4 other members of the class.” *Clark v. American Residential Services LLC*, 175 Cal. App. 4th 785, 806
5 (2009).

6 Approximately 150 current and former employees will share a \$340,000 settlement fund due
7 entirely to the effort and commitment of Charles Bainbridge. Subject to Court approval, therefore, the
8 Settlement provides for a Class Representative Enhancement Payment of \$10,000. The Class
9 Representative Enhancement Payment is fair and reasonable compensation for Plaintiff’s effort in
10 pursuing the action, serving as a private attorney general under PAGA, assisting counsel with the
11 litigation and settlement, regularly conferring with counsel on the status of his case and the strategies for
12 prosecuting the claims, and reviewing the proposed settlement to ensure that its terms are fair and
13 provide adequate relief for the Settlement Class. Plaintiff will file a formal motion for the negotiated
14 Class Representative Enhancement Payment once preliminary approval of the Settlement is granted.
15 Plaintiff respectfully submits that the above showing is sufficient for preliminary approval of the
16 negotiated Class Representative Enhancement Payment.

17 **E. The Court Should Preliminarily Approve the Negotiated Attorneys’ Fees and**
18 **Costs**

19 The purpose of an attorneys’ fee award in class action litigation is to reward counsel who took
20 the risk of non-payment and invested in a case that achieved a substantial positive result for the class.
21 “Fee awards in class actions average around one-third of the recovery regardless of whether the
22 percentage method or the lodestar method is used.” *Amaro v. Anaheim Arena Mgmt., LLC*, 69 Cal. App.
23 5th 521, 545 (2021) (quoting *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66, fn. 11 (2008)) (internal
24 quotations omitted). Consistent with that observation, California state and federal courts routinely award
25 attorneys’ fees equaling one-third of the common fund. *See, e.g. Laffitte v. Robert Half Internat. Inc.*, 231
26 Cal. App. 4th 860, 871 (2016) (“33 1/3 percent of the common fund is consistent with, and in the range
27 of, awards in other class action lawsuits”); *Chavez*, 162 Cal. App. 4th at 66 n.11 (“Empirical studies
28 show that, regardless whether the percentage method or the lodestar method is used, fee awards in class

actions average around one-third of the recovery.”); Eisenberg & Miller, *Attorney Fees in Class Action Settlements: An Empirical Study*, J. of Empirical Legal Studies, Vol. 1, Issue 1, 27-78, March 2004, at 35 (independent studies of class action litigation nationwide conclude that fees representing one-third of the total recovery is consistent with market rates). Notably, the California Supreme Court in *Laffitte v. Robert Half Internat. Inc.* affirmed a fee award representing one-third of the fund. *Laffitte v. Robert Half Internat. Inc.*, 1 Cal. 5th 480 (2016). At final approval, Plaintiff will seek Court-approval of attorneys’ fees of \$113,333 (one-third of the Class Settlement Amount) and \$20,000 in litigation costs.

F. California Law Authorizes Provisional Certification for Settlement Purposes

1. The California Standard for Class Certification

Class actions are statutorily authorized “when the question is one of common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court.” Cal. Civ. Proc. Code § 382; *Lee v. Dynamex, Inc.*, 166 Cal. App. 4th 1325, 1332 (2008). Class certification is appropriate when there is an “ascertainable class and a well-defined community of interest among class members.” *Sav-On Drug Stores, Inc. v. Superior Court*, 34 Cal. 4th 319, 326 (2004). Class treatment is appropriate even if class members at some point may be required to make an individual showing as to eligibility for recovery. *Bufl v. Dollar Financial Group, Inc.*, 162 Cal. App. 4th 1193, 1207 (2008); *Sav-On*, 34 Cal. 4th at 333.

Conditional certification of the proposed Settlement Class is particularly warranted here given the relatively relaxed standard for certification at the preliminary approval stage. *See Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794 (1996) (courts can apply a “lesser standard of scrutiny” for class certification in settlement cases).¹⁶ In *Dunk*, the California Court of Appeal specifically rejected the argument that the

¹⁶ *See also* Newberg on Class Actions § 13:18 (5th ed.) (courts “declin[e] to treat formal class certification as a prerequisite for preliminary approval and undertak[e] a more cursory class certification analysis at the preliminary approval stage.”); *Dearaujo v. Regis Corp.*, No. 2:14-CV-01408-KJM-AC, 2016 WL 3549473, at *6 (E.D. Cal. June 30, 2016) (“[D]espite the Supreme Court’s cautions in *Amchem* . . . , a cursory approach appears the norm.”); *In re Amtrak Train Derailment in Philadelphia, Pennsylvania*, No. 15-MD-2654, 2016 WL 1359725, at *4 (E.D. Pa. Apr. 6, 2016) (“[A] settlement class can be preliminarily certified based on a less rigorous analysis than that necessary for final certification.”); *In re Processed Egg Prod. Antitrust Litig.*, No. 08-MD-2002, 2014 WL 828083, at *2 (E.D. Pa. Feb. 28, 2014) (at the preliminary approval stage, “the Court must determine whether the proposed class should be conditionally certified, and leave the final certification decision for the Fairness Hearing.”).

1 standard for certifying a class for purposes of settlement is identical to the standard for certifying the
2 same class for purposes of litigation:

3 Geer argues the court must use the same standard under Federal Rules of Civil Procedure,
4 rule 23 (28 U.S.C.) to determine the propriety of both settlement and litigation class
5 certifications . . . That rule is contrary to the Ninth Circuit rule, stated in *Officers for Justice*
6 *v. Civil Service Com. supra*, 688 F.2d at p. 633, and the position of the leading
7 commentators (Newberg & Conte, *supra*, § 11.28 at p. 11–58), which allow a lesser
8 standard of scrutiny for settlement cases . . . We agree with the latter.

9 *Id.* at n19.

10 **2. The Proposed Settlement Class Is Ascertainable and There Is a Well-** 11 **Defined Community of Interest Among Class Members**

12 Whether a class is “ascertainable” within the meaning of Code of Civil Procedure section 382 is
13 “determined by examining (1) the class definition, (2) the size of the class, and (3) the means available
14 for identifying class members.” *Lee*, 166 Cal. App. 4th at 1334. Class members are ascertainable where
15 they may be readily identified without unreasonable expense or time by reference to official records. *Id.*

16 The community of interest requirement embodies three factors: (1) predominant common
17 questions of law or fact; (2) a class representative with claims or defenses typical of the class; and (3) a
18 class representative and counsel who can adequately represent the class. Cal. Civ. Proc. Code § 382.

19 In April of 2012, the California Supreme Court expounded on the element of predominance:

20 The “ultimate question” the element of predominance presents is whether “the
21 issues which may be jointly tried, when compared with those requiring separate
22 adjudication, are so numerous or substantial that the maintenance of a class action
23 would be advantageous to the judicial process and to the litigants.”

24 *Brinker Rest. Corp. v. Super. Ct.*, 53 Cal. 4th 1004, 1021 (2012) (citations omitted).

25 The proposed Settlement Class consists of all non-exempt hourly California employees who
26 were employed by Defendants during the Class Period. Because all Class Members are either current or
27 former employees of Defendants, the class is readily ascertainable from Defendants’ regular business
28 records.

Here, common issues of fact and law predominate because the California statutes relating to
each of Plaintiff’s claims, and Defendants’ defenses thereto, apply with equal force and effect to all Class
Members. Factually, Plaintiff contends that Defendants’ policies and practices apply class-wide and

1 Defendants' liability can be determined by facts common to all members of the class. The wage and hour
2 issues are both numerous and substantial, and a class action is the most advantageous method of dealing
3 with the claims of the Settlement Class Members.

4 Plaintiff's wage and hour claims are typical of the proposed Settlement Class because they arise
5 from the same factual bases and are based on the same legal theories applicable to the other Class
6 Members. Likewise, Plaintiff's interests are entirely coextensive with the interests of the Class. Plaintiff
7 maintains that he was injured by the same company-wide practices to which the proposed Settlement
8 Class was subject and seeks the same relief. Plaintiff has already demonstrated his ability to advocate for
9 the interests of the Class by initiating this litigation, undertaking representative discovery, and evaluating
10 the proposed settlement to assure that it is fair.

11 Additionally, Plaintiff is represented by competent counsel who have extensive experience in
12 litigating wage and hour class action cases. (Perez Decl. ¶¶ 10-18, Ex. 2.) Plaintiff's Counsel have
13 successfully briefed, argued, certified, and gained state and federal court settlement approval of the same
14 class-wide causes of action that are at issue in this case. (*Id.*) Plaintiff's Counsel's wage and hour class
15 action expertise establishes that they are well qualified to represent the interests of this Class.

16 A class action is superior to a multitude of individual lawsuits. Given the size and amount of
17 each individual Class Member's claim, Class Members likely have little incentive to litigate their claims
18 on an individual basis because the out-of-pocket expense and personal commitment necessary to litigate
19 each claim outweighs any potential recovery. In sum, class treatment is superior to individual, case-by-
20 case adjudication.

21 **3. The Proposed Notice Properly Informs Class Members about the Case and** 22 **the Settlement**

23 Class members are entitled to the best practical notice under the circumstances. *Kass v. Young*,
24 67 Cal. App. 3d 100, 106 (1977). The purpose of the notice is to give class members sufficient
25 information to decide whether they should accept the benefits offered, opt out and pursue their own
26 remedies, or object to the settlement. *Trotsky v. Los Angeles Fed. Savings & Loan Assn.*, 48 Cal. App. 3d
27 143, 151-52 (1975). The notice must advise class members "that they may be excluded from the class if
28 they so request and that they will be bound by the judgment, whether favorable or not, if they do not

request exclusion.” *Kass*, 67 Cal. App. 3d at 106. In a case such as this involving a significant number of class members, California authorities generally require service of the class notice by mail or similar reliable means. *Chance v. Super. Ct.*, 58 Cal. 2d 275, 290 (1962); *Cartt v. Super. Ct.*, 50 Cal. App. 3d 960, 972 (1975).¹⁷

The Parties have jointly drafted the Notice of Class Action Settlement (“Class Notice”) which fairly and neutrally informs Class Members of their rights and remedies in this action. The proposed Class Notice will be mailed to all Class Members by First Class mail and will include information regarding the nature of the lawsuit, a summary of the substance of the Settlement’s terms, the class definition, the procedure and time period within which to submit Requests for Exclusions or objections to the Settlement, the date for the final approval hearing, the formula used to calculate settlement payments, and the terms and scope of the Released Claims. (Settlement Agreement, Exhibit A.)

In the event Class Notices are returned as undeliverable, the Settlement Administrator will attempt to locate a current address using, among other resources, a skip-trace search. (Settlement Agreement ¶ 45.)

Accordingly, both the method of disseminating the Class Notice and content of the Class Notice satisfy due process and the requirements of California law. *See* Cal. R. Ct. 3.776(e)-(f); *State of Cal. v. Levi Strauss*, 41 Cal. 3d 460, 485 (1986) (the class notice must “fairly apprise the class members of the terms of the proposed compromise and of the options open to dissenting class members.”).

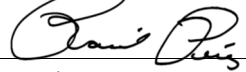
IV. CONCLUSION

The Parties have negotiated a fair and reasonable settlement of claims. Having appropriately presented the materials and information necessary for preliminary approval, the Parties request that the Court preliminarily approve the settlement.

¹⁷ Due process does not require that each Class Member actually receive a notice, but rather a procedure reasonably certain to reach Class Members. Wright, A. Miller & M. Kane, *Federal Practice and Procedure* § 1789, at 253 (2d ed. 1986). If appropriate notice is given, Class Members will be bound by the judgment even if they never actually receive the notice. *Fontana v. Elrod*, 826 F.2d 729, 732 (7th Cir. 1987).

1 Dated: June 5, 2024

Respectfully submitted,

2 by: _____

3 Raul Perez

4 Robert J. Drexler, Jr.

Molly Ann DeSario

Jonathan Lee

CAPSTONE LAW APC

Attorney for Plaintiff Charles Bainbridge

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8 Attorneys for Plaintiff Charles Bainbridge

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SACRAMENTO

11 CHARLES BAINBRIDGE, individually, and
12 on behalf of other members of the general public
similarly situated,

13 Plaintiff,

14 vs.

15 AVANTI INSTALL CALIFORNIA, LLC, an
Iowa limited liability company; AVANTI
16 WINDOWS & DOORS, LLC, an Iowa limited
liability company; and DOES 1 through 10,
17 inclusive,

18 Defendants.
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Case No. 34-2022-00331897-CU-OE-GDS

Assigned to the Hon. Jill Talley

**DECLARATION OF RAUL PEREZ IN
SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date: June 28, 2024

Time: 9:00 a.m.

Place: Department 23

Complaint Filed: December 23, 2022

Trial Date: Nonet Set

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DECLARATION OF RAUL PEREZ

I, Raul Perez, hereby declare as follows:

1. I am an attorney licensed to practice before all courts of the State of California. I am a Partner at Capstone Law APC (“Capstone” or “Plaintiff’s Counsel”), counsel for Plaintiff Charles Bainbridge (“Plaintiff”) in the above-captioned action. Unless indicated otherwise, I have personal knowledge of the following facts and if called as a witness, I could and would testify competently to them. I make this declaration in support of the Motion for Preliminary Approval of the Class Action and PAGA Settlement.

BRIEF OVERVIEW OF THE LITIGATION AND SETTLEMENT NEGOTIATIONS

2. Plaintiff filed this wage and hour action against Avanti Install California, LLC, and Avanti Windows & Doors, LLC (“Defendants”) (collectively with Plaintiff, the “Parties”) on December 23, 2022. Plaintiff’s operative First Amended Complaint alleges that Defendants violated the following sections of the California Labor Code¹ and Business and Professions Code: (1) Sections 510 and 1198 (unpaid overtime); (2) Sections 1182.12, 1194, 1197, 1197.1, and 1198 (unpaid minimum wages); (3) Sections 226.7, 512(a), 516, and 1198 (failure to provide meal periods); (4) Sections 226.7, 516, and 1198 (failure to authorize and permit rest periods); (5) Sections 226(a), 1174(d), and 1198 (non-compliant wage statements and failure to maintain payroll records); (6) Sections 201 and 202 (wages not timely paid upon termination); (7) Section 204 (failure to timely pay wages during employment); (8) Section 2802 (unreimbursed business expenses); (9) Sections 2698, *et seq.* (PAGA); (10) California Business & Professions Code sections 17200, *et seq.* (unlawful business practices); and (11) California Business & Professions Code sections 17200, *et seq.* (unfair business practices).

3. On October 18, 2023, the Parties participated in a mediation with Daniel Turner, Esq., an experienced mediator of wage and hour class actions. Mr. Turner helped to manage the Parties’ expectations and provided a useful, neutral analysis of the issues and risks to both sides. At all times, the Parties’ negotiations were adversarial and non-collusive. With Mr. Turner’s guidance, the Parties were eventually able to negotiate a complete settlement of Plaintiff’s claims. The terms of the settlement are

¹ Unless indicated otherwise, further statutory references are to the California Labor Code.

1 now set forth in complete and final form in the Joint Stipulation of Class Action and PAGA Settlement
2 and Release, attached as Exhibit 1. A copy of the Joint Stipulation of Class Action and PAGA Settlement
3 and Release has been uploaded to the LWDA's website.

4 4. It is my opinion that the Settlement constitutes a fair, adequate, and reasonable
5 compromise of the claims at issue. This opinion is informed by my experience litigating and settling
6 wage and hour actions, and my firm's thorough investigation into the factual and legal issues implicated
7 by Plaintiff's claims and Defendants' defenses.

8 5. Prior to filing the action, Plaintiff contacted Plaintiff's Counsel to discuss the factual
9 bases for pursuing an action against Defendants for Labor Code violations. Plaintiff was intimately
10 familiar with Defendants' labor policies and practices, and over the course of multiple interviews,
11 knowledgeably summarized those policies and practices to Plaintiff's Counsel. During those interviews,
12 he explained how the policies and practices were instituted, and provided valuable insight into how they
13 gave rise to the alleged Labor Code violations. Based on these interviews, Plaintiff's Counsel determined
14 that there were legally sufficient grounds for pursuing an action against Defendants.

15 6. In preparation for drafting the complaint, Plaintiff's Counsel conducted their own
16 preliminary investigation into the factual bases for Plaintiff's claims, which entailed, *inter alia*, a careful
17 examination of Plaintiff's employment records. Plaintiff's Counsel also prepared a detailed letter (12
18 pages) to notify the LWDA of Plaintiff's intent to seek civil penalties and other available relief
19 recoverable under PAGA for Labor Code violations. Significant research and effort were expended to
20 prepare a PAGA notice that was consistent with the developing legal requirements so as to withstand any
21 challenge from Defendants regarding the notice's sufficiency.

22 7. In response to Plaintiff's formal and informal discovery requests, Plaintiff's Counsel
23 received a considerable amount of documents and data, including employee demographic data,
24 Defendants' California labor policies and procedures manuals which covered a broad range of topics
25 including, *inter alia*, employee clock-in policies and procedures, attendance policies, meal periods/rest
26 periods, overtime & premium pay, etc., and time and wage records for most Class Members (time data
27 was provided for 100 employees, pay data for 127 employees). The document and data exchanges
28 allowed Plaintiff's Counsel to fully assess the nature and magnitude of the claims being settled, as well

1 as the impediments to recovery, and ultimately enabled Plaintiff's Counsel so as to make an independent
2 assessment of the reasonableness of the settlement's terms.

3 8. In summary, Plaintiff's Counsel performed a thorough investigation into the claims at
4 issue, which included: (1) determining Plaintiff's suitability as a private attorney general and class
5 representative through interviews, background investigations, and analyses of his employment files and
6 related records; (2) evaluating all of Plaintiff's potential representative claims; (3) researching similar
7 wage and hour class actions as to the claims brought, the nature of the positions, and the type of
8 employer; (4) analyzing a sample of Class Members' time and pay records; (5) reviewing Defendants'
9 labor policies and procedures manuals; (6) researching settlements in similar cases; (7) evaluating
10 Plaintiff's claims and estimating Defendants' liability for purposes of settlement; (8) drafting the
11 mediation brief; and (9) participating in the mediation.

12 9. By engaging in such a thorough investigation and evaluation of Plaintiff's claims,
13 Plaintiff's Counsel can opine that the Settlement, for the consideration and on the terms set forth in the
14 Settlement Agreement, is fair, reasonable, and adequate, and is in the best interests of Class Members in
15 light of all known facts and circumstances, including the risk of significant delay and uncertainty
16 associated with litigation, and various defenses asserted by Defendants.

17 CAPSTONE LAW APC FIRM PROFILE

18 10. Since its founding in 2012, Capstone has emerged as a major force in aggregate
19 litigation, making law on cutting-edge issues.

20 11. In February, 2015, Ryan H. Wu and I were honored with the *California Lawyer*
21 Attorney of the Year (CLAY) award in labor and employment for our work in the landmark case
22 *Iskanian v. CLS Transportation Los Angeles*, 59 Cal.4th 348 (2014), which preserved the right of
23 California workers to bring representative actions under the Labor Code Private Attorneys General Act
24 ("PAGA") notwithstanding a representative action waiver in an arbitration agreement.

25 12. Recognized as a leading firm in the prosecution of PAGA enforcement actions,
26 Capstone is responsible for some of the most important decisions in this area. In *Williams v. Superior*
27 *Court (Marshalls of Calif.)*, 3 Cal.5th 531 (2017), Capstone attorneys achieved a watershed decision
28 before the California Supreme Court as to the broad scope of discovery in PAGA actions. In *Baumann v.*

1 *Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), a case of first impression, Capstone successfully
2 argued that PAGA actions are state enforcement actions not covered by the Class Action Fairness Act.

3 13. Capstone has made important contributions to consumer protection law. In *McGill v.*
4 *Citibank N.A.*, 2 Cal. 5th 945 (2017), Capstone represented plaintiffs in a major decision holding that the
5 right to seek public injunctive relief under the state’s consumer protection laws cannot be waived and
6 that consumers need not satisfy class certification requirements to enjoin unfair business practices on
7 behalf of the public. In *Nguyen v. Nissan N.A.*, 726 F.3d 811 (9th Cir. 2019), Capstone attorneys reversed
8 a denial of class certification, making law that clarified the use of “benefit of the bargain” damages
9 models in consumer class actions.

10 14. Capstone served as class counsel in a number of significant wage and hour settlements,
11 including \$12 million on behalf of a nationwide class of in *Hightower v. JPMorgan Chase Bank*, Case
12 No. 11-01802 (C.D. Cal.), over \$10 million on behalf of non-exempt hourly workers in *Zamora v.*
13 *Balboa Life & Casualty LLC*, Case No. BC360026 (L.A. Super. Ct.); and \$9 million on behalf of
14 pharmacists in *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.). In *Vorise v. 24 Hour*
15 *Fitness USA, Inc.*, No. C 15-02051 (Contra Costa Super. Ct.), Capstone and co-counsel negotiated an
16 \$11 million PAGA settlement on behalf of over 36,000 employees for Labor Code violations.

17 15. Capstone has an established practice in automotive defect class actions and is currently
18 appointed sole class counsel, following contested class certification, in *Victorino v. FCA US, LLC*, No.
19 16-1617-GPC, 2019 WL 5268670 (S.D. Cal. Oct. 17, 2019) and *Salas v. Toyota Motor Sales, U.S.A.,*
20 *Inc.*, No. 15-8629-FMO, 2019 WL 1940619 (C.D. Cal. Mar. 27, 2019).

21 16. Capstone has settled over 100 high-stakes class and representative actions. Capstone’s
22 settlements have directly compensated hundreds of thousands of California workers and consumers.
23 Capstone’s actions have also forced employers to modify their policies for the benefit of employees,
24 including changing the compensation structure for commissioned employees and changing practices to
25 ensure that workers will be able to take timely rest and meal breaks. A leader in prosecuting PAGA
26 enforcement actions, Capstone has secured millions of dollars in civil penalties for the State of
27 California.

28 17. The following is a representative sample of Capstone’s settlements:

- a. *Navarro v. United Parcel Service, Inc.*, No. BC592098 (LA County Superior Court): gross settlement of \$16.5 million on behalf of approximately 180,000 non-exempt employees for wage and hour violations;
- b. *Hightower et al v. Washington Mutual Bank*, No. 2:11-cv-01802-PSG-PLA (N.D. Cal.): gross settlement of \$12 million on behalf of approximately 150,000 personal bankers, tellers, sales associates, and assistant branch manager trainees for wage and hour violations;
- c. *Vargas v. Ford Motor Co.*, 12-08388-AB (C.D. Cal.): providing cash payments and unique buyback program for nearly 2 million consumers;
- d. *Moore v. Petsmart, Inc.*, No. 5:12-cv-03577-EJD (N.D. Cal.): gross settlement of \$10 million on behalf of over 19,000 non-exempt PetSmart employees for wage and hour violations;
- e. *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.): gross settlement of \$9 million on behalf of approximately 1,200 pharmacists for wage and hour violations;
- f. *Perrin v. Nabors Well Services Co.*, No. 56-2007-00288718 (Ventura Super. Ct.): gross settlement of over \$6.5 million on behalf of oil rig workers for sleep time and other wage violations;
- g. *Cook v. United Insurance Co.*, No. C 10-00425 (Contra Costa Super. Ct.): gross settlement of \$5.7 million on behalf of approximately 650 sales representatives;
- h. *Alvarez v. MAC Cosmetics, Inc.*, No. CIVDS1513177 (San Bernardino Super. Ct.): gross settlement of \$5.5 million for approximately 5,500 non-exempt employees.
- i. *Aceves v. AutoZone, Inc.*, No. 14-2032 (C.D. Cal.): gross settlement of \$5.4 million in a case alleging FCRA violations;
- j. *Berry v. Urban Outfitters Wholesale, Inc.*, No. 13-02628 (N.D. Cal.):

gross settlement of \$5 million on behalf of over 12,000 nonexempt employees;

k. *The Children's Place Retail Stores Wage & Hour Cases*, No. JCCP 4790: gross settlement of \$5 million on behalf of 15,000 non-exempt employees;

l. *York v. Starbucks Corp.*, Case No. 08-07919 (C.D. Cal.): gross settlement of nearly \$5 million on behalf of over 100,000 non-exempt workers for meal break and wage statement claims;

m. *Rodriguez v. Swissport USA*, No. BC 441173 (Los Angeles Super. Ct.): gross settlement of nearly \$5 million on behalf of 2,700 non-exempt employees following contested certification;

n. *Asghari v. Volkswagen Group of North America*, Case No. 13-02529 (C.D. Cal.): Settlement providing complementary repairs of oil consumption defect, reimbursement for repairs, and extended warranty coverage of certain Audi vehicles valued at over \$20 million;

o. *Klee v. Nissan of North America*, Case No. 12-08238 (C.D. Cal.): Settlement providing complimentary electric vehicle charging cards and extending warranty coverage for the electric battery on the Nissan Leaf valued at over \$10 million.

18. Attached as Exhibit 2 is a true and correct copy of Capstone's firm resume.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 5th day of June, 2024, at Los Angeles, California.

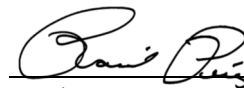

Raul Perez

Exhibit 1

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Attorneys for Defendants
 AVANTI INSTALL CALIFORNIA, LLC and
 AVANTI WINDOWS & DOORS, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

CHARLES BAINBRIDGE, individually, and
 on behalf of other members of the general public
 similarly situated,

Plaintiff,

vs.

AVANTI INSTALL CALIFORNIA, LLC, an
 Iowa limited liability company; AVANTI
 WINDOWS & DOORS, LLC, an Iowa limited
 liability company; and DOES 1 through 10,
 inclusive,

Defendants.

Case No. 34-2022-00331897-CU-OE-GDS

**JOINT STIPULATION FOR CLASS
 ACTION AND PAGA SETTLEMENT AND
 RELEASE**

ASSIGNED FOR ALL PURPOSES TO HON.
 JILL TALLEY, DEPT. 23

Trial Date: None Set
 Complaint Filed: December 23, 2022

JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT AND RELEASE

This Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement” or “Settlement Agreement” or “Agreement”) is made and entered into by and between Plaintiff Charles Bainbridge (“Plaintiff” or “Class Representative”), as an individual and on behalf of all others similarly situated, and Defendants Avanti Install California, LLC, and Avanti Windows & Doors, LLC (collectively, “Defendants”) (together with Plaintiff, the “Parties”).

DEFINITIONS

The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

1. “Action” means *Bainbridge v. Avanti Install California, LLC, et al.*, Sacramento County Superior Court case number 34-2022-00331897-CU-OE-GDS.
2. “Attorneys’ Fees and Costs” means attorneys’ fees approved by the Court for Class Counsel’s litigation and resolution of the Action, and all Court approved costs incurred and to be incurred by Class Counsel in the Action, including but not limited to, costs associated with documenting the Settlement, providing any notices to governmental agencies required as part of the Settlement or Court Order, securing the Court’s approval of the Settlement, administering the Settlement, obtaining entry of a Judgment terminating the Action, and expenses for any experts. Class Counsel will request attorneys’ fees not in excess of one-third (1/3) of the Gross Fund. Class Counsel will request costs not in excess of Twenty Thousand Dollars (\$20,000), to be deducted from the Gross Fund.
3. “Class Counsel” means Capstone Law APC.
4. “Class List” means a complete list of all Class Members that Defendants will diligently and in good faith compile from their records and provide to the Settlement Administrator within twenty-one (21) calendar days after Preliminary Approval of this Settlement. The Class List will be formatted in Microsoft Office Excel and will include each Class Member’s full name; most recent mailing address; Social Security number; dates of employment in class positions; the respective number of Workweeks that each Class Member worked during the Class Period and PAGA Period in non-exempt positions; and any other relevant information needed to calculate settlement payments.
5. “Class Member(s)” or “Settlement Class” means all non-exempt hourly California

employees who were employed by Defendants during the Class Period.

6. “Class Period” means the period from December 27, 2018 through the earlier of the date of Preliminary Approval of the Settlement Agreement or 90-days after the full execution of this Agreement.

7. “Class/PAGA Representative Enhancement Payment” means the amount to be paid to Plaintiff in the Action in recognition of his effort and work in prosecuting the Action on behalf of Class Members, and for his general releases of claims. Subject to the Court granting final approval of this Settlement Agreement and subject to the exhaustion of any and all appeals, Plaintiff will request Court approval of a Class/PAGA Representative Enhancement Payment of Ten Thousand Dollars (\$10,000).

8. “Court” means the California Superior Court for the County of Sacramento.

9. “Defendants” mean Avanti Install California, LLC, and Avanti Windows & Doors, LLC.

10. “Effective Date” means the latter of: (a) the last date after the final judgment by which a notice of appeal of the order granting final approval or the final judgment may be timely filed, and none is filed; or (b) if a notice of appeal from the order granting final approval or the final judgment is filed, the date on which the Court’s order granting final approval or final judgment is finally affirmed or upheld without any further right of appeal by any party or third party and following the expiration of any such period for such further appeal that may be available.

11. “First Amended Complaint” means the Plaintiff’s First Amended Complaint currently on file with the Court in this Action.

12. “Gross Fund” means the agreed amount of Three Hundred Forty Thousand Dollars (\$340,000), to be paid by Defendants in full satisfaction of all Released Class Claims and Released PAGA Claims arising from the Action, which includes all Individual Settlement Payments to Participating Class Members and PAGA Members, Attorneys’ Fees and Costs to Class Counsel, the Class/PAGA Representative Enhancement Payment to Plaintiff, the Labor and Workforce Development Agency Payment, and Settlement Administration Costs to the Settlement Administrator. This Gross Fund has been agreed to by Plaintiffs and Defendants based on the aggregation of the agreed-upon settlement value of individual claims in the Action. In no event will Defendants be liable for more than

1 the Gross Fund. There will be no reversion of the Gross Fund to Defendants. Defendants will be
2 separately responsible for any employer payroll taxes required by law, which shall not be paid from the
3 Gross Fund.

4 13. "Individual Settlement Payment" means each Participating Class Member's respective
5 share of the Net Settlement Fund.

6 14. "Net Settlement Fund" means the portion of the Gross Fund remaining after deducting
7 the Attorneys' Fees and Costs, the Class/PAGA Representative Enhancement Payment, the PAGA
8 Settlement Amount, and Settlement Administration Costs. The Net Settlement Fund will be distributed
9 to Participating Class Members. There will be no reversion of the Net Settlement Fund to Defendants.

10 15. "Notice of Objection" means a Class Member's valid and timely written objection to the
11 Settlement Agreement. For the Notice of Objection to be valid, it must include: (a) the objector's full
12 name, signature, address, and telephone number, (b) a written statement of all grounds for the objection
13 accompanied by any legal support for such objection; and (c) copies of any papers, briefs, or other
14 documents upon which the objection is based, if any documents are a basis of the objection.

15 16. "Notice Packet" means the Notice of Class Action Settlement, substantially in the form
16 attached as **Exhibit A**.

17 17. "PAGA Members" means all non-exempt hourly California employees who were
18 employed by Defendants during the PAGA Period.

19 18. "PAGA Period" means the period from January 23, 2022 through the earlier of the date
20 of Preliminary Approval of the Settlement Agreement or 90-days after the full execution of this
21 Agreement.

22 19. "PAGA Settlement Amount" means the amount that the Parties have agreed to pay to
23 the Labor and Workforce Development Agency ("LWDA") and PAGA Members in connection with
24 Plaintiff's claim under the Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698,
25 *et seq.*, "PAGA") ("PAGA Settlement"). The Parties have agreed that Forty Thousand Dollars (\$40,000)
26 of the Gross Settlement Amount will be allocated to the PAGA Settlement. Pursuant to PAGA, Seventy-
27 Five Percent (75%), or Thirty Thousand Dollars (\$30,000), of the PAGA Settlement Amount will be
28 paid to the California Labor and Workforce Development Agency ("Labor and Workforce Development

Agency Payment”), and Twenty-Five Percent (25%), or Ten Thousand Dollars (\$10,000) (“PAGA Fund”), of the PAGA Settlement will be disbursed to PAGA Members, and regardless whether they request to be excluded from the Settlement Class.

20. “Parties” means Plaintiff and Defendants collectively.

21. “Participating Class Members” means all Class Members who do not submit timely and valid Requests for Exclusion.

22. “Plaintiff” means Charles Bainbridge.

23. “Preliminary Approval” means the Court order granting preliminary approval of the Settlement Agreement.

24. “Released Class Claims” means all claims, rights, demands, liabilities, and causes of action, reasonably arising from, or reasonably related to, the facts and matters that were alleged in the First Amended Complaint and Plaintiff’s LWDA letter, or that could reasonably have been alleged based on the facts and matters alleged in the First Amended Complaint or Plaintiff’s LWDA letter, which includes claims for minimum wages, overtime, rest breaks, meal breaks, inaccurate wage statements, failure to maintain payroll records, failure to timely pay wages during employment and at termination, waiting time penalties, failure to reimburse necessary business expenses, and unfair business practices, and includes claims under Labor Code sections 201-204, 226, 226.7, 510, 512, 516, 1182.12 et seq., 1174, 1194, 1197, 1197.1, 1198, 2802, and the corresponding provisions of the CA wage orders, and Bus. & Prof. Code sections 17200 et seq., arising during the Class Period.

25. “Released PAGA Claims” means all claims for civil penalties under California Labor Code §§ 2698, et seq., reasonably arising from, or reasonably related to, the same facts and matters alleged in the First Amended Complaint and Plaintiff’s LWDA letter, during the PAGA Period.

26. “Released Parties” means Defendants and each of their respective former and present parents (including Pella Corporation), subsidiaries, divisions, and affiliated corporations and entities and each of their respective former and present officers, directors, employees, partners, shareholders, principals, agents, attorneys, insurers, and any other assigns or legal representatives.

27. “Request for Exclusion” means a timely letter submitted by a Class Member indicating a request to be excluded from the Settlement Class. The Request for Exclusion must: (a) set forth the

1 name, address, telephone number and last four digits of the Social Security Number of the Class
2 Member requesting exclusion; (b) be signed by the Class Member; (c) be returned to the Settlement
3 Administrator; (d) clearly state that the Class Member does not wish to be included in the Settlement;
4 and (e) be faxed or postmarked on or before the Response Deadline.

5 28. "Response Deadline" means the deadline by which Class Members must postmark or
6 fax to the Settlement Administrator Requests for Exclusion, postmark or fax disputes concerning the
7 calculation of Individual Settlement Payments, or postmark Notices of Objection to the Settlement
8 Administrator. The Response Deadline will be forty-five (45) calendar days from the initial mailing of
9 the Class Notice by the Settlement Administrator, unless the forty-fifth (45th) calendar day falls on a
10 Sunday or State holiday, in which case the Response Deadline will be extended to the next day on which
11 the U.S. Postal Service is open.

12 29. "Settlement Administration Costs" means the costs payable from the Gross Fund to the
13 Settlement Administrator for administering this Settlement, including, but not limited to, printing,
14 distributing, and tracking documents for this Settlement, tax reporting, distributing the Gross Fund, and
15 providing necessary reports and declarations, as requested by the Parties. The Settlement Administration
16 Costs will be paid from the Gross Fund, including, if necessary, any such costs in excess of the amount
17 represented by the Settlement Administrator as being the maximum costs necessary to administer the
18 Settlement.

19 30. "Settlement Administrator" means CPT Group, Inc. or any other third-party class action
20 settlement administrator agreed to by the Parties and approved by the Court for the purposes of
21 administering this Settlement. The Parties each represent that they do not have any financial interest in
22 the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that
23 could create a conflict of interest.

24 31. "Workweeks" means a week that each Class Member actually worked for Defendants
25 during the Class Period, subtracting workweeks on leave of absence (if any). All Class Members will be
26 credited with at least one Workweek during the Class Period, and all PAGA Members will be credited
27 with at least one Workweek during the PAGA Period.
28

TERMS OF AGREEMENT

Plaintiff, on behalf of himself and the Settlement Class, and Defendants agree as follows:

32. Funding of the Gross Fund. Defendant will wire transfer in the amount of the Gross Fund of Three Hundred Forty Thousand Dollars (\$340,000) to the Settlement Administrator, which will be deposited into a Qualified Settlement Account to be established by the Settlement Administrator. Defendants will pay the employer's share of payroll taxes separately. After the Effective Date, the Gross Fund will be used for: (a) Individual Settlement Payments; (b) the Labor and Workforce Development Agency Payment; (c) the Class/PAGA Representative Enhancement Payment; (d) Attorneys' Fees and Costs; and (e) Settlement Administration Costs. Defendants will wire the amount of the Gross Fund within fourteen (14) calendar days of the Effective Date ("Funding Date"). Defendants shall submit any additional payroll taxes within fourteen (14) calendar days following calculations from the Settlement Administrator.

33. Attorneys' Fees and Costs. Defendants agree not to oppose or impede any application or motion by Class Counsel for Attorneys' Fees and Costs of not more than One Hundred Thirteen Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$113,333.33) in attorneys' fees plus the reimbursement of costs and expenses associated with Class Counsel's litigation and settlement of the Action, not to exceed Twenty Thousand Dollars (\$20,000), both of which will be paid from the Gross Fund. These amounts satisfy all of the claims for attorney's fees and costs in the Action. A reduction in these amounts by the Court is not grounds to void the Agreement.

34. Class/PAGA Representative Enhancement Payment. In exchange for a general and complete release, and in recognition of his efforts and work in prosecuting the Action on behalf of Class Members, Defendants agrees not to oppose or impede any application or motion for a Class/PAGA Representative Enhancement Payment of Ten Thousand Dollars (\$10,000) for the named Plaintiff. A reduction in this amount by the Court is not grounds to void the Agreement. The Class/PAGA Representative Enhancement Payment will be paid from the Gross Fund and will be in addition to Plaintiff's Individual Settlement Payment paid pursuant to the Settlement. Plaintiff will be solely and legally responsible to pay any and all applicable taxes on the Class/PAGA Representative Enhancement Payment.

35. Settlement Administration Costs. The Settlement Administrator will be paid for the reasonable costs of administration of the Settlement and distribution of payments from the Gross Fund, which is currently estimated to be Ten Thousand Dollars (\$10,000). These costs, which will be paid from the Gross Fund, will include, *inter alia*, the required tax reporting on the Individual Settlement Payments, the issuing of 1099 and W-2 IRS Forms, distributing Notice Packets, calculating and distributing the Gross Fund, and providing necessary reports and declarations.

36. PAGA Settlement Amount. Subject to Court approval, the Parties agree that the amount of Forty Thousand Dollars (\$40,000) from the Gross Fund will be designated for satisfaction of Plaintiff's PAGA claim. Pursuant to PAGA, Seventy-Five Percent (75%), or Thirty Thousand Dollars (\$30,000), of this sum will be paid to the LWDA and Twenty-Five Percent (25%), or Ten Thousand Dollars (\$10,000), will be paid to PAGA Members in proportion to the number of Workweeks worked during the PAGA Period.

37. No Right to Exclusion or Objections to the PAGA Settlement. Because this Settlement resolves claims and actions brought pursuant to PAGA by Plaintiff acting as a proxy and as a Private Attorney General of, and for, the State of California and the LWDA, the Parties agree that no PAGA Member has the right to exclude himself or herself from the release of the Released PAGA Claims, and all PAGA Members will receive their shares of the PAGA Fund. The Parties also agree that no PAGA Member has the right to object to the PAGA Settlement Amount.

38. Net Settlement Fund. The entire Net Settlement Fund will be distributed to Participating Class Members. No portion of the Net Settlement Fund will revert to or be retained by Defendants.

39. PAGA Fund. The entire PAGA Fund will be distributed to all PAGA Members. No portion of the PAGA Fund will revert to or be retained by Defendants.

40. Individual Settlement Payment Calculations. Individual Settlement Payments will be calculated and apportioned from the Net Settlement Fund and PAGA Fund based on the number of Workweeks a Class Member worked during the Class Period and PAGA Period. Specific calculations of Individual Settlement Payments will be made as follows:

40(a) Payments from the Net Settlement Fund. Defendants will calculate the total number of Workweeks worked by each Class Member during the Class

1 Period and the aggregate total number of Workweeks worked by all Class
2 Members during the Class Period. To determine each Class Member's
3 estimated "Individual Settlement Payment" from the Net Settlement Fund,
4 the Settlement Administrator will use the following formula: The Net
5 Settlement Fund will be divided by the aggregate total number of
6 Workweeks during the Class Period, resulting in the "Workweek Value."
7 Each Class Member's "Individual Settlement Payment" will be calculated
8 by multiplying each individual Class Member's total number of Workweeks
9 by the Workweek Value. The Individual Settlement Payment will be
10 reduced by any required deductions for each Participating Class Member as
11 specifically set forth herein, including employee-side tax withholdings or
12 deductions. The entire Net Settlement Fund will be disbursed to all Class
13 Members who do not submit timely and valid Requests for Exclusion. If
14 there are any valid and timely Requests for Exclusion, the Settlement
15 Administrator shall proportionately increase the Individual Settlement
16 Payment for each Participating Class Member according to the number of
17 Workweeks worked, so that the amount actually distributed to the
18 Settlement Class equals 100% of the Net Settlement Fund.

19 40(b) Payments from the PAGA Fund. Defendants will calculate the total number
20 of Workweeks worked by each PAGA Member during the PAGA Period
21 and the aggregate total number of Workweeks worked by all PAGA
22 Members during the PAGA Period. To determine each PAGA Member's
23 estimated "Individual Settlement Payment," the Settlement Administrator
24 will use the following formula: The PAGA Fund will be divided by the
25 aggregate total number of Workweeks during the PAGA Period, resulting in
26 the "PAGA Workweek Value." Each PAGA Member's "Individual
27 Settlement Payment" will be calculated by multiplying each individual
28 PAGA Member's total number of Workweeks by the PAGA Workweek

Value. The entire PAGA Fund will be disbursed to all PAGA Members.

41. No Credit Toward Benefit Plans. The Individual Settlement Payments made to Participating Class Members under this Settlement, as well as any other payments made pursuant to this Settlement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

42. Administration Process. The Parties agree to cooperate in the administration of the settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in administration of the Settlement.

43. Delivery of the Class List. Within twenty-one (21) calendar days of Preliminary Approval, Defendants will provide the Class List to the Settlement Administrator.

44. Notice by First-Class U.S. Mail. Within fourteen (14) calendar days after receiving the Class List from Defendants, the Settlement Administrator will mail a Notice Packet to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing addresses identified in the Class List as updated by the process in Paragraph 44, below.

45. Confirmation of Contact Information in the Class Lists. Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. Any Notice Packets returned to the Settlement Administrator as non-deliverable on or before the Response Deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing on the Notice Packet. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address and/or Social Security number of the Class Member involved, and will then perform a single re-mailing. Those Class Members who receive a re-mailed Notice Packet, whether by skip-trace or by request, will have until the Response Deadline to submit a Request for Exclusion or an objection to the Settlement.

1 46. Notice Packets. All Class Members will be mailed a Class Notice. Each Class Notice
2 will provide: (a) information regarding the nature of the Action; (b) a summary of the Settlement's
3 principal terms; (c) the Settlement Class and PAGA Member definitions; (d) the total number of
4 Workweeks each respective Class Member and PAGA Member worked for Defendants during the Class
5 Period and PAGA Period; (e) each Class Member's and PAGA Member's estimated Individual
6 Settlement Payment and the formula for calculating Individual Settlement Payments; (f) the dates which
7 comprise the Class Period and PAGA Period; (g) instructions on how to submit Requests for Exclusion
8 or Notices of Objection; (h) the deadlines by which the Class Member must postmark or fax Request for
9 Exclusions, or postmark Notices of Objection to the Settlement; and (i) the claims to be released.

10 47. Disputed Information on Notice Packets. Class Members will have an opportunity to
11 dispute the Workweek information provided in their Notice Packets. To the extent Class Members
12 dispute their employment dates or the number of Workweeks on record, Class Members may produce
13 evidence to the Settlement Administrator showing that such information is inaccurate. The Settlement
14 Administrator will decide the dispute. Defendant's records will be presumed correct, but the Settlement
15 Administrator will evaluate the evidence submitted by the Class Member and will make the final
16 decision as to the merits of the dispute. All disputes will be decided within seven (7) calendar days of the
17 Response Deadline.

18 48. Defective Submissions. If a Class Member's Request for Exclusion is defective as to the
19 requirements listed herein, that Class Member will be given an opportunity to cure the defect(s). The
20 Settlement Administrator will mail the Class Member a cure letter within three (3) business days of
21 receiving the defective submission to advise the Class Member that his or her submission is defective
22 and that the defect must be cured to render the Request for Exclusion valid. The Class Member will have
23 until the later of (a) Response Deadline or (b) fifteen (15) calendar days from the date of the cure letter,
24 whichever date is later, to postmark or fax a revised Request for Exclusion. If the revised Request for
25 Exclusion is not postmarked or received by fax within that period, it will be deemed untimely.

26 49. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the non-
27 PAGA portion of the Settlement Agreement must sign and fax or postmark a written Request for
28 Exclusion to the Settlement Administrator within the Response Deadline. In the case of Requests for

1 Exclusion that are mailed to the Settlement Administrator, the postmark date will be the exclusive means
2 to determine whether a Request for Exclusion has been timely submitted.

3 50. Class Size. The Gross Fund was calculated based on the understanding that as of
4 October 18, 2023, there were approximately 133 employees of Defendants with approximately 6,300
5 Workweeks at the time of mediation.

6 51. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class Member
7 who does not affirmatively opt-out of the Settlement Agreement by submitting a timely and valid
8 Request for Exclusion will be bound by all of its terms, including those pertaining to the Released Class
9 Claims, as well as any Judgment that may be entered by the Court if it grants final approval to the
10 Settlement.

11 52. Releases by Participating Class Members. Upon the Funding Date, and except as to such
12 rights or claims as may be created by this Settlement Agreement, each Participating Class Member,
13 together and individually, on their behalf and on behalf of their respective heirs, executors,
14 administrators, agents, and attorneys, shall fully and forever release and discharge all of the Released
15 Parties, or any of them, from each of the Released Class Claims arising during the Class Period.

16 53. Releases by PAGA Members. Upon the Funding Date, and except as to such rights or
17 claims as may be created by this Settlement Agreement, each PAGA Member, together and individually,
18 on their behalf and on behalf of their respective heirs, executors, administrators, agents, and attorneys,
19 shall fully and forever release and discharge all of the Released Parties, or any of them, from each of the
20 Released PAGA Claims during the PAGA Period.

21 54. Objection Procedures. To object to the Settlement Agreement, a Class Member may
22 either postmark a valid Notice of Objection to the Settlement Administrator on or before the Response
23 Deadline, or appear in person at the Final Approval Hearing. Class Members who fail to object either by
24 submitting a valid Notice of Objection or appearing in person at the Final Approval Hearing will be
25 deemed to have waived all objections to the Settlement and will be foreclosed from making any
26 objections, whether by appeal or otherwise, to the Settlement Agreement. At no time will any of the
27 Parties or their counsel seek to solicit or otherwise encourage Class Members to submit written
28 objections to the Settlement Agreement or appeal from the final approval order and judgment. Class

Counsel will not represent any Class Members with respect to any such objections to this Settlement. If a Class Member timely submits both a Notice of Objection and a Request for Exclusion, the Request for Exclusion will be given effect and considered valid, the Notice of Objection shall be rejected, and the Class Member shall not participate in or be bound by the Settlement.

55. Certification Reports Regarding Individual Settlement Payment Calculations. The Settlement Administrator will provide Defendants' counsel and Class Counsel a weekly report that certifies the number of Class Members who have submitted valid Requests for Exclusion, objections to the Settlement, and whether any Class Member has submitted a challenge to any information contained in their Notice Packet. Additionally, the Settlement Administrator will provide to counsel for both Parties any updated reports regarding the administration of the Settlement Agreement as needed or requested.

56. Distribution Timing of Settlement Payments. Within fourteen (14) calendar days after the Funding Date, the Settlement Administrator will issue payments to: (a) Participating Class Members and PAGA Members; (b) the Labor and Workforce Development Agency; (c) Plaintiff; and (d) Class Counsel. The Settlement Administrator will also issue a payment to itself for Court-approved services performed in connection with the Settlement.

57. Un-cashed Settlement Checks. Proceeds represented by Individual Settlement Payment checks returned as undeliverable and Individual Settlement Payment checks remaining un-cashed for more than one hundred and eighty (180) calendar days after issuance will be tendered pursuant to Code of Civil Procedure section 384 to the Justice Gap Fund ("JGF") maintained by The State Bar of California. The Parties do not have a connection to or a relationship with JGF that could reasonably create the appearance of impropriety as between the selection of JGF as the recipient of the unclaimed residuals and the interests of the class.

58. Certification of Completion. Upon completion of administration of the Settlement, the Settlement Administrator will provide a written declaration under oath to certify such completion to the Court and counsel for all Parties. The Settlement Administrator will be solely responsible for preparation of the declaration, and the Settlement Administrator's failure to comply with this requirement will not affect the settlement's validity.

59. Treatment of Individual Settlement Payments. All Individual Settlement Payments will

1 be allocated as follows: (a) Twenty-Five Percent (25%) of each Individual Settlement Payment will be
2 allocated as wages for which IRS Forms W-2 will be issued; and (b) Seventy-Five Percent (75%) will be
3 allocated as non-wages for which IRS Forms 1099-MISC will be issued. Payments issued to PAGA
4 Members from the PAGA Fund will be treated as non-wages for which IRS Forms 1099-MISC will be
5 issued.

6 60. Administration of Taxes by the Settlement Administrator. The Settlement Administrator
7 will be responsible for issuing to Plaintiff, Participating Class Members, PAGA Members, and Class
8 Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to
9 this Settlement. The Settlement Administrator will also be responsible for forwarding all payroll taxes
10 and penalties to the appropriate government authorities.

11 61. Tax Liability. The Parties make no representation as to the tax treatment or legal effect
12 of the payments called for hereunder, and Plaintiff, Participating Class Members, and PAGA Members
13 are not relying on any statement, representation, or calculation by Defendants or by the Settlement
14 Administrator in this regard.

15 62. Circular 230 Disclaimer. Each party to this agreement (for purposes of this section, the
16 “acknowledging party” and each party to this agreement other than the acknowledging party, an “other
17 party”) acknowledges and agrees that (1) no provision of this agreement, and no written communication
18 or disclosure between or among the parties or their attorneys and other advisers, is or was intended to be,
19 nor will any such communication or disclosure constitute or be construed or be relied upon as, tax advice
20 within the meaning of United States Treasury Department circular 230 (31 CFR part 10, as amended);
21 (2) the acknowledging party (a) has relied exclusively upon his, her, or its own, independent legal and tax
22 counsel for advice (including tax advice) in connection with this agreement, (b) has not entered into this
23 agreement based upon the recommendation of any other party or any attorney or advisor to any other
24 party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or adviser to
25 any other party to avoid any tax penalty that may be imposed on the acknowledging party; and (3) no
26 attorney or adviser to any other party has imposed any limitation that protects the confidentiality of any
27 such attorney’s or adviser’s tax strategies (regardless of whether such limitation is legally binding) upon
28 disclosure by the acknowledging party of the tax treatment or tax structure of any transaction, including

1 any transaction contemplated by this agreement.

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

6 64. Nullification of Settlement Agreement. In the event that: (a) the Court does not finally
7 approve the Settlement as provided herein; or (b) the Settlement does not become final for any other
8 reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null
9 and void. Any order or judgment entered by the Court in furtherance of this Settlement Agreement will
10 likewise be treated as void from the beginning. Furthermore, in the event that 5% or more of the Class
11 Members opt-out of the Settlement, or Class Members who represent more than 5% of the aggregate
12 Workweeks opt-out of the Settlement, then Defendants shall have in their sole discretion the option to
13 nullify the Settlement Agreement which shall thereafter be null and void. If Defendants exercise this
14 right, they shall be responsible for all Settlement Administration Costs incurred to the date of avoidance.
15 The amount of the Gross Fund is deemed a material term and Defendants may revoke the agreement if
16 the Court insists on a change that increases the obligation of Defendants to pay an amount in excess of
17 the Gross Fund.

18 65. Preliminary Approval Hearing. Plaintiff will obtain a hearing before the Court to request
19 the Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary Approval Order
20 for: (i) conditional certification of the Settlement Class for settlement purposes only, (ii) preliminary
21 approval of the proposed Settlement Agreement, (iii) setting a date for a Final Approval/Settlement
22 Fairness Hearing. The Preliminary Approval Order will provide for the Notice Packet to be sent to all
23 Class Members as specified herein. In conjunction with the Preliminary Approval hearing, Plaintiffs will
24 submit this Settlement Agreement, which sets forth the terms of this Settlement, and will include the
25 proposed Notice Packet, which will include both the proposed Notice of Class Action Settlement
26 document, attached as Exhibit A. Class Counsel will be responsible for drafting all documents necessary
27 to obtain preliminary approval, but Defendants' counsel will have the right to review the drafts prior to
28 filing.

1 66. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of the
2 deadlines to postmark Requests for Exclusion or objections to the Settlement Agreement, and with the
3 Court's permission, a Final Approval/Settlement Fairness Hearing will be conducted to determine the
4 Final Approval of the Settlement Agreement along with the amounts properly payable for: (i) Attorneys'
5 Fees and Costs; (ii) the Class/PAGA Representative Enhancement Payments; (iii) Individual Settlement
6 Payments; (iv) the Labor and Workforce Development Agency Payment; and (v) all Settlement
7 Administration Costs. The Final Approval/Settlement Fairness Hearing will not be held earlier than
8 thirty (30) calendar days after the Response Deadline. Class Counsel will be responsible for drafting all
9 documents necessary to obtain final approval, but Defendants' counsel will have the right to review
10 drafts of the motion and proposed order and judgment. Class Counsel will also be responsible for
11 drafting the attorneys' fees and costs application to be heard at the final approval hearing.

12 67. Judgment and Continued Jurisdiction. Upon final approval of the Settlement by the
13 Court or after the Final Approval/Settlement Fairness Hearing, the Parties will present the Judgment to
14 the Court for its approval. After entry of the Judgment, the Court will have continuing jurisdiction solely
15 for purposes of addressing: (a) the interpretation and enforcement of the terms of the Settlement, (b)
16 Settlement administration matters, and (c) such post-Judgment matters as may be appropriate under court
17 rules or as set forth in this Settlement Agreement.

18 68. Release by Plaintiff. Upon the Effective Date, in addition to the claims being released by
19 all Participating Class Members, Plaintiff will release and forever discharge the Released Parties, to the
20 fullest extent permitted by law, of and from any and all claims, known and unknown, asserted and not
21 asserted, which Plaintiff has or may have against the Released Parties as of the date of execution of this
22 Settlement Agreement. To the extent the foregoing release is a release to which Section 1542 of the
23 California Civil Code or similar provisions of other applicable law may apply, Plaintiff expressly waives
24 any and all rights and benefits conferred by the provisions of Section 1542 of the California Civil Code
25 or similar provisions of applicable law which are as follows: A general release does not extend to claims
26 that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of
27 executing the release, and that, if known by him or her would have materially affected his or her
28 settlement with the debtor or released party.

69. Exhibits Incorporated by Reference. The terms of this Settlement Agreement include the terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein. Any Exhibits to this Settlement Agreement are an integral part of the Settlement.

70. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements may be deemed binding on the Parties, and no Party is relying on any representation not contained in this agreement.

71. Amendment or Modification. No amendment, change, or modification to this Settlement Agreement will be valid unless in writing and signed, either by the Parties or their counsel, and approved by the Court.

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

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

74. California Law Governs. All substantive terms of this Settlement Agreement and Exhibits hereto will be governed by and interpreted according to the laws of the State of California, except to the extent Federal Law applies.

75. Execution and Counterparts. This Settlement Agreement is subject only to the execution of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including electronic (e.g., DocuSign), facsimile, and scanned copies of the signature page, will be deemed to be one and the same instrument.

1 76. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this
2 Settlement Agreement is a fair, adequate and reasonable settlement of the Action and have arrived at this
3 Settlement after arm's-length negotiations with the assistance of an experienced wage/hour mediator and
4 in the context of adversarial litigation, taking into account all relevant factors, present and potential. The
5 Parties further acknowledge that they are each represented by competent counsel and that they have had
6 an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

7 77. Invalidity of Any Provision. Before declaring any provision of this Settlement
8 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent
9 possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement
10 as valid and enforceable.

11 78. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
12 certification for purposes of this Settlement only; except, however, that Plaintiff or Class Counsel may
13 appeal any reduction to the Attorneys' Fees and Costs below the amount they request from the Court,
14 and either party may appeal any court order that materially alters the Settlement Agreement's terms.

15 79. Class Action Certification for Settlement Purposes Only. The Parties agree to stipulate to
16 class action certification for purposes of the Settlement only. If, for any reason, the Settlement is not
17 approved, the stipulation to certification will be void. The Parties further agree that certification for
18 purposes of the Settlement is not an admission that class action certification is proper under the standards
19 applied to contested certification motions and that this Settlement Agreement will not be admissible in
20 this or any other proceeding as evidence that either (a) a class action should be certified, or (b)
21 Defendants are liable to Plaintiff or any Class Member or any other person or entity, other than according
22 to the Settlement's terms.

23 80. Non-Admission of Liability. The Parties enter into this Settlement to resolve the dispute
24 that has arisen between them and to avoid the burden, expense and risk of continued litigation. In
25 entering into this Settlement, Defendants do not admit, and specifically deny, that they violated any
26 federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or
27 any other applicable laws, regulations or legal requirements; breached any contract; violated or breached
28 any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with

1 respect to their employees or anyone else. Neither this Settlement Agreement, nor any of its terms or
2 provisions, nor any of the negotiations connected with it, will be construed as an admission or concession
3 by Defendants of any such violations or failures to comply with any applicable law. Except as necessary
4 in a proceeding to enforce the terms of this Settlement, this Settlement Agreement and its terms and
5 provisions will not be offered or received as evidence in any action or proceeding to establish any
6 liability or admission on the part of Defendants or to establish the existence of any condition constituting
7 a violation of, or a non-compliance with, federal, state, local or other applicable law.

8 81. No Public Comment: Neither the Parties nor their counsel Parties shall make or issue
9 any public statements to the press or any other third party, nor post any information on websites or other
10 public forums, concerning this Action in any way.

11 82. No Solicitation. The Parties separately agree that they and their respective counsel and
12 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the
13 Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to
14 communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class
15 Members.

16 83. Waiver. No waiver of any condition or covenant contained in this Settlement Agreement
17 or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or
18 constitute a further waiver by such Party of the same or any other condition, covenant, right or remedy.

19 84. Enforcement Actions. In the event that one or more of the Parties institutes any legal
20 action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement
21 or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be
22 entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including
23 expert witness fees incurred in connection with any enforcement actions.

24 85. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and
25 conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed
26 more strictly against one party than another merely by virtue of the fact that it may have been prepared
27 by counsel for one of the Parties, it being recognized that, because of the arms-length negotiations
28 between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

86. Representation by Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and that this Settlement Agreement has been executed with the consent and advice of counsel. Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the Settlement Agreement.

87. All Terms Subject to Final Court Approval. All amounts and procedures described in this Settlement Agreement will be subject to final Court approval.

88. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement.

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

Dated: 2/14/2024

DocuSigned by:

BAF5A08FC2594E9...

Charles Bainbridge
Plaintiff/Class Representative

Dated: 3/14/2024



By: Dini Semini, Asst. Treasurer

Avanti Install California, LLC

Dated: 3/14/2024



By: Dini Semini, Asst. Treasurer

Avanti Windows & Doors, LLC

APPROVED AS TO FORM

CAPSTONE LAW APC

Dated: 02/13/2024

By: Robert Drexler

Robert Drexler

Molly DeSario

Jonathan Lee

Attorneys for Plaintiffs

LITTLER MENDELSON, P.C.

Dated: March 18, 2024

By: Adam Fiss

Adam Fiss

Gregory Iskander

Nathaniel Jenkins

Attorneys for Defendants

Exhibit A

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO

Charles Bainbridge v. Avanti Install California, LLC, and Avanti Windows & Doors, LLC, et al.
Case No. 34-2022-0331897

NOTICE OF CLASS ACTION SETTLEMENT

If you are or were employed by Avanti Install California, LLC or Avanti Windows & Doors, LLC in California in a non-exempt (hourly) position at any time between December 27, 2018 and June 16, 2024, you are eligible to receive compensation from a class action settlement.

- A former non-exempt employee has filed a wage and hour class action against Avanti Install California, LLC and Avanti Windows & Doors, LLC. (collectively, “Avanti” or “Defendant”) on behalf of himself and all other similarly situated exempt and non-exempt individuals.
- Avanti denies all of the allegations, but the parties have reached a settlement that the Court has preliminarily approved on the ground that the settlement is fair, reasonable, adequate, and in the best interests of the class members.

*A court authorized this notice. This is not an advertisement.
This is not a lawsuit against you. You are not being sued.
But, your rights will be affected by this settlement.*

YOUR LEGAL RIGHTS & OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND GET AUTOMATIC PAYMENT	If you received this Notice of Class Action Settlement, you will <u>automatically</u> receive your share of the settlement, unless you exclude yourself. You do <u>not</u> need to submit a claim form to receive this payment.
EXCLUDE YOURSELF	You have the option to pursue separate legal action against Avanti for any of the claims in this lawsuit, except for the claims under the Labor Code Private Attorneys General Act (“PAGA”). You will have to hire your own attorney or represent yourself. If you would like to use this option, you <u>must</u> send the Settlement Administrator a written request to exclude yourself from the Settlement (“opt out”). <u>If you opt out, you will not receive an Individual Settlement Payment.</u> The deadline to submit a request to opt out is [REDACTED], 2024. By law, you cannot opt out of the PAGA portion of the settlement. If you worked for Avanti between January 23, 2022 and June 16, 2024, you will receive a check for your share of the PAGA portion of the settlement, even if you submit a request to opt out.
OBJECT	If you so choose, you may object to this settlement. The deadline to file objections with the Court is [REDACTED], 2024.

- Your options are explained in this notice. To receive your share of the settlement, you do not need to submit a claim form. If you do not want to participate in this class action settlement, you must submit a Request for Exclusion by [REDACTED], 2024.
- Any questions? Read the entire notice and if you still have questions, please call (xxx) xxx-xxxx.

PLEASE READ THIS NOTICE CAREFULLY.

Your rights will be affected by this settlement.

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13. What if I need additional information?.....	Page 6

1. Why did I get this notice?

You received this notice because Avanti’s business records indicate that you worked, or continue to work for Avanti in California at some point between December 27, 2018 and June 16, 2024 as a non-exempt employee. All current and former employees of Avanti who fall within these categories are known as Class Members.

2. Why should I read this notice?

This notice is to let you know that the parties in a putative class action filed against Avanti has reached a tentative settlement. The case is called *Charles Bainbridge v. Avanti Install California, LLC, Avanti Windows & Doors, LLC, et al.*, California Superior Court, Sacramento County Case No. 34-2022-0331897 (the “Bainbridge action”). Under California and federal law, a class action settlement must be reviewed by a judge via a two-step process: preliminary approval and final approval. On [REDACTED], 2024, the Honorable _____ of the California Superior Court for the County of Sacramento preliminarily approved the terms of this proposed settlement and ordered this notice to be mailed to all class members. The Court will hold a Final Fairness Hearing concerning the proposed settlement on [REDACTED], 2024 at [REDACTED].m. This notice tells you about your

rights to share in the settlement or to potentially exclude yourself (otherwise known as “opting out”) from the settlement.

3. What is this case about?

Plaintiff claims that Avanti violated California wage and hour laws and unfair competition laws by: failing to provide compliant meal breaks, rest breaks or pay premium wages in lieu thereof; failing to pay all wages due timely upon termination; failing to reimburse business expenses; failing to provide accurate, itemized wage statements; and failing to properly pay for overtime hours worked. Based on these alleged violations, Plaintiff also seeks to recover civil penalties under the Private Attorneys General Act, California Labor Code § 2698, *et seq.* (“PAGA”).

Avanti denies all of these allegations and asserts that it has fully complied with all of its legal obligations under California and federal law.

4. Who are the parties in this case?

Charles Bainbridge is the Plaintiff/Class Representative. Avanti Install California, LLC and Avanti Windows & Doors, LLC are the Defendants.

5. Why did Avanti join in the settlement?

Avanti joined in the settlement only as a compromise because it wished to finally, fully and completely resolve the dispute in the best interests of the Class. By agreeing to the terms of the settlement, Avanti does not admit any of the allegations in the case, that it has done anything wrong or that any Class Member has suffered any damage. As such, Avanti is not giving up their right to defend itself against any of the allegations involved in the lawsuit if this settlement fails for any reason.

6. How much is the settlement?

The Total Settlement Amount is \$340,000, which will cover Individual Settlement Payments to all Class Members who do not opt out; settlement administration costs estimated at **\$10,000**; a class representative service payment of up to \$10,000; Class Counsel’s attorneys’ fees up to \$113,333 and costs up to \$20,000, and a PAGA Fund of \$40,000. Avanti will pay its share of applicable employer-side payroll taxes on the wage portion of the settlement payments separately and in addition to the Total Settlement Amount.

Individual Settlement Payments

Individual Settlement Payments will be paid to all participating Class Members from the Net Settlement Amount (the amount remaining after deductions from the Total Settlement Amount for settlement administration fees, the class representative service payment, the PAGA Fund, and class counsel’s attorneys fees and costs).

The amount that you will receive will be based on the total number of weeks you worked for Avanti between December 27, 2018 and June 16, 2024 (the “Class Period”), as shown by Avanti’s records. The Net Settlement Amount (the amount remaining after deductions from the Total Settlement Amount for settlement administration fees, the class representative service payment, the PAGA Fund, and Class Counsel’s attorneys’ fees and costs) will be divided by the total number of weeks worked by all participating Class Members (*i.e.*, all individuals who do not opt out) during the Class Period to determine a multiplier. Each participating Class Member’s payment will equal the number of weeks worked by that participating Class Member during the Class Period, times the multiplier.

YOU DO NOT NEED TO SUBMIT A CLAIM FORM IN ORDER TO RECEIVE YOUR SHARE OF THE SETTLEMENT.

IF YOU DO NOT WANT TO PARTICIPATE IN THE SETTLEMENT, YOU MUST RETURN A REQUEST FOR EXCLUSION TO THE SETTLEMENT ADMINISTRATOR POSTMARKED NO LATER THAN [REDACTED], 2024.

Individual PAGA Payment

Out of the Total Settlement Amount, Avanti will pay an estimated \$40,000 as the PAGA Fund. 75% of this amount, or \$30,000, will be distributed to the LWDA as payment for civil penalties as required by law. The other 25%, or \$10,000, will be distributed to PAGA Employees on a pro rata basis based on the number of weeks they worked between January 23, 2022 and June 16, 2024.

The term “PAGA Employees” means all California-based employees of Avanti employed from January 23, 2022 through June 16, 2024, in the following positions as identified in Avanti’s records: all non-exempt (hourly) employees.

PAGA Employees do not have the opportunity to exclude themselves from the Individual PAGA Payment portion of the Settlement. If the Court approves the Settlement and you fall within the definition of PAGA Employees set forth above, you will receive an Individual PAGA Payment. Individual PAGA Payments will be treated as miscellaneous income which shall be reported on an IRS 1099 without withholdings.

7. *How much will I receive from the settlement?*

Avanti’s business records indicate that you worked [REDACTED] weeks during the period from December 27, 2018 to June 16, 2024. If you do not opt out of this Settlement, you will automatically be mailed a check for your pro rata share of the settlement payment, which will be based on your total weeks stated in this Notice. The amount you will receive is estimated to be \$[REDACTED].

If you disagree with your work weeks stated in the prior paragraph, please contact the settlement administrator and provide the total number of weeks that you believe you worked as a nonexempt, hourly-paid employee for Avanti between December 27, 2018 to June 16, 2024. You will need to submit supporting documentation for your claimed weeks by sending them to the Settlement Administrator at: **CPT GROUP, Inc., [REDACTED]**. If you disagree with your stated weeks, you must let the Settlement Administrator know and submit your supporting documentation by [REDACTED], 2024.

If you disagree with your stated weeks, the settlement administrator will review your claim and all supporting documentation that you provide and then will notify you of the final determination via written correspondence within 14 calendar days of their receipt of your supporting documentation.

8. *What are my options in this matter?*

Option 1: Participate in the Settlement and Receive Compensation. If you wish to participate in the settlement and receive compensation, you do not need to submit a claim form. You will be mailed a payment automatically if the settlement becomes final, unless you opted out.

Option 2: Opt Out of the Settlement. If you do not wish to participate in the settlement, you may exclude yourself from participating by submitting a written Request for Exclusion to the Settlement Administrator expressly and clearly indicating that you have received this Notice of Class Action Settlement, decided not to participate in the settlement, and desire to be excluded from the settlement. The written request for exclusion must include your name, signature, address, telephone number, and last four digits of your Social Security Number. Sign, date, and mail the request for exclusion by First Class U.S. Mail or equivalent, to the address below.

Settlement Administrator

c/o _____

The Request for Exclusion must be postmarked or faxed not later than _____, 2024. If you submit a Request for Exclusion which is not postmarked or faxed by _____, 2024, your Request for Exclusion will be rejected, and you will be included in the settlement class.

If you request exclusion, you will receive no money from the settlement, except for the amount allocated to the PAGA payment. The judgment will bind all Class Members who do not timely and properly request exclusion.

Option 3: Object to the Settlement: You can ask the Court to deny approval of the settlement by filing an objection. You cannot ask the Court to order a different settlement; the Court can only approve or reject the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object.

If you decide to object to the settlement because you find it unfair or unreasonable, you may submit a written objection stating why you object to the settlement, or you may instead appear at the Final Approval Hearing to object to the Settlement.

If you file a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney. All written objections and supporting documents must (1) clearly identify the case name and number (*Charles Bainbridge v. Avanti Install California, LLC, Avanti Windows & Doors, LLC, et al.*, California Superior Court, Sacramento County Case No. 34-2022-0331897); and (2) be submitted to the Court by mailing it to the Court Clerk, Sacramento County Superior Court, 720 Ninth Street, Sacramento, CA 95814, or by filing it in person at any location of the Sacramento County Superior Court; (3) the objection must also be returned by mail or fax to the Claims Administrator at the specified address or facsimile number (See Section 7). The last day to file an objection is _____, 2024. **If you object to the settlement, you will still receive your pro rata share of the Net Settlement Amount if the Court approves the settlement.**

Appearing at the Final Approval Hearing: The Final Approval Hearing is scheduled for _____, 2024 at ____:00 ____m. If you would like to appear at the Final Approval Hearing, you may do so by XXXXXXXX. The Final Approval Hearing may be continued to a later date and time without further notice to the Class, but you may confirm the hearing date and time by consulting the Court's website (<https://pacer.uscourts.gov/>) or the Settlement website [insert address].

9. What rights will I give up if I participate in this settlement?

Everyone who participates in the settlement will fully and finally release and discharge the Released Parties from all liability for the Released Claims.

The "Released Parties" means Avanti Install California, LLC, and Avanti Windows & Doors, LLC, and each of their respective former and present parents (including Pella Corporation), subsidiaries, divisions, and affiliated corporations and entities and each of their respective former and present officers, directors, employees, partners, shareholders, principals, agents, attorneys, insurers, and any other assigns or legal representatives.

Claims Released by Class Members

If you are a Class Member (as defined in Section 1 on page 2) and do not opt out of the settlement, you will release all claims, rights, demands, liabilities, and causes of action, reasonably arising from, or reasonably related to, the facts and matters that were alleged in the First Amended Complaint and Plaintiff's LWDA letter, or that could reasonably have been alleged based on the facts and matters alleged in the First Amended Complaint or Plaintiff's LWDA letter, which includes claims for minimum wages, overtime, rest breaks, meal breaks, inaccurate wage

statements, failure to maintain payroll records, failure to timely pay wages during employment and at termination, waiting time penalties, failure to reimburse necessary business expenses, and unfair business practices, and includes claims under Labor Code sections 201-204, 226, 226.7, 510, 512, 516, 1182.12 et seq., 1174, 1194, 1197, 1197.1, 1198, 2802, and the corresponding provisions of the CA wage orders, and Bus. & Prof. Code sections 17200 et seq. (“the Release Class Claims”). The release of the Released Class Claims shall be effective from December 27, 2018 to June 16, 2024.

Claims Released by PAGA Employees

If you are a PAGA Employee (as defined in Section 6 on page 4), you will release all claims for civil penalties under California Labor Code §§ 2698, et seq., reasonably arising from, or reasonably related to, the same facts and matters alleged in the First Amended Complaint and Plaintiff’s LWDA letter (“Released PAGA Claims”). The release of the Released PAGA Claims shall be effective from January 23, 2022 to June 16, 2024.

10. Is there a trial date set for this class action?

Currently, there is no trial date. If the settlement is not approved by the Court, the parties may proceed to trial.

11. Who are the attorneys representing the parties?

Attorneys for Plaintiff/Class Representative Charles Bainbridge Robert Drexler (SBN 119119) Jonathan Lee (SBN 267146) Capstone Law APC 1875 Century Park East, Suite 1000 Los Angeles, California 90067 Telephone: 1 (888) 402-8268 Email: info@AvantiLawsuit.com	Attorneys for Defendants Avanti Install California, LLC and Avanti Windows & Doors, LLC. Adam J. Fiss, Bar No. 211799 afiss@littler.com Gregory G. Iskander, Bar No. 200215 giskander@littler.com Nathaniel H. Jenkins, Bar No. 312067 njenkins@littler.com LITTLER MENDELSON P.C. 500 Capitol Mall, Suite 2000 Sacramento, California 95814 Telephone: 916.830.7200 Facsimile: 916.561.0828
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12. How will the attorneys, class representatives and settlement administrator be paid?

Class Counsel will apply for a fee of 1/3 (one-third) of the Total Settlement Amount (\$113,333), and reimbursement of actual litigation costs of up to \$20,000. Class Counsel will further apply for a class representative service payment of \$10,000 to Plaintiff Charles Bainbridge to recognize his services to the class action and for a general release of all claims arising out of his employment with Avant. Additionally, the Court-appointed Settlement Administrator’s costs (estimated to be \$10,000) associated with mailing and processing Class Members’ claims will be deducted from the settlement fund. Defendant will bear its own attorneys’ fees and costs outside of this settlement.

13. What if I need additional information?

For a more detailed statement of the matters involved in the Action and the Class Settlement, you may refer to the pleadings, the Settlement Agreement, and other papers filed in the case. The Settlement Agreement and other settlement documents are available at no charge on the Settlement website [insert address]. The full case file may be inspected at the Office of the Court Clerk, Sacramento County Superior Court, 720 Ninth Street, Sacramento,

CA 95814, during the Court's normal business hours. You may also inspect the case file online using the Court's website at <https://prod-portal-sacramento-ca.journaltech.com/public-portal/?q=Home>

All inquiries by Class Members about this settlement should be directed to:

**ADMINISTRATOR
CPT GROUP
Contact Information**

Refer to the Charles Bainbridge v. Avanti Install California, LLC Class Action Settlement.

PLEASE DO NOT CALL THE COURT.

Exhibit 2

FIRM PROFILE

Capstone Law APC is one of California's largest plaintiff-only labor and consumer law firms. Since its founding in 2012, Capstone has emerged as a major force in aggregate litigation, making law on cutting-edge issues and obtaining over two hundred million dollars in recovery for employees and consumers:

- In February, 2015, Capstone attorneys Raul Perez and Ryan H. Wu were honored with the *California Lawyer* Attorney of the Year (CLAY) award in labor and employment for their work in the landmark case *Iskanian v. CLS Transportation Los Angeles*, 59 Cal.4th 348 (2014), which preserved the right of California workers to bring representative actions under the Labor Code Private Attorneys General Act ("PAGA") notwithstanding a representative action waiver in an arbitration agreement.
- Recognized as a leading firm in the prosecution of PAGA enforcement actions, Capstone is responsible for some of the most important decisions in this area. In *Williams v. Superior Court (Marshall's of Calif.)*, 3 Cal.5th 531 (2017), Capstone attorneys achieved a watershed decision before the California Supreme Court as to the broad scope of discovery in PAGA actions. In *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), a case of first impression, Capstone successfully argued that PAGA actions are state enforcement actions not covered by the Class Action Fairness Act.
- Capstone has made important contributions to consumer protection law. In *McGill v. Citibank N.A.*, 2 Cal. 5th 945 (2017), Capstone represented plaintiffs in a major decision holding that the right to seek public injunctive relief under the state's consumer protection laws cannot be waived and that consumers need not satisfy class certification requirements to enjoin unfair business practices on behalf of the public. In *Nguyen v. Nissan N.A.*, 726 F.3d 811 (9th Cir. 2019), Capstone attorneys reversed a denial of class certification, making law that clarified the use of "benefit of the bargain" damages models in consumer class actions.
- Capstone served as class counsel in a number of significant wage and hour settlements, including \$12 million on behalf of a nationwide class of in *Hightower v. JPMorgan Chase Bank*, Case No. 11-01802 (C.D. Cal.), over \$10 million on behalf of non-exempt hourly workers in *Zamora v. Balboa Life & Casualty LLC*, Case No. BC360026 (L.A. Super. Ct.); and \$9 million on behalf of pharmacists in *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.). In *Vorise v. 24 Hour Fitness USA, Inc.*, No. C 15-02051 (Contra Costa Super. Ct.), Capstone and co-counsel negotiated an \$11 million PAGA settlement on behalf of over 36,000 employees for Labor Code violations.
- Capstone has an established practice in automotive defect class actions and is currently appointed sole class counsel, following contested class certification, in *Victorino v. FCA US, LLC*, No. 16-1617-GPC, 2019 WL 5268670 (S.D. Cal. Oct. 17, 2019) and *Salas v. Toyota Motor Sales, U.S.A., Inc.*, No. 15-8629-FMO, 2019 WL 1940619 (C.D. Cal. Mar. 27, 2019).

SUMMARY OF SIGNIFICANT SETTLEMENTS

Since its founding, Capstone has settled over 100 high-stakes class and representative actions totaling well over \$200 million dollars. Capstone's settlements have directly compensated hundreds of thousands of California workers and consumers. Capstone's actions have also forced employers to modify their policies for the benefit of employees, including changing the compensation structure for commissioned employees and changing practices to ensure that workers will be able to take timely rest and meal breaks. A leader in prosecuting PAGA enforcement actions, Capstone has secured millions of dollars in civil penalties for the State of California.

The following is a representative sample of Capstone's settlements:

- *Hightower et al v. Washington Mutual Bank*, No. 2:11-cv-01802-PSG-PLA (N.D. Cal.): gross settlement of \$12 million on behalf of approximately 150,000 personal bankers, tellers, sales associates, and assistant branch manager trainees for wage and hour violations;
- *Vargas v. Ford Motor Co.*, 12-08388-AB (C.D. Cal.): providing cash payments and unique buyback program for nearly 2 million consumers;
- *Moore v. PetSmart, Inc.*, No. 5:12-cv-03577-EJD (N.D. Cal.): gross settlement of \$10 million on behalf of over 19,000 non-exempt PetSmart employees for wage and hour violations;
- *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.): gross settlement of \$9 million on behalf of approximately 1,200 pharmacists for wage and hour violations;
- *Perrin v. Nabors Well Services Co.*, No. 56-2007-00288718 (Ventura Super. Ct.): gross settlement of over \$6.5 million on behalf of oil rig workers for sleep time and other wage violations;
- *Cook v. United Insurance Co.*, No. C 10-00425 (Contra Costa Super. Ct.): gross settlement of \$5.7 million on behalf of approximately 650 sales representatives;
- *Alvarez v. MAC Cosmetics, Inc.*, No. CIVDS1513177 (San Bernardino Super. Ct.): gross settlement of \$5.5 million for approximately 5,500 non-exempt employees.
- *Aceves v. AutoZone, Inc.*, No. 14-2032 (C.D. Cal.): gross settlement of \$5.4 million in a case alleging FCRA violations;
- *Berry v. Urban Outfitters Wholesale, Inc.*, No. 13-02628 (N.D. Cal.): gross settlement of \$5 million on behalf of over 12,000 nonexempt employees;
- *The Children's Place Retail Stores Wage & Hour Cases*, No. JCCP 4790: gross settlement of \$5 million on behalf of 15,000 nonexempt employees;
- *York v. Starbucks Corp.*, Case No. 08-07919 (C.D. Cal.): gross settlement of nearly \$5 million on behalf of over 100,000 non-exempt workers for meal break and wage statement claims;
- *Rodriguez v. Swissport USA*, No. BC 441173 (Los Angeles Super. Ct.): gross settlement of nearly \$5 million on behalf of 2,700 non-exempt employees following contested certification;
- *Asghari v. Volkswagen Group of North America*, Case No. 13-02529 (C.D. Cal.): Settlement providing complementary repairs of oil consumption defect, reimbursement for repairs, and extended warranty coverage of certain Audi vehicles valued at over \$20 million;
- *Klee v. Nissan of North America*, Case No. 12-08238 (C.D. Cal.): Settlement providing complimentary electric vehicle charging cards and extending warranty coverage for the electric battery on the Nissan Leaf valued at over \$10 million.

PROFESSIONAL BIOGRAPHIES

Partners

Rebecca Labat. Rebecca Labat is co-managing partner of Capstone Law APC, supervising the litigation for all of the firm's cases. She also manages the firm's co-counsel relationships and assists the firm's other partners and senior counsel with case management and litigation strategy. Under Ms. Labat's leadership, Capstone has successfully settled over 100 cases, delivering hundreds millions of dollars to California employees and consumers while earning statewide recognition for its cutting-edge work in developing new law.

Ms. Labat's career accomplishments representing consumers and employees in class actions include the certification of a class of approximately 3,200 current and former automobile technicians and shop employees for the miscalculation of the regular rate for purposes of paying premiums for missed meal and rest breaks.

Before her work representing plaintiffs in class and representative actions, Ms. Labat was an attorney with Wilson Elser and represented life, health, and disability insurers in litigation throughout California in both state and federal courts. She graduated from the University of California, Hastings College of the Law in 2002, where she was a member of the Hastings Civil Justice Clinic, served as a mediator in Small Claims Court for the City and County of San Francisco, and received the CALI Award for Excellence in Alternative Dispute Resolution. She received her undergraduate degree from the University of California, Los Angeles. Ms. Labat is a member of the National Employment Lawyers Association (NELA), the Consumer Attorneys Association of Los Angeles (CAALA), and the Beverly Hills Bar Association.

Raul Perez. Raul Perez is co-managing partner at Capstone, and has focused exclusively on wage and hour and consumer class litigation since 2011. Mr. Perez is the lead negotiator on numerous large settlements that have resulted in hundreds of millions to low-wage workers across California, including many of the most valuable settlements reached by Capstone.

During his career, Mr. Perez has successfully certified by way of contested motion and/or been appointed Lead Counsel or Interim Lead Counsel in several cases, including: *Lopes v. Kohl's Department Stores, Inc.*, Case No. RG08380189 (Alameda Super. Ct.); *Hightower v. JPMorgan Chase Bank*, Case No. 11-01802 (C.D. Cal.); *Tameifuna v. Sunrise Senior Living Managements, Inc.*, Case No. 13-02171 (C.D. Cal.) (certified class of over 10,000 hourly-paid employees); and *Berry v. Urban Outfitters Wholesale, Inc.*, Case No. 13-02628 (N.D. Cal.) (appointed lead counsel in a class action involving over 10,000 non-exempt employees). As the lead trial attorney in *Iskanian v. CLS Transportation Los Angeles*, 59 Cal. 4th 348 (2014), Mr. Perez, along with Mr. Wu, received the 2015 CLAY Award in labor and employment.

Mr. Perez received both his undergraduate degree and his law degree from Harvard University and was admitted to the California Bar in December 1994. Earlier in his career, Mr. Perez handled a variety of complex litigation matters, including wrongful termination and other employment related actions, for corporate clients while employed by some of the more established law firms in the State of California, including Morgan, Lewis & Bockius; Manatt Phelps & Phillips; and Akin Gump Strauss Hauer & Feld. Before Capstone, Mr. Perez was a partner at another large plaintiff's firm, helping to deliver millions of dollars in relief to California workers.

Melissa Grant. Melissa Grant is a partner at Capstone. Ms. Grant is responsible for litigating many of the firm's most contentious and high-stakes class actions. The author of numerous successful motions for class

certification, Ms. Grant is the lead or co-lead attorney on multiplied certified class actions currently on track for trial, representing over 140,000 California employees in pursuing their wage and hour claims. She is also at the forefront in developing the law on PAGA, including administrative exhaustion, standing, the nature of PAGA violations, the scope of discovery, and trials.

Prior to joining Capstone, Ms. Grant worked at the Securities and Exchange Commission as a staff attorney in the Enforcement Division, investigating ongoing violations of federal securities regulations and statutes and for Quinn Emanuel Urquhart & Sullivan, LLP, where she was an associate on the trial team that prosecuted the *Mattel v. Bratz* case. Ms. Grant began her legal career as a law clerk to the Honorable Harry Pregerson, Justice of the Ninth Circuit Court of Appeals before joining Sidley & Austin as an associate. She graduated from Southwestern Law School in 1999, where she served as editor-in-chief of the Law Review, and graduated *summa cum laude* and first in her class. Ms. Grant earned her undergraduate degree from Cornell University, where she received the JFK Public Service Award and the Outstanding Senior Award. Her published articles include: *Battling for ERISA Benefits in the Ninth Circuit: Overcoming Abuse of Discretion Review*, 28 Sw. U. L. Rev. 93 (1998), and CLE Class Actions Conference (SF) CAFA: *Early Decisions on Commencement and Removal of Actions* (2006).

Ryan H. Wu. Ryan H. Wu is a partner at Capstone and is primarily responsible for complex motion work and supervising court approval of class action settlements. Mr. Wu handles many of the most challenging legal issues facing Capstone's clients, including the scope and operation of PAGA, contested attorneys' fees motions, responding to objectors, and high-impact appeals. Mr. Wu is responsible for the merits briefing in *McGill v. Citibank, N.A.*, 2 Cal. 5th 945 (2017), where the California Supreme Court unanimously held that consumers' right to pursue public injunctive relief cannot be impeded by a contractual waiver or class certification requirements. He briefed the closely-watched *Williams v. Superior Court (Marshalls of CA LLC)*, 3 Cal.5th 531(2017), an important pro-employee ruling that broadened the scope of discovery in PAGA actions and resolved a longstanding conflict regarding third-party constitutional privacy rights. He also authored the briefs in *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), where, on an issue of first impression, the Ninth Circuit sided with Plaintiffs in holding that PAGA actions are state enforcement actions not covered by the CAFA. In February 2015, Mr. Wu, along with Mr. Perez, received the prestigious CLAY award for his successful appellate work, including briefing to the California Supreme Court, in *Iskanian*. Mr. Wu recently achieved an important consumer victory in *Nguyen v. Nissan N.A.*, 932 F.3d 811 (9th Cir. 2019), which clarified the use of "benefit of the bargain" damages models in consumer class actions.

Mr. Wu graduated from the University of Michigan Law School in 2001, where he was an associate editor of the *Michigan Journal of Law Reform* and contributor to the law school newspaper. He received his undergraduate degree in political science with honors from the University of California, Berkeley. He began his career litigating international commercial disputes and commercial actions governed by the Uniform Commercial Code. Mr. Wu is co-author of "*Williams v. Superior Court: Employees' Perspective*" and "*Iskanian v. CLS Transportation: Employees' Perspective*," both published in the *California Labor & Employment Law Review*.

Robert Drexler. Robert Drexler is a partner with Capstone Law where he leads one of the firm's litigation teams prosecuting wage-and-hour class actions. He has more than 25 years of experience representing clients in wage-and-hour and consumer rights class actions and other complex litigation in state and federal courts. Over the course of his career, Mr. Drexler has successfully certified dozens of employee classes for claims such as misclassification, meal and rest breaks, and off-the-clock work, ultimately resulting in multi-million

dollar settlements. He has also arbitrated and tried wage-and-hour and complex insurance cases. Mr. Drexler has been selected as one of Southern California's "Super Lawyers" every year from 2009 through 2020.

Before joining Capstone, Mr. Drexler was head of the Class Action Work Group at Khorrami Boucher, LLP and led the class action team at The Quisenberry Law Firm. Mr. Drexler graduated from Case Western Reserve University School of Law, where he served as Managing Editor of the Case Western Reserve Law Review and authored Defective Prosthetic Devices: Strict Tort Liability for the Hospital? 32 CASE W. RES. L. REV. 929 (1982). He received his undergraduate degree in Finance at Ohio State University where he graduated *cum laude*. Mr. Drexler is a member of Consumer Attorneys of California (CAOC) and Consumer Attorneys of Los Angeles (CAALA). He has been a featured speaker at class action and employment litigation seminars, and has published articles in CAOC's Forum Magazine and The Daily Journal.

Jamie Greene. Jamie Greene is a partner with Capstone Law, where she leads the firm's business development and case generation team. Ms. Greene is responsible for evaluating all potential new cases and referrals, developing new claims, and managing the firm's client and cocounseling relationships. She also supervises the pre-litigation phase for all cases, including investigation, analysis, and client consultation.

Before joining Capstone, Ms. Greene began her legal career at Makarem & Associates representing clients in a wide array of cases ranging from wrongful death, insurance bad faith, employment, personal injury, construction defect, consumer protection, and privacy law. Ms. Greene is a graduate of the University of Southern California Gould School of Law and earned her bachelor's degree from Scripps College in Claremont, California.

Bevin Allen Pike. Bevin Allen Pike is a partner with Capstone Law, where she focuses primarily on wage-and-hour class actions. Ms. Pike has spent her entire legal career representing employees and consumers in wage-and-hour and consumer rights class actions. Over the course of her career, Ms. Pike has successfully certified dozens of employee and consumer classes for claims such as meal and rest breaks, unpaid overtime, off-the-clock work, and false advertising.

Before joining Capstone, Ms. Pike's experience included class and representative action work on behalf of employees and consumers at some of the leading plaintiffs' firms in California. Ms. Pike graduated from Loyola Law School, Los Angeles, where she was an Editor for the International and Comparative Law Review. She received her undergraduate degree from the University of Southern California. Ms. Pike has been selected as one of Southern California's "Super Lawyers – Rising Stars" every year from 2012 through 2015.

Senior Counsel

Theresa Carroll. Theresa Carroll is a senior counsel at Capstone Law. Her practice is devoted to the Appeals & Complex Motions team, working on various settlement and approval projects.

Prior to joining Capstone, Ms. Carroll was an associate with Parker Stanbury, LLP, advising small business owners on various employment matters and worked as an associate attorney for O'Donnell & Mandell litigating employment discrimination and sexual harassment cases. In 1995, she graduated from Southwestern University School of Law where she was on the trial advocacy team and was awarded the prestigious Trial Advocate of the Year award sponsored by the American Board of Trial Advocates (ABOTA) for Southwestern University School of Law. Ms. Carroll received her Bachelor of Science degree in speech with an emphasis in theatre from Iowa State University.

Liana Carter. Liana Carter is a senior counsel with Capstone Law APC, specializing in complex motions, writs, and appeals. Her work on recent appeals has included reversing a denial of class certification decision in *Brown v. Cinemark USA, Inc.*, No. 16-15377, 2017 WL 6047613 (9th Cir. Dec. 7, 2017), affirming a denial of a motion to compel arbitration in *Jacoby v. Islands Rests., L.P.*, 2014 Cal. App. Unpub. LEXIS 4366 (2014) and reversal of a dismissal of class claims in *Rivers v. Cedars-Sinai Med. Care Found.*, 2015 Cal. App. Unpub. LEXIS 287 (Jan. 13, 2015). Ms. Carter was responsible for drafting the successful petition for review in *McGill v. Citibank N.A.*, as well as the petition for review and briefing on the merits in *Williams v. Superior Court*, 2017 WL 2980258. Ms. Carter also has extensive prior experience in overseeing settlement negotiations and obtaining court approval of class action settlements.

Ms. Carter was admitted to the California bar in 1999 after graduating from the University of Southern California Gould School of Law, where she was an Articles Editor on the board of the *Southern California Law Review*. She received her undergraduate degree with honors from the University of California, Irvine.

Anthony Castillo. Anthony Castillo is a senior counsel with Capstone Law. His practice focuses on analyzing and developing pre-litigation wage-and-hour and consumer claims, including PAGA representative actions and class actions for failure to pay overtime and minimum wages, meal and rest period violations, and claims under the Fair Labor Standards Act and the Investigative Consumer Reporting Agency Act. Prior to joining Capstone, he was an associate at a California bankruptcy practice, where he represented individual and business debtors in liquidations and re-organizations as well as various debt and foreclosure defense-related issues.

Mr. Castillo graduated from Loyola Law School, Los Angeles in 2009, where he volunteered with the Disability Rights Legal Center. He attended Stanford University for his undergraduate degree, majoring in Political Science and minoring in History. Anthony is admitted to practice law in California and Washington and before the United States District Court for the Central and Southern Districts of California.

Molly DeSario. Molly DeSario is a senior counsel with Capstone Law, specializing in employment class action litigation. Ms. DeSario's practice focuses primarily on wage-and-hour class action and Private Attorneys General Act litigation on behalf of employees for failure to pay overtime and minimum wages, provide meal and rest breaks, and provide compensation for off-the-clock work. She has experience briefing and arguing a multitude of dispositive motions in state and federal court and has successfully certified and settled numerous classes for claims such as exempt misclassifications, unpaid wages, missed meal and rest breaks, and unreimbursed business expenses.

Ms. DeSario began her career as a general practice litigation associate with Sandler & Mercer in Rockville, Maryland, handling a wide range of civil and criminal matters. Since 2005, she has primarily litigated class action cases and, for the last seven years, has focused on representing employees and consumers in class and collective actions across California and the nation, helping them recover millions of dollars in unpaid wages, restitution, and penalties. Molly graduated from Northeastern University School of Law in 2002. During law school, she interned for the U.S. Attorney's Office in Boston, Massachusetts, and the Honorable Paul L. Friedman at the U.S. District Court for the District of Columbia. She received her undergraduate degree in Marketing and International Business from the University of Cincinnati, where she graduated summa cum laude.

Helga Hakimi. Helga Hakimi is a senior counsel at Capstone Law. Her practice primarily involves employment law class action litigation, namely wage-and-hour class actions and PAGA litigation on behalf of

employees for failure to pay overtime and minimum wages, provide meal and rest breaks, and provide compensation for off-the-clock work, and related employer violations under the Fair Labor Standards Act and California Labor Code.

Prior to joining Capstone, Ms. Hakimi was a partner at a civil litigation firm in West Los Angeles, where she handled mainly real estate litigation, business litigation, and defense of some employment law matters; prior to that, she worked as a civil litigation attorney handling complex personal injury litigation. Ms. Hakimi's interest in advocating for employee rights began in law school, where she volunteered for the Workers' Rights Clinic and assisted low-income community members in Northern California's greater Bay Area region with employment-related legal issues. Upon graduating from law school, Ms. Hakimi worked as an associate for a municipal law firm, and thereafter at the local City Attorney's Office, where she advised municipalities and cities in civil matters involving land use, environmental law, development issues, Constitutional law, and First Amendment rights. Ms. Hakimi graduated from Berkeley Law (Boalt Hall School of Law), where she earned her Juris Doctorate and was awarded the Prosser Award in Remedies. Ms. Hakimi received her Bachelor of Arts degree in Political Science with a minor in Education Studies from the University of California, Los Angeles, and graduated summa cum laude and with Departmental Highest Honors.

Daniel Jonathan. Daniel Jonathan is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and PAGA litigation on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, claims under the Fair Labor Standards Act, and other California Labor Code violations.

Prior to joining Capstone, Mr. Jonathan began his career as an associate at Kirkland & Ellis representing Fortune 500 clients in high-stakes litigation in various matters, including class action defense and plaintiff's actions for accounting fraud. Following that, he was a senior counsel at a boutique litigation firm where he successfully first-chaired several trials. Mr. Jonathan graduated from the Northwestern University School of Law. He received his undergraduate degree in Accounting from the University of Southern California, where he graduated cum laude. He has passed the CPA examination and worked as an auditor at Deloitte before attending law school.

Jonathan Lee. A senior counsel with Capstone, Jonathan Lee primarily litigates employment class actions. At Capstone, Mr. Lee has worked on several major successful class certification motions, and his work has contributed to multi-million dollar class settlements against various employers, including restaurant chains, retail stores, airport staffing companies, and hospitals. Prior to joining Capstone, Mr. Lee defended employers and insurance companies in workers' compensation actions throughout California.

Mr. Lee graduated in 2009 from Pepperdine University School of Law, where he served as an editor for the Journal of Business, Entrepreneurship and the Law; he received his undergraduate degree from UCLA.

Cody Padgett. Cody Padgett is a senior counsel with Capstone Law. Mr. Padgett prosecutes automotive defect and other consumer class action lawsuits during all stages of litigation. His work has been integral to achieving contested class certification in several automotive defect cases, including *Falco v. Nissan N. Am. Inc.*, No. 13-00686 (C.D. Cal.) (certifying a class of owners/lessees of Nissan vehicles), *Salas v. Toyota Motor Sales, U.S.A., Inc.*, No. 15-08629 (C.D. Cal.) (certifying a class of owners/lessees of Toyota vehicles), and *Victorino v. FCA US, LLC*, No. 16-01617 (S.D. Cal.) (certifying a class of owners/lessees of Dodge Dart vehicles). Mr. Padgett's efforts have also contributed to major settlements of automotive defect and consumer cases, providing substantial monetary relief to millions of class members, valued in the hundreds of millions of

dollars. See, e.g., *Weckwerth v. Nissan North America, Inc.*, No. 18-00588 (M.D. Tenn.) (providing a \$407 to \$547 million-dollar benefit to a class of nearly 3 million consumers).

Prior to joining Capstone Law, Mr. Padgett assisted with the defense of major felony cases at the San Diego County Public Defender's Office. During law school, Mr. Padgett served as a judicial extern to the Honorable C. Leroy Hansen, United States District Court for the District of New Mexico. He graduated from California Western School of Law in the top 10% of his class and received his undergraduate degree from the University of Southern California, where he graduated *cum laude*. Mr. Padgett is admitted to practice in California, before the Ninth Circuit Court of Appeals, and before United States District Court for the Northern, Eastern, Central, and Southern Districts of California.

Eduardo Santos. Eduardo Santos is a senior counsel at Capstone Law, and concentrates his practice on managing and obtaining court approval of many of Capstone's wage-and-hour, consumer, and PAGA settlements, from the initial contract drafting phase to motion practice, including contested motion practice on attorneys' fees. Over the course of his career, Mr. Santos has helped to secure court approval of over one hundred high-stakes class and representative action settlements totaling over \$100 million.

Before joining Capstone, Mr. Santos began his career at a prominent plaintiff's firm in Los Angeles specializing in mass torts litigation, with a focus on complex pharmaceutical cases. Most notably, he was involved in the national Vioxx settlement, which secured a total of \$4.85 billion for thousands of individuals with claims of injuries caused by taking Vioxx. Mr. Santos graduated from Loyola Law School, Los Angeles, where he was a recipient of a full-tuition scholarship awarded in recognition of academic excellence. While in law school, Mr. Santos served as an extern for the Honorable Thomas L. Willhite, Jr. of the California Court of Appeal. He graduated magna cum laude from UCLA and was a recipient of the Ralph J. Bunche Scholarship for academic achievement.

Mao Shiokura. Mao Shiokura is a senior counsel with Capstone. Her practice focuses on identifying, evaluating, and developing new claims, including PAGA representative actions and class actions for wage-and-hour violations and consumer actions under the Consumers Legal Remedies Act, False Advertising Law, Unfair Competition Law, and other consumer protection statutes. Prior to joining Capstone, Ms. Shiokura was an associate at a California lemon law firm, where she represented consumers in Song-Beverly, Magnuson-Moss, and fraud actions against automobile manufacturers and dealerships.

Ms. Shiokura graduated from Loyola Law School, Los Angeles in 2009, where she served as a staff member of Loyola of Los Angeles Law Review. She earned her undergraduate degree from the University of Southern California, where she was a Presidential Scholar and majored in Business Administration, with an emphasis in Cinema-Television and Finance.

John Stobart. John Stobart is a senior counsel with Capstone Law. He focuses on appellate issues in state and federal courts and contributes to the firm's amicus curiae efforts to protect and expand the legal rights of California employees and consumers. Mr. Stobart has significant appellate experience having drafted over two dozen writs, appeals and petitions, and having argued before the Second, Fourth, and Fifth Districts of the California Court of Appeal.

Prior to joining Capstone, Mr. Stobart was a law and motion attorney who defended against civil liability in catastrophic injury and wrongful death cases brought against his clients, which included the railroad, public schools, small businesses, and commercial and residential landowners. He has drafted and argued scores of

dispositive motions at the trial court level and had success in upholding judgments and verdicts on appeal. He graduated cum laude from Thomas Jefferson School of Law where he was on the mock trial competition team and earned his undergraduate degree from the Ohio State University.

Roxanna Tabatabaepour. Roxanna Tabatabaepour is a senior counsel with Capstone Law. Her practice primarily involves representing employees in class actions and representative actions for various violations of the California Labor Code.

Before joining Capstone, Ms. Tabatabaepour's experience included representing workers in single-plaintiff and class/representative action lawsuits regarding wage-and-hour violations, as well as individual claims for discrimination, retaliation, failure to accommodate, harassment, and wrongful termination, under both California and federal laws. Ms. Tabatabaepour received her undergraduate degrees from the University of California San Diego. She subsequently graduated from the American University, Washington College of Law, where she was a Marshall-Brennan Constitutional Literacy Fellow and taught Constitutional Literacy to teens in marginalized communities.

Ryan Tish. Ryan Tish is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and Private Attorneys General Act ("PAGA") representative actions on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, failure to reimburse necessary business expenses, and other claims under the Fair Labor Standards Act and California Labor Code.

Before joining Capstone, Mr. Tish was an associate at a civil litigation firm in Los Angeles, handling a variety of matters, including commercial contracts, real estate, and employment law. Mr. Tish has represented both employers and employees in actions ranging from individual claims of discrimination, harassment, retaliation, and wrongful termination, to class and representative actions for wage-and-hour and privacy law violations. Mr. Tish is a graduate of the University of Southern California Gould School of Law and earned his bachelor's degree in civil and environmental engineering from the University of California, Los Angeles. Mr. Tish is admitted to practice law in California and before the United States District Court for the Northern, Eastern, Central, and Southern Districts of California.

Orlando Villalba. Orlando Villalba is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and PAGA litigation on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, claims under the Fair Labor Standards Act, and other California Labor Code violations.

Mr. Villalba began his career at Kirkland & Ellis where he handled a wide range of business litigation matters, including transnational contract disputes, insurance-related tort claims, developer litigation, and civil rights actions. He also has extensive plaintiff-side experience representing government agencies and note-holders in the pursuit of mortgage and other fraud losses. Mr. Villalba graduated from Stanford Law School, where he served as an articles editor on the Stanford Journal of Law, Business & Finance. After law school, he clerked for the Honorable Warren Matthews of the Alaska Supreme Court. Orlando received his bachelor's degree in International Business from the University of Southern California.

Tarek Zohdy. A senior counsel with Capstone Law, Tarek Zohdy develops, investigates and litigates automotive defect class actions, along with other consumer class actions for breach of warranty and consumer fraud. At Capstone, he has worked on several large-scale automotive class actions from

investigation through settlements that have provided significant relief to millions of defrauded car owners. Before joining Capstone, Mr. Zohdy spent several years representing individual consumers in their actions against automobile manufacturers and dealerships for breaches of express and implied warranties pursuant to the Song-Beverly Consumer Warranty Act and the Magnuson-Moss Warranty Act, commonly referred to together as “Lemon Law.” He also handled fraudulent misrepresentation and omission cases pursuant to the Consumers Legal Remedies Act. Mr. Zohdy graduated from Louisiana State University *magna cum laude* in 2003, and Boston University School of Law in 2006, where he was a member of the criminal clinic representing underprivileged criminal defendants.

Associates

Tyler Anderson. Tyler Anderson is an associate with Capstone Law. His practice focuses on complex motions, writs, and appeals. Before joining Capstone, Mr. Anderson was Co-Director of the Los Angeles Center for Community Law and Action (“LACCLA”), a nonprofit law firm that represents tenant unions and union organizers. While there, Mr. Anderson tried a disparate impact federal Fair Housing Act case that resulted in a jury verdict of over \$1,000,000. He also frequently used California Anti-SLAPP laws to block attempts to silence tenant union organizers. Prior to working at LACCLA, Mr. Anderson clerked for the Honorable Martha Vazquez, a federal district court judge for the District of New Mexico who, at the time, sat on the Executive Committee of the Federal Judiciary. Before that, Mr. Anderson was a litigation associate at the international law firm Jenner & Block LLP. Mr. Anderson graduated from Harvard Law School, where he was the Executive Articles Editor of the Harvard Journal on Legislation as well as President of one of the largest student-run pro bono organizations at Harvard University, Project No One Leaves. He graduated with several “Dean’s Scholar” prizes for receiving top grades in his constitutional law courses.

Sairah Budhwani. Sairah Budhwani is an associate with Capstone Law. Her practice focuses on evaluating and analyzing pre-litigation wage-and-hour claims, including claims for violations of overtime and minimum wage law, meal and rest period requirements, and off-the-clock work violations. Previously, Ms. Budhwani litigated employment discrimination, harassment, and retaliation claims, and also represented incarcerated individuals contesting the conditions of their confinement. Ms. Budhwani graduated from UCLA School of Law in 2019 and received an undergraduate degree in Urban Studies from University of California, Irvine in 2012. Ms. Budhwani is admitted to practice law in California. She is fluent in Urdu.

Laura Goolsby. Laura Goolsby is an associate with Capstone Law. Her practice focuses on prosecuting automotive defect and other consumer class action cases in state and federal court. Prior to joining Capstone Law, Ms. Goolsby was an associate at a California civil litigation practice representing individuals in toxic tort disputes. Previous to that, Ms. Goolsby was a trial attorney in a California lemon law firm, trying cases against automobile manufacturers in state and federal court. Ms. Goolsby is published in the University of Pennsylvania Journal of Law and Change law review and served as a judicial intern to the U.S. Department of Justice Immigration Court while in law school. Ms. Goolsby graduated from California Western School of Law, where she was a member of the award-winning Philip C. Jessup International Moot Court team and spent multiple trimesters on the Dean’s List. She graduated with several Academic Excellence Awards for receiving top grades in various international law, civil rights law, and legal skills courses.

Ninel Kocharyan. Ninel Kocharyan is an associate with Capstone Law. Her practice focuses on evaluating and analyzing pre-litigation wage-and-hour claims, including claims for violation of overtime and minimum

wage law, meal and rest period requirements, and off-the-clock work violations. Ms. Kocharyan began her career in entertainment law reviewing, drafting, and negotiating contracts for talent and ensuring FTC compliance. She immigrated to the United States from Russia at the age of 15 with a passion to pursue a career in law. Ms. Kocharyan graduated from Thomas Jefferson School of Law in 2014 and received her undergraduate degree from University of California, Los Angeles where she majored in Political Science. Ms. Kocharyan is admitted to practice law in California.

Alexander Lima. Alexander Lima is an associate with Capstone Law. His practice focuses on evaluating pre-litigation wage-and-hour claims, including potential violations of overtime and minimum wage law, meal and rest period requirements, and off-the-clock work issues, as well as consumer protection claims. Previously, Mr. Lima was an associate at a California civil litigation practice representing individuals and entities in real estate disputes. Mr. Lima graduated from Santa Clara University, School of Law in 2018, where he served as an Executive Board Member of the Honors Moot Court and was selected as a regional finalist for the American Bar Association Negotiation Competition. He received his undergraduate degree from the University of California, Riverside in 2014.

Trisha Monesi. Trisha Monesi is an associate with Capstone. Her practice focuses on prosecuting consumer class actions in state and federal court. Ms. Monesi graduated from Loyola Law School, Los Angeles in 2014, where she served as an editor of the Loyola of Los Angeles Entertainment Law Review and was a certified law clerk at the Center for Juvenile Law and Policy. She earned her undergraduate degree from Boston University in 2011, where she majored in Political Science and International Relations. She is an active member of the Women Lawyers Association of Los Angeles, and the Los Angeles County and Beverly Hills Bar Associations.

Joey Parsons. Joey Parsons is an associate with Capstone. His practice primarily involves wage-and-hour class actions and PAGA representative actions. Previously, Joey was an associate at a boutique firm where he represented California employees in all facets of employment law, including claims brought under the FEHA, Title VII, and the California Labor Code. Joey is a graduate of the University of Alabama School of Law, where he competed on the Labor and Employment Moot Court team and served as the Executive Articles Editor for the Alabama Law & Psychology Review. Joey received his bachelor's degree in history from Virginia Tech.

Jezzette Ron. Jezzette Ron is an associate with Capstone Law. Her practice focuses on analyzing pre-litigation wage-and-hour and consumer claims, including claims for overtime wages, meal and rest periods, and off-the-clock work violations. She began her career as in-house counsel for a private entity reviewing and drafting company policies. During this time, she actively supported the company with human resource and workers compensation matters. Additionally, she ensured company compliance with California Labor Codes and Occupational Safety and Health Administration (OSHA) regulations. She also implemented an Illness Injury Prevention Program, which included a COVID-19 Exposure Control and Response procedure in compliance with OSHA. Ms. Ron graduated from Whittier Law in 2017, where she served as a board member of the Student Bar Association. She received her undergraduate degree from the University of California, Riverside in 2012 where she majored in Business Management and Public Policy. Ms. Ron is admitted to practice law in California and takes pride in being an advocate for creating a work friendly environment for all employees.

Alexander Wallin. Alexander Wallin is an associate at Capstone Law. He is a passionate litigator who has successfully represented employees against corporate injustice. Mr. Wallin has recovered millions of dollars in



numerous wage-and-hour class actions, PAGA actions, and individual discrimination lawsuits. He has a particular interest in representing economically disadvantaged employees who cannot afford legal representation on a retainer-fee basis. Mr. Wallin is a member of the Los Angeles County Bar Association's Employment Law Section and stays up-to-date with the rapidly evolving areas of wage-and-hour protections. He graduated from Loyola Law School in 2017 and is admitted to practice law in California, as well as before the United States District Court for Central and Northern Districts of California. He has been selected as a Southern California "Super Lawyers – Rising Star" in 2022 and 2023.

OUTREACH AND EDUCATION

To increase public awareness about the issues affecting class action and other representative litigation in the consumer and employment areas, Capstone publishes the Impact Litigation Journal (www.impactlitigation.com). Readers have access to news bulletins, op-ed pieces, and legal resources. By taking advantage of social media, Capstone hopes to spread the word about consumer protection and employee rights to a larger audience than has typically been reached by traditional print sources, and to thereby contribute to the enforcement of California's consumer and workplace protection laws.

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8 Attorneys for Plaintiff Charles Bainbridge

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SACRAMENTO

11 CHARLES BAINBRIDGE, individually, and
12 on behalf of other members of the general public
similarly situated,

13 Plaintiff,

14 vs.

15 AVANTI INSTALL CALIFORNIA, LLC, an
Iowa limited liability company; AVANTI
16 WINDOWS & DOORS, LLC, an Iowa limited
liability company; and DOES 1 through 10,
17 inclusive,

18 Defendants.
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Case No. 34-2022-00331897-CU-OE-GDS

Assigned to the Hon. Jill Talley

**[PROPOSED] ORDER GRANTING MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA SETTLEMENT**

Date: June 28, 2024

Time: 9:00 a.m.

Place: Department 23

Complaint Filed: December 23, 2022

Trial Date: Nonet Set

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7. The rights of any potential dissenters to the proposed Settlement are adequately protected in that they may exclude themselves from the Settlement and proceed with any alleged claims they may have against Defendants, or they may object to the Settlement and appear before this Court. However, to do so they must follow the procedures outlined in the Settlement Agreement and Notice of Class Action Settlement.

8. The Court approves, as to form and content, the proposed Notice of Class Action Settlement (“Class Notice”).

9. The Court directs the mailing, by First-Class U.S. mail, of the Class Notices to Class Members in accordance with the schedule set forth below and the other procedures described in the Settlement Agreement. The Court finds that the method selected for communicating the preliminary approval of the Settlement Agreement to Class Members is the best notice practicable under the circumstances, constitutes due and sufficient notice to all persons entitled to notice, and thereby satisfies due process.

10. The Court appoints Plaintiff Charles Bainbridge as the representative for the Settlement Class conditionally certified by this Order.

11. The Court appoints Capstone Law APC as Class Counsel. The Court finds that counsel have demonstrable experience litigating, certifying, and settling class actions, and will serve as adequate counsel for the Class conditionally certified by this Order.

12. The Court approves and appoints CPT Group, Inc. as the Settlement Administrator.

13. The following dates shall govern for purposes of this Settlement:

Date	Event
July 19, 2024 (or not later than 21 calendar days after the Court grants preliminary approval of the Settlement Agreement, if later)	Last day for Defendants to produce the Class List to the Settlement Administrator.
August 2, 2024 (or not later than 14 calendar days after Defendants produce the Class List, if later)	Last day for the Settlement Administrator to mail Class Notices to all Class Members.
September 16, 2024 (or not later than 45 calendar days after the Settlement Administrator mails the Class Notices, if later)	Last day for Class Members to submit Requests for Exclusion or Objections to the Settlement.

Date	Event
October 4, 2024	Last day for Plaintiff to file and serve the: (1) Motion for Final Approval of Class Action Settlement and (2) Motion for Attorneys' Fees, Costs, and a Class Representative Enhancement Payment.
November 1, 2024 at 9:00 a.m.	Hearing on the: (1) Motion for Final Approval of Class Action Settlement and (2) Motion for Attorneys' Fees, Costs, and a Class Representative Enhancement Payment.

14. The Court expressly reserves the right to continue or adjourn the final approval hearing without further notice to the Class Members.

IT IS SO ORDERED.

Dated: _____

Hon. Jill H. Talley
Sacramento County Superior Court Judge