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13  
14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
15 **IN AND FOR THE COUNTY OF ORANGE**  
16

17 NICOLE FRITCH, on behalf of the State of  
18 California, as a private attorney general,

19 Plaintiffs,

20 vs.

21 THE COCA-COLA COMPANY, a  
22 Corporation; and DOES 1 through 50,  
23 inclusive,

24 Defendants.  
25  
26  
27  
28

CASE NO.: **30-2023-01313737-CU-OE-CXC**

**DECLARATION OF KYLE NORDREHAUG  
IN SUPPORT OF MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
SETTLEMENT**

Hearing Date: September 20, 2024  
Hearing Time: 1:30 p.m.

Judge: Hon. Lon Hurwitz  
Dept.: CX103

Action Filed: March 21, 2023  
Trial Date: Not set

1 I, Kyle Nordrehaug, declare as follows:

2 1. I am a partner of the law firm of Blumenthal Nordrehaug Bhowmik De Blouw LLP,  
3 counsel of record for Plaintiff Nicole Fritch (“Plaintiff”) in this matter. As such, I am fully familiar  
4 with the facts, pleadings and history of this matter. The following facts are within my own personal  
5 knowledge, and if called as a witness, I could testify competently to the matters stated herein.

6 2. This declaration is being submitted in support of Plaintiff’s unopposed motion for  
7 preliminary approval of the proposed class action settlement with Defendant The Coca-Cola  
8 Company (“Defendant”), which motion seeks entry of an order: (1) preliminarily approving the  
9 proposed settlement of this class action with Defendant; (2) for settlement purposes only,  
10 conditionally certifying the Class, which is comprised of “all individuals currently or formerly  
11 employed by Defendant in California and classified as an hourly, non-exempt employee at any time  
12 during the Class Period, excluding any *Flores* Settlement Members who worked from February 1,  
13 2019 to February 23, 2022, and whose employment terminated on or before February 23, 2022 and  
14 who has not been since rehired by Defendant The Coca-Cola Company;” (3) provisionally  
15 appointing Plaintiff as the representative of the Class; (4) provisionally appointing Norman B.  
16 Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik, Nicholas J. De. Blouw, Victoria Rivapalacio,  
17 Piya Mukherjee, Jeffrey S. Herman, and Charlotte James of Blumenthal Nordrehaug Bhowmik De  
18 Blouw LLP as Class Counsel; (5) approving the form and method for providing class-wide notice;  
19 (6) directing that notice of the proposed settlement be given to the class; (7) appointing ILYM  
20 Group as Administrator; and (8) scheduling a final approval hearing date, proposed for March 14,  
21 2025, to consider Plaintiff’s motion for final approval of the settlement and for approval of  
22 attorneys’ fees and expenses. Attached hereto as Exhibit #1 is a copy of the fully executed Class  
23 Action and PAGA Settlement Agreement (“Agreement”) along with the exhibits thereto. The form  
24 of the Agreement is based upon the Los Angeles County Superior Court model form for a class and  
25 PAGA settlement. This Declaration incorporates by reference the definitions in the Agreement, and  
26 all terms defined therein shall have the same meaning as set forth in the Agreement.

1 Fairness of Settlement

2           3.       As consideration for this Settlement, the Gross Settlement Amount is One Million  
3 Five Hundred Thousand Dollars (\$1,500,000) (the “Gross Settlement Amount”) to be paid by  
4 Defendant, as set forth in the Agreement. The Gross Settlement Amount will settle all issues  
5 pending in the Action between the Parties and will be made in full and final settlement of the  
6 Released Class Claims in exchange for the payments to Participating Class Members from the Net  
7 Settlement Amount, and includes (a) the costs of administration of the settlement, (b) all attorneys’  
8 fees and costs, (c) Class Representative Service Payment, and (d) the PAGA Penalties payment  
9 allocated 75% to the LWDA and 25% to the Aggrieved Employees. (Agreement at ¶ 1.23.) The  
10 Gross Settlement Amount does not include the employer’s share of payroll taxes, which will be  
11 separately paid by Defendant. (Id.) The Settlement is all-in with no reversion to Defendant and no  
12 need to submit a claim form. (Id.) The following is a table of the key financial terms of the  
13 Settlement and the proposed deductions:

14           **\$1,500,000** (Gross Settlement Amount)

- 15                   - \$10,000 (Plaintiff’s proposed service award not to exceed amount)  
16                   - \$50,000 (Class Counsel Litigation Expenses Payment - not to exceed amount)  
17                   - \$500,000 (Class Counsel Fees Payment - not to exceed 1/3 of settlement)  
18                   - \$30,000 (PAGA Payment - 75% to LWDA / 25% to Aggrieved Employees)  
19                   - \$12,000 (Administration Expenses Payment - not to exceed amount)

20           **\$898,000** (Net Settlement Amount)

21           4.       The relief provided in the Settlement will benefit all members of the Class. The  
22 Settlement does not grant preferential treatment to Plaintiff or segments of the Class in any way.  
23 Payments to the Class Members are all determined under a neutral methodology. Each Participating  
24 Class Member will receive the same opportunity to participate in and receive payment through a  
25 neutral formula that is based upon the Workweeks for that individual.

26           5.       On April 3, 2024, the Parties participated in an all-day mediation session presided  
27 over by Tripper Ortman, a respected and experienced mediator of wage and hour class actions. In  
28 preparation for the mediation, Defendant provided Class Counsel with payroll and employment data

1 and other information regarding the Class Members, various internal documents, and other  
2 compensation and employment-related materials. Class Counsel analyzed the data with the  
3 assistance of damages expert Berger Consulting and prepared and submitted a mediation brief to the  
4 mediator. The final settlement terms were negotiated and set forth in the Agreement now presented  
5 for this Court's approval. Importantly, Plaintiff and Class Counsel believe that this Settlement is  
6 fair, reasonable and adequate.

7         6. Based upon 927 Class Members who collectively worked 107,411 Workweeks, the  
8 Gross Settlement Amount provides an average value of \$1,618 per Class Member and \$13.96 per  
9 Workweek and after deductions the Net Settlement Amount provides an average recovery of  
10 \$968.71 per Class Member and a recovery of \$8.36 per Workweek. The calculations to compensate  
11 for the amount due for the Class at the time of the mediation were calculated by Berger Consulting,  
12 Plaintiff's damages expert. As to the Class whose claims are at issue in this Action, Plaintiff used  
13 the expert to analyze the data and determine the potential unpaid wages for the employees. The  
14 maximum potential damages as calculated by Plaintiff's expert were calculated to be \$4,392,741 for  
15 the alleged unpaid wages due to off-the-clock work based upon 1 hour per week, \$99,078 for the  
16 alleged unpaid overtime due to miscalculation of the regular rate, \$8,910 in alleged underpaid meal  
17 premiums and sick pay due to the miscalculation of the regular rate, \$1,503,424 for alleged meal  
18 period damages based upon a 10.7% potential violation rate observed in the time records for shifts  
19 worked and after deducting meal premiums already paid by Defendant, \$1,557,946 for alleged rest  
20 period damages based on the same 10.7% potential violation rate observed for meal periods, and  
21 \$139,235 for alleged unreimbursed business expenses for personal cell phone usage at \$5 per  
22 month. As a result, the total damage valuation was calculated that Defendant was subject to a  
23 maximum damage claim in the amount of \$7,701,334. As to potential penalties, Plaintiff  
24 calculated that potential waiting time penalties were a maximum of between \$2,528,693 and  
25 \$2,918,288, depending on the predicate violation, and potential wage statement penalties were  
26 \$2,472,000. Defendant vigorously disputed Plaintiff's calculations and exposure theories.  
27 Consequently, the Gross Settlement Amount of \$1,500,000 is equivalent to the maximum damages  
28 in this Action, and represents more than 19% of the maximum value of the alleged damages at issue

1 in this case at the time this Settlement was negotiated.<sup>1</sup> Importantly, the recent decision that good  
2 faith belief of compliance by the employer in *Naranjo v. Spectrum Sec. Servs., Inc.*, 15 Cal. 5th  
3 1056, 1065 (2024), could completely negate the claims for waiting time and wage statement  
4 penalties, even if wages were owed to the Class. The above maximum calculations should then be  
5 adjusted in consideration for both the risk of class certification and the risk of establishing class-  
6 wide liability on all claims. Given the amount of the settlement as compared to the potential value  
7 of claims in this case and the defenses asserted by Defendant, this settlement is fair and reasonable.  
8 Specific details as to the calculation and the *Kullar* valuation of the claims for purposes of  
9 mediation and the negotiation of the Settlement are as follows:

10           **A. Class Size, Payroll and Timekeeping Data.** As to the Class size, Defendant  
11 provided the data points before the mediation as to the number of employees  
12 in the class (904), the number of workweeks (111,249), and the PAGA wide  
13 data points as to the number of aggrieved employees (527), and the number of  
14 their pay periods (40,555). In addition, Defendant provide a 20% sampling of  
15 time and payroll data for the Class. Plaintiff received and Plaintiff's expert  
16 analyzed this payroll data and time punch data which covered 205 employees  
17 during the period 2/1/2019 through 2/18/2024. As such, for mediation  
18 Plaintiff's expert only had to extrapolate this data over a couple months to  
19 April 3, 2024. The payroll data and time punch data covered 100,091 shifts  
20 worked and 21,477 work weeks. This means that Plaintiff's expert analyzed  
21 time and payroll data covering 100,091 shifts (out of a total of 518,463 shifts)  
22 which sampling was spread out over nearly the entire class period. The  
23 average hourly rate is \$26.93 and is based on the pay data.

24           **B. Alleged Miscalculation of the Regular Rate for Overtime.** Plaintiff  
25 alleged that following remunerations were not fully included in the regular  
26

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27 <sup>1</sup> Because the PAGA claim is not a class claim and primarily is paid to the State of California,  
28 Plaintiff has not included the PAGA claim in this discussion of the value of the class claims. The  
PAGA claim is addressed in the Decl. Nordrehaug at ¶33.

1 rate for paying overtime: Referral Award, Certification Incentive - Corporate,  
2 Odwalla Commissions, Success Share, Taxable Fringe Benefit, Service  
3 Award and Tax Gross-up, Shift Premium \$0.25, Shift Premium \$1.00, Shift  
4 Premium \$0.20, Shift Premium\$0.50, Shift Premium \$0.70, Shift Premium  
5 \$1.50, Lead Premium \$0.50, Global Recognition (Monthly), Annual Incentive  
6 Award - CCNA (Annual), Certification Incentive -NAOU (Annual), Special  
7 Discretionary Award Non-Compensable (Annual). Payroll data showed that  
8 43.2% of pay periods have overtime paid and any of the additional  
9 remunerations earned. The damages are calculated as the differences between  
10 the earnings assuming overtime was paid properly at the regular rate  
11 incorporating all the remunerations above and the actual payouts. The alleged  
12 unpaid wages from the miscalculation of the regular rate applicable to  
13 overtime pay was calculated to total \$99,078.

14 **C. Alleged Miscalculation of the Regular Rate for Meal Premiums and Sick**  
15 **Pay.** The remunerations above were also not included in the regular rate for  
16 paying sick pay and meal premiums. 17.3% of employees and 0.6% of pay  
17 periods have sick pay and any remunerations earned. 6.4% of employees and  
18 0.2% of pay periods have meal premiums and any remunerations earned. The  
19 damages are calculated as the differences between the earnings assuming  
20 meal premiums and sick pay are paid properly at the regular rate  
21 incorporating all the remunerations above and the actual payouts. The  
22 alleged underpaid wages from the miscalculation of the regular rate  
23 applicable to meal premiums and sick pay was calculated to total \$8,910.

24 **D. Alleged Off-The-Clock Work.** The off-the-clock claim is based on  
25 allegations that Defendant's auto-populating of time records did not capture  
26 time spent working outside of their scheduled shift, which is alleged to be  
27 uncompensated work time. Off-the-clock damages assume employees were  
28 not paid 1 hour per workweek. 87.7% of these OTC hours are assumed

1 overtime. Unpaid OTC wages are calculated as the sum of unpaid regular  
2 OTC wages (at the hourly rate) and the unpaid overtime OTC wages (at the  
3 overtime rate). As a result, the maximum value of the claim for unpaid  
4 wages due to alleged off-the-clock work was \$4,392,741.

5 C. **Alleged Meal Period Violations.** The meal period claim is based upon the  
6 analysis of time punch records reflect a meal break violation rate in 10.7% of  
7 all shifts (53,617 unique violations out of 502,716 shifts greater than 6  
8 hours). The pay data reflects meal break premiums paid for 1,135 instances,  
9 therefore roughly 97.7% of facial violations have had a premium paid. The  
10 pay data reflects meal break premiums paid for 327 instances, therefore  
11 roughly 0.6% of facial violations have had a premium paid. The 53,617  
12 unique meal break violations include 33,752 late (after 5th hour), 1,440  
13 missed (for shifts greater than 6 hours), 13,722 short (under 30 minutes), and  
14 8,459 missed 2nd meal breaks (for shifts greater than 12 hours). The  
15 damages for a missed period is one hour of pay under Labor Code §§266.7  
16 and 512. As a result, the maximum potential damages for alleged meal  
17 period violations using the 10.7% potential violation rate, and after deducting  
18 premiums paid of \$11,131, were estimated to be \$1,503,424.

19 D. **Alleged Rest Period Violations.** The rest period claim is difficult to  
20 calculate because California law does not require rest periods to be recorded.  
21 For this claim, Plaintiff used the maximum assumption of 10.7% violation  
22 rate for all shifts that was observed in the time records for meal periods. The  
23 theory being that if work did not permit a compliant meal period, the work  
24 would have a similar impact on compliant, off-duty rest periods. The  
25 damages for a missed period is one hour of pay under Labor Code §§266.7  
26 and 512. As a result, the maximum potential damages for alleged rest period  
27 violations using a 10.7% violation rate were estimated to be \$1,557,946.  
28

- 1           E.     **Alleged Business Expenses Reimbursement.** The expense reimbursement  
2                     claim was based upon the personal cellphone usage for work purposes. The  
3                     value of this claim used was \$5 per month over 27,847 months to calculate  
4                     that the maximum potential damages for the alleged failure to reimburse  
5                     business expenses were \$139,235.
- 6           F.     **Alleged Waiting Time Penalties.** Waiting Time Penalties are calculated  
7                     assuming 98 terminated employees x 30 days x (8 hours per day x average  
8                     rate of pay + 0.6 hours per day x 1.5 x average rate of pay). An alternate  
9                     Waiting Time Penalty was calculated for 85 terminated employees with  
10                    unpaid overtime or *Ferra* issues. As such, the maximum value of the  
11                    potential waiting time penalties were calculated to be between \$2,528,693  
12                    and \$2,918,288, depending on the predicate violation.
- 13          G.     **Alleged Wage Statement Penalties.** Wage Statement Penalties are  
14                     calculated at \$50 for the initial violation and \$100 for each subsequent  
15                     violation with a max of \$4,000 per employee (assumes 100% violation). The  
16                     Wage Statement claim is predicated and is derivative of the above claims, so  
17                     the maximum valuation assumed there was a violation in every pay period  
18                     within the applicable one-year statute of limitation. The maximum value of  
19                     the potential wage statement penalties were therefore calculated to be  
20                     \$2,472,000.
- 21          H.     **Alleged PAGA Claim.** The PAGA Claim is not a class claim and the PAGA  
22                     penalties are paid primarily (75%) to the State of California, and do not  
23                     compensate for or release the individual claims of the employees. As such,  
24                     the PAGA Claim is not included in this valuation, however, the PAGA claim  
25                     is addressed separately below at paragraph 33.

26  
27     Procedural History of the Litigation

28           7.     On January 10, 2023, Plaintiff filed with the LWDA and served on Defendant a

1 notice under Labor Code section 2699.3 identifying the alleged Labor Code violations to recover  
2 civil penalties on behalf of Aggrieved Employees for various Labor Code violations ("PAGA  
3 Notice"). This PAGA Notice is attached hereto as Exhibit #3 for the Court's reference. On  
4 February 1, 2023, Plaintiff commenced a class action Complaint against Defendant in the Superior  
5 Court of the State of California, County of Orange. This class action Complaint asserted claims  
6 against Defendant for: (1) unfair competition in violation of Cal. Bus & Prof. Code §§ 17200, et  
7 seq.; (2) failure to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and  
8 1197.1; (3) failure to pay overtime wages in violation of California Labor Code §§ 510, 1194 &  
9 1198; (4) failure to provide required meal periods in violation of Cal. Labor Code §§ 226.7 and 512;  
10 (5) failure to provide required rest periods in violation of Cal. Labor Code §§ 226.7 and 512; (6)  
11 failure to provide accurate itemized wage statements in violation of California Labor Code § 226;  
12 (7) failure to reimburse employees for required expenses in violation of California Labor Code §  
13 2802; (8) failure to provide wages when due in violation of California Labor Code §§ 201, 202 and  
14 203; and failure to pay sick pay wages in violation of California Labor Code §§ 201-204, 233, 246.<sup>2</sup>  
15 On March 30, 2023, Defendant removed Plaintiff's Class Action Complaint to the United States  
16 District Court for the Central District of California, where it is currently pending under Case No.  
17 Case No. 8:23-cv-00576-JWH-E. On April 16, 2024, the Hon. John W. Holcomb granted the  
18 Parties' Stipulation to Stay the Class Action and stayed the Class Action.

19 8. On March 21, 2023, Plaintiff filed a separate Representative Action Complaint  
20 against Defendant (the "PAGA Action"). Plaintiff's Representative Action Complaint asserted one  
21 cause of action against Defendant for Civil Penalties Pursuant to Labor Code §§ 2699, et seq. for  
22 violations of Labor Code §§ 201, 202, 203, 204, et seq., 210, 221, 226(a), 226.7, 227.3, 246, et seq.,  
23

24 <sup>2</sup> Plaintiff also alleged individual (non-class) claims that Defendant: (a) Discriminated and  
25 Retaliated in Violation of FEHA; (b) Failed To Engage in the Interactive Process in Violation of  
26 Cal. Gov. Code § 12940(N); (c) Failed to Provide Reasonable Accommodation in Violation of Cal.  
27 Gov. Code § 12940(m); and, (d) Wrongfully Terminated in violation of public policy. As explained  
28 in paragraph 6.1(b) of the Agreement, Plaintiff is separately settling these individual claims. In  
addition to the Gross Settlement Amount, Plaintiff will also separately be paid for resolution of her  
individual claims alleged in causes of action 10 through 13 of the Operative Complaint as set forth  
in her separate confidential individual settlement agreement.

1 510, 512, 558(a)(1), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8,  
2 Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14)  
3 (Failure to Provide Seating), and the applicable Wage Order(s).

4 9. As part of the Agreement, and for settlement purposes only, the Parties stipulate to  
5 the filing of a First Amended Class and Representative Action Complaint in the PAGA Action that  
6 adds the claims, allegations, and parties originally in the Class Action. The First Amended Class and  
7 Representative Action Complaint shall be the operative complaint in the Action (the "Operative  
8 Complaint"), and a copy of which is attached hereto as Exhibit #4. The First Amended Class and  
9 Representative Action Complaint will be filed if the Court grants preliminary approval of the  
10 settlement.

11 10. Over the course of litigation, the Parties engaged in the investigation of the claims,  
12 including formal and informal discovery, the production of documents, class data, and other  
13 information, allowing for the full and complete analysis of liabilities and defenses to the claims in  
14 the Action. Plaintiff performed formal discovery, which included the production and analysis of  
15 hundreds of pages of documents. The information for mediation obtained by Plaintiff included: (1)  
16 data concerning the class; (2) payroll data and time punch data for the class covering 100,091 shifts  
17 and 21,477 workweeks; (3) Defendant's wage and hour policies; (4) the employment files for the  
18 Plaintiff; and, (5) samples of wage statements provided by Defendant. As such, Class Counsel  
19 received the data and information for the Class, which was sufficient for Plaintiff's expert to prepare  
20 the valuations of the claims for the Class.

21 11. Class Counsel has extensive experience in litigating wage and hour class actions in  
22 California. The Parties have vigorously litigated the Action since inception. During the course of  
23 litigation, the Parties each performed analysis of the merits and value of the claims. Plaintiff and  
24 Defendant have engaged in discovery, research and investigation in connection with the Action.  
25 Class Counsel has thoroughly analyzed the value of the claims during the prosecution of this Action  
26 and utilized an expert to perform an analysis of the data and valuation of the claims.

27 12. Plaintiff and Defendant agreed to discuss resolution of the Action through a  
28

1 mediation. Prior to mediation, the Parties engaged in the above investigation and the exchange of  
2 documents and information in connection with the Action. On April 3, 2024, the Parties  
3 participated in an all-day mediation presided over by Tripper Ortman, a respected and experienced  
4 mediator of wage and hour class actions. Following the mediation, the Parties agreed on the basic  
5 terms of a settlement pursuant to a mediator's proposal which was memorialized in the form of a  
6 Memorandum of Understanding. The Parties then negotiated the final terms of the settlement as set  
7 forth in the Agreement. At all times, the negotiations were arm's length and contentious.

8         13. Although a settlement has been reached, Defendant denies any liability or  
9 wrongdoing of any kind associated with the claims alleged in the Actions and further deny that, for  
10 any purpose other than settlement, the Actions are appropriate for class and/or representative  
11 treatment. Defendant contends, among other things, that it has complied at all times with the  
12 California Labor Code, applicable Wage Order, and all other laws and regulations. Further,  
13 Defendant contends that class certification is inappropriate for any reason other than for settlement.  
14 Plaintiff contends that Defendant violated California wage and hour laws. Plaintiff further contends  
15 that the Action is appropriate for class certification on the basis that the claims meet the requisites  
16 for class certification. Without admitting that class certification is proper, Defendant has stipulated  
17 that the above Class may be certified for settlement purposes only. (Agreement at ¶ 2.13.) The  
18 Parties agree that certification for settlement purposes is not an admission that class certification is  
19 proper. Further, the Agreement is not admissible in this or any other proceeding as evidence that the  
20 Class could be certified absent a settlement. Solely for purposes of settling the Action, the Parties  
21 stipulate and agree that the requisites for establishing class certification with respect to the Class are  
22 satisfied.

23         14. Class Counsel has conducted an investigation into the facts of the class action. Both  
24 formal and informal discovery was performed along with the production of hundreds of pages of  
25 relevant documents. Class Counsel engaged in a thorough review and analysis of the relevant  
26 documents and data with the assistance of an expert. Accordingly, the agreement to settle did not  
27 occur until Class Counsel possessed sufficient information to make an informed judgment regarding  
28 the likelihood of success on the merits and the results that could be obtained through further

1 litigation. In addition, Class Counsel previously negotiated settlements with other employers in  
2 actions involving nearly identical issues and analogous defenses. Based on the foregoing data and  
3 their own independent investigation, evaluation and experience, Class Counsel believes that the  
4 settlement with Defendant on the terms set forth in the Agreement is fair, reasonable, and adequate  
5 and is in the best interest of the Class in light of all known facts and circumstances, including the  
6 risk of significant delay, defenses asserted by Defendant, and potential appellate issues.

7  
8 Settlement Terms and Plan of Allocation

9         15.     The Gross Settlement Amount is One Million Five Hundred Thousand Dollars  
10 (\$1,500,000). (Agreement at ¶ 1.23.) Under the Settlement, the Gross Settlement Amount consists  
11 of the following elements: (1) payment of the Individual Class Payments to the Participating Class  
12 Members; (2) Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment; (3)  
13 Administration Expenses Payment; (4) the Class Representative Service Payment to the Plaintiff;  
14 and (5) the PAGA Penalties payment. (Agreement at ¶ 1.23.) The Gross Settlement Amount does  
15 not include Defendant's share of payroll taxes. (Agreement at ¶ 3.1.) The Gross Settlement  
16 Amount shall be all-in with no reversion to Defendant. (Agreement at ¶ 3.1.)

17         16.     Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts  
18 necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the  
19 Administrator no later than 10 calendar days after the Effective Date. (Agreement at ¶ 4.3.) The  
20 distribution of Individual Class Payments to Participating Class Members along with the other  
21 Court-approved distributions shall be made by the Administrator within fourteen (14) days after  
22 Defendant funds the Gross Settlement Amount. (Agreement at ¶ 5.1.)

23         17.     The amount remaining in the Gross Settlement Amount after the deduction of  
24 Court-approved amounts for Individual PAGA Payments, the LWDA PAGA Payment, the Class  
25 Representative Service Payment, the Class Counsel Fees Payment, the Class Counsel Litigation  
26 Expenses Payment, and the Administration Expenses Payment (called the "Net Settlement  
27 Amount") shall be allocated to Class Members as their Individual Class Payments. (Agreement at  
28 ¶¶ 1.29 and 3.2.) From the Net Settlement Amount, the Individual Class Payment for each

1 Participating Class Member will be calculated by (a) dividing the Net Settlement Amount by the  
2 total number of Workweeks worked by all Participating Class Members during the Class Period and  
3 (b) multiplying the result by each Participating Class Member's Workweeks. The Workweek  
4 calculation will exclude, for any *Flores* Settlement Members, those workweeks worked from  
5 February 1, 2019 and February 23, 2022. (Agreement at ¶ 3.2(e).) Workweeks will be based on  
6 Defendant's records, however, Class Members can challenge their number of Workweeks.

7 18. Class Members may choose to opt-out of the Settlement by following the directions  
8 in the Class Notice. (Agreement at ¶ 8.5, Ex. A.) All Class Members who do not "opt out" will be  
9 deemed Participating Class Members who will be bound by the Settlement and will be entitled to  
10 receive an Individual Class Payment. (Agreement at ¶ 8.5(c).) All Aggrieved Employees, including  
11 those who submit an opt-out request, will still be paid their allocation of the PAGA Penalties and  
12 will remain subject to the release of the Released PAGA Claims regardless of their request for  
13 exclusion. (Agreement at ¶¶ 6.3 and 8.5(d).) Finally, the Class Notice will advise the Class  
14 Members of their right to object to the Settlement and/or dispute their Workweeks. (Agreement at  
15 ¶¶ 8.6 and 8.7, Ex. A.)

16 19. A Participating Class Member must cash his or her Individual Class Payment check  
17 within 180 days after it is mailed. (Agreement at ¶ 5.2.) Any settlement checks not cashed within  
18 180 days will be voided and any funds represented by such checks to the California Controller's  
19 Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue"  
20 subject to the requirements of C.C.P. § 384(b). (Agreement at ¶ 5.4.)

21 20. Subject to Court approval, the Parties have agreed on ILYM Group to administer the  
22 settlement in this action ("Administrator"). (Agreement at ¶ 1.2.) The Administrator will be paid  
23 for settlement administration in an amount not to exceed \$12,000. (Agreement at ¶ 3.2(c).)

24 21. Subject to Court approval, the Agreement provides for Class Counsel to be awarded  
25 a sum not to exceed one-third of the Gross Settlement Amount, as the Class Counsel Fees Payment.  
26 (Agreement at ¶ 3.2(b).) Class Counsel will also be allowed to apply separately for an award of  
27 Class Counsel Litigation Expenses Payment in an amount not to exceed \$50,000. (Agreement at ¶  
28

1 3.2(b).) Subject to Court approval, the Agreement provides for a payment of no more than \$10,000  
2 to the Plaintiff as the Class Representative Service Payment. (Agreement at ¶ 3.2(a).)

3 22. Subject to Court approval, the PAGA Penalties will be paid from the Gross  
4 Settlement Amount for PAGA penalties under the California Private Attorneys General Act, Cal.  
5 Labor Code Section 2698, *et seq.* ("PAGA"). The PAGA Penalties are \$30,000. (Agreement at ¶  
6 3.2(d).) Pursuant to the express requirements of Labor Code § 2699(i), the PAGA Payment shall be  
7 allocated as follows: 75% shall be allocated to the Labor Workforce Development Agency  
8 ("LWDA") as its share of the civil penalties and 25% allocated to the Individual PAGA Payments to  
9 be distributed to the Aggrieved Employees based on the number of their respective PAGA Pay  
10 Periods. (Agreement at ¶ 3.2(d).) As set forth in the accompany proof of service, the LWDA has  
11 been served with this motion and the Agreement.

12  
13 Risks of Continued Litigation and Standards for Approval

14 23. Plaintiff and Class Counsel recognize the expense and length of continuing to litigate  
15 and trying this Action against Defendant through possible appeals which could take several years.  
16 Class Counsel has also taken into account the uncertain outcome and risk of litigation, especially in  
17 complex class actions such as this Action. Class Counsel is also mindful of and recognize the  
18 inherent problems of proof under, and alleged defenses to, the claims asserted in the Action. Based  
19 upon their evaluation, Plaintiff and Class Counsel have determined that the Settlement set forth in  
20 the Agreement is in the best interest of the Class Members.

21 24. Here, a number of defenses asserted by Defendant present serious threats to the  
22 claims of the Plaintiff and the other Class Members. Defendant asserted that Defendant's practices  
23 complied with all applicable Labor laws. Defendant argued that Class Members were paid for all  
24 time worked and that all work time was properly recorded. Defendant argued that there was no  
25 miscalculation of the regular rate. Defendant contended that its meal and rest period policies fully  
26 complied with California law and Defendant did not fail to provide the opportunity for legally  
27 required meal and rest breaks. Defendant contended that there was no failure to pay for business  
28 expenses, and that a company cell phone was provided to Plaintiff (and other employees), so any

1 cell phone usage was merely convenient and voluntary such that reimbursement was not legally  
2 required. Finally, Defendant could argue that the Supreme Court decision in *Brinker v. Superior*  
3 *Court*, 53 Cal. 4th 1004 (2012), weakened Plaintiff's claims, on liability, value, and class  
4 certifiability as to the meal and rest period claims. Defendant also argues that based on its facially  
5 lawful practices, Defendant acted in good faith and without willfulness, which if accepted would  
6 negate the claims for waiting time penalties and/or inaccurate wage statements. See e.g. *Naranjo v.*  
7 *Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1065 (2024) ("if an employer reasonably and in good  
8 faith believed it was providing a complete and accurate wage statement in compliance with the  
9 requirements of section 226, then it has not knowingly and intentionally failed to comply with the  
10 wage statement law.") If successful, Defendant's defenses could eliminate or substantially reduce  
11 any recovery to the Class. While Plaintiff believes that these defenses could be overcome,  
12 Defendant maintains these defenses have merit and therefore present a serious risk to recovery by  
13 the Class.

14 25. There was also a significant risk that, if the Action was not settled, Plaintiff would be  
15 unable to obtain a certified class and maintain the certified class through trial, and thereby not  
16 recover on behalf of any other employees. At the time of the mediation, Defendant forcefully  
17 opposed the propriety of class certification, arguing that individual issues precluded class  
18 certification. Further, as demonstrated by the California Supreme Court decision in *Duran v. U.S.*  
19 *Bank National Assn.*, 59 Cal. 4th 1 (2014), there are significant hurdles to overcome for a class-wide  
20 recovery even where the class has been certified. While other cases have approved class  
21 certification in wage and hour claims, class certification in this action was hotly disputed and the  
22 maintenance of a certified class through trial was by no means a foregone conclusion.

23 26. This settlement is therefore certainly entitled to preliminary approval. Were this  
24 case to go to trial, the Plaintiff and the other class members would need to prove, among other  
25 things, that wages were owed on a class-wide basis. This was and is a substantial risk.

26 27. Plaintiff will apply to the Court for a Class Representative Service Payment in  
27 consideration for her service and for the risks undertaken on behalf of the Class. (Agreement at ¶  
28 3.2(a).) Plaintiff performed her duties admirably by working with Class Counsel for over one year.

1 The Declaration of the Plaintiff is submitted herewith in support. Decl. Nordrehaug at ¶27. At this  
2 stage, the requested service award of \$10,000 is well within the accepted range of awards for  
3 purposes of preliminary approval. See e.g. *Andrews v. Plains All Am. Pipeline L.P.*, 2022 U.S. Dist.  
4 LEXIS 172183, at \*11 (C.D. Cal. 2022) (the requested service awards of \$15,000 each are  
5 appropriate); *Reynolds v. Direct Flow Med., Inc.*, 2019 U.S. Dist. LEXIS 149865, at \*19 (N.D. Cal.  
6 2019) (granting request for \$12,500 service award); *Mathein v. Pier 1 Imps. (U.S.), Inc.*, 2018 U.S.  
7 Dist. LEXIS 71386 (E.D. Cal. 2018) (awarding \$12,500); *Louie v. Kaiser Foundation Health Plan,*  
8 *Inc.*, 2008 WL 4473183, \*7 (S.D.Cal. 2008) (awarding \$25,000 service award to each of six  
9 plaintiffs); *Glass v. UBS Fin. Servs.*, 2007 WL 221862, \*16-17 (N.D. Cal. 2007) (awarding  
10 \$25,000 service award in overtime class action). As explained in *Glass*, service awards are  
11 routinely awarded to class representatives to compensate the employees for the time and effort  
12 expended on the case, for the risk of litigation, for the fear of suing an employer and retaliation there  
13 from, and to serve as an incentive to vindicate the statutory rights of all employees. 2007 WL  
14 221862 at \*16-17. Below, I provided a long list of similar Court-approved service awards, which  
15 establishes this not-to-exceed amount is within the range of reasonableness for purposes of  
16 preliminary approval.

17 28. The stage of the proceedings at which this Settlement was reached also militates in  
18 favor of preliminary approval and ultimately, final approval of the Settlement. Class Counsel has  
19 conducted a thorough investigation into the facts of the class action. Class Counsel began  
20 investigating the Class Members' claims before the Action were filed, and during the course of  
21 litigation, Class Counsel performed both formal and informal discovery which included the  
22 production of hundreds of pages of documents. Class Counsel conducted a review and analysis of  
23 the relevant documents and data. Class Counsel was also experienced with the claims at issue here,  
24 as Class Counsel previously litigated and settled similar claims in other actions. Accordingly, the  
25 agreement to settle did not occur until Class Counsel possessed sufficient information to make an  
26 informed judgment regarding the likelihood of success on the merits and the results that could be  
27 obtained through further litigation.

28 29. Based on the foregoing data and their own independent investigation and evaluation,

1 Class Counsel is of the opinion that the Settlement with Defendant for the consideration and on the  
2 terms set forth in the Agreement is fair, reasonable, and adequate and is in the best interest of the  
3 Class in light of all known facts and circumstances, including the risk of significant delay, defenses  
4 asserted by Defendant, and numerous potential appellate issues. There can be no doubt that Counsel  
5 for both Parties possessed sufficient information to make an informed judgment regarding the  
6 likelihood of success on the merits and the results that could be obtained through further litigation.

7  
8 Class Certification Issues

9 30. Plaintiff contends that the proposed settlement meets all of the requirements for class  
10 certification under California Code of Civil Procedure § 382 as demonstrated below, and therefore,  
11 the Court may appropriately approve the Class as defined in the Agreement. This Court should  
12 conditionally certify the Class for settlement purposes only, defined as follows:

13 All individuals currently or formerly employed by Defendant in California and  
14 classified as an hourly, non-exempt employee at any time during the Class Period,  
15 excluding any *Flores* Settlement Members who worked from February 1, 2019 to  
February 23, 2022, and whose employment terminated on or before February 23,  
2022 and who has not been since rehired by Defendant The Coca-Cola Company.

16 (Agreement at ¶ 1.4.)

17 The Class Period is February 1, 2019, through August 3, 2024. (Agreement at ¶ 1.12.)

18 a. **Numerosity** - Here, Plaintiff asserts that the 927 current and former  
19 employees that comprise the Class can be identified based on Defendant's records and are  
20 sufficiently numerous for class certification.

21 b. **Common Issues Predominate** - Here, Plaintiff contends that common  
22 questions of law and fact are present, specifically the common questions of whether Defendant's  
23 employment practices were lawful, whether Defendant failed to provide meal and rest periods to  
24 Class Members, whether Defendant miscalculated the regular rate when paying wages to the Class,  
25 whether Class members were lawfully compensated for all hours worked, whether Defendant failed  
26 to provide required expense reimbursement, and whether Class Members are entitled to damages  
27 and penalties as a result of these practices. Plaintiff contends that certification of this Class is  
28 appropriate because Defendant allegedly engaged in uniform practices with respect to the Class

1 Members. As a result, these common questions of liability could be answered on a class wide basis.

2 c. **Typicality** - In the instant case, Plaintiff contends that the typicality  
3 requirement is fully satisfied. Plaintiff, like every other member of the Class, was employed by  
4 Defendant during the Class Period, and, like every other member of the Class, was subject to the  
5 same employment practices. Plaintiff, like every other member of the Class, also claim owed  
6 compensation as a result of the Defendant's uniform company policies and practices. Thus, the  
7 claims of Plaintiff and the members of the Class arise from the same course of conduct by  
8 Defendant, involve the same issues, and are based on the same legal theories.

9 d. **Adequacy** - Plaintiff contends that the Class Members are adequately  
10 represented here because Plaintiff and representing counsel (a) do not have any conflicts of interest  
11 with other class members, and (b) will prosecute the case vigorously on behalf of the class. This  
12 requirement is met here. First, Plaintiff is well aware of her duties as the representative of the Class  
13 and has actively participated in the prosecution of this case to date. Plaintiff effectively  
14 communicated with Class Counsel, provided documents and information to Class Counsel, and  
15 participated in the investigation and resolution of the Action. The personal involvement of the  
16 Plaintiff was essential to the prosecution of the Action and the monetary settlement reached.  
17 Second, Plaintiff retained competent counsel who are experienced in employment class actions and  
18 who have no conflicts. Third, there is no antagonism between the interests of the Plaintiff and those  
19 of the Class. Both the Plaintiff and the Class Members seek monetary relief under the same set of  
20 facts and legal theories.

21 31. Class Counsel's Adequacy of Representation and Absence of Conflict: Blumenthal  
22 Nordrehaug Bhowmik De Blouw LLP is experienced in prosecuting class action lawsuits and can  
23 competently represent the Class. Other lawyers at my firm and I have extensive class litigation  
24 experience. We have handled a number of class actions and complex cases and have acted both as  
25 counsel and as lead and co-lead counsel in a variety of these matters. We have successfully  
26 prosecuted and obtained significant recoveries in numerous class action lawsuits and other lawsuits  
27 involving complex issues of law and fact. My firm is particularly experienced in wage and hour  
28 employment law class actions, including claims for misclassification, overtime, expense

1 reimbursement, unlawful deduction of wages, and missed rest and meal periods. Blumenthal  
2 Nordrehaug Bhowmik De Blouw LLP has been involved as class counsel in over hundreds of wage  
3 and hour class actions. Blumenthal Nordrehaug Bhowmik De Blouw LLP has been found to be  
4 adequate counsel by the courts throughout California. We have been approved as experienced class  
5 counsel by both state and federal courts in California in contested class certification proceedings. A  
6 true and correct copy of the resume of my firm is attached hereto as Exhibit #2. The Class in this  
7 settlement is defined as “all individuals currently or formerly employed by Defendant in California  
8 and classified as an hourly, non-exempt employee at any time during the Class Period”. I have  
9 reviewed my firm’s cases and representation of other plaintiffs and there is no conflict or  
10 representation which would prevent my firm from representing the interests of the Class this case.  
11 My firm only represents employees, and not employers. My firm has never represented Defendant  
12 nor any affiliate of the Defendant. My firm’s only interest in the subject matter of this litigation is  
13 to ensure a recovery to the Class and to maximize that recovery. Finally, our allegiance to the Class  
14 and the claims of the Class is not inconsistent with our allegiance to pursue the claims on behalf of  
15 other employees and classes as the claims are all against different and distinct employers. I can  
16 think of no conflict that would arise in our representation of the Class and our adequate  
17 representation of the Class is evidenced by the successful prosecution of the class claims to reach an  
18 excellent recovery for the Class. Moreover, neither the Plaintiff nor Class Counsel have any  
19 affiliation with the Administrator for this settlement. Thus, the adequacy requirement for my firm is  
20 satisfied.

21 32. The Class Notice, drafted jointly and agreed upon by the Parties through their  
22 respective counsel and to be approved by the Court, includes all relevant information. (See Exhibit  
23 “A” to the Agreement.) The Class Notice will include, among other information: (i) information  
24 regarding the Action; (ii) the impact on the rights of the Class Members if they do not opt out,  
25 including a description of the applicable release; (iii) information to the Class Members regarding  
26 how to opt out and how to object to the Settlement; (iv) the estimated Individual Class Payment for  
27 each of the Class Members; (iii) the amount of attorneys’ fees and expenses to be sought; (v) the  
28 amount of the Plaintiff’s service award request; and (vi) the anticipated expenses of the

1 Administrator. The Class Notice Packet will also include an Exclusion form and a Dispute form.  
2 (Agreement at ¶ 1.11.) Class Notice will state that the Class Members shall have forty-five (45)  
3 from the date that the Class Notice is mailed to them (the "Response Deadline") to request  
4 exclusion (opt-out) or to submit a written objection. (Agreement at ¶¶ 1.44, 8.5, 8.7.) Class  
5 Members shall be given the opportunity to object to the Settlement and/or requests for attorneys'  
6 fees and expenses and to appear at the Final Approval Hearing. (Agreement at ¶ 8.7.) Class  
7 Members who do not submit a timely and proper request to opt-out will automatically receive a  
8 payment of their Individual Class Payment. This notice program was designed to meaningfully  
9 reach the Class Members and it advises them of all pertinent information concerning the Settlement.

10  
11 33. The PAGA Claim -

12 a. **Approval of PAGA Settlements.** The decision in *O'Connor v. Uber*, 201  
13 F.Supp.3d 1110, 1133 (N.D. Cal. 2016), and the LWDA's Response therein is illustrative. The  
14 LWDA first states that "when viewing the monetary relief allocated to PAGA claims under a  
15 settlement, the LWDA recognizes that the PAGA sum need not necessarily be viewed through the  
16 same lens as the relief obtained by absent class members on other claims (i.e., the percentage of  
17 recovery-to-exposure on the PAGA claims need not necessarily equal the percentage of recovery on  
18 the other claims)." (LWDA Response at p.3). The LWDA also indicated that the payment of  
19 money to the aggrieved employees furthers the purposes of PAGA and that the Court considers that  
20 primary consideration. "The LWDA recognizes that this Court does not review the PAGA  
21 allocation in isolation, but rather reviews the settlement as a whole, to determine whether it is  
22 fundamentally fair, reasonable and adequate, with primary consideration for the interests of absent  
23 class members." (LWDA Response at p.4).

24 b. **Valuation of the PAGA Claim.** For mediation, Plaintiff calculated the  
25 value of the alleged PAGA claim as to Aggrieved Employees for civil penalties to be between  
26 \$2,027,750 and \$405,550 for a single violation in every one of the 40,555 pay periods at issue in the  
27 PAGA Period, depending on whether the violation was \$50 per pay period as in the case of Labor  
28 Code § 558(a)(1) or the standard amount of \$100 per pay period for violation of Labor Code § 1198.

1 This valuation assumed that PAGA civil penalties would be awarded at the maximum rate per pay  
2 period but without stacking.<sup>3</sup> The PAGA Penalties allocation in the Settlement is the amount of  
3 \$30,000. This allocation is justified by several important considerations. First, the PAGA claim  
4 was subject to the same risks as the underlying class claims. Second, Defendant asserted additional  
5 defenses to the PAGA claim, not only as to liability but also as to the amount of the penalties.  
6 Defendant could also argue that no penalties prior to the PAGA notification should be awarded, and  
7 I am aware of one Court which has so ruled. These additional defenses present a risk to the PAGA  
8 claim and the potential that some or all of the PAGA penalties sought may not be awarded. Third,  
9 in *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), the court affirmed a judgment which  
10 only provided for a PAGA penalty of \$5 per violation. Therefore, at trial, any PAGA penalties  
11 awarded could be significantly less than Plaintiff's calculation even where Plaintiff prevailed on the  
12 PAGA claim. Even if we assume that violations for all 40,555 pay periods were established, using  
13 the valuation from *Carrington* results in a potential recovery of only \$202,775 under PAGA. This  
14 means that the PAGA allocation in the Agreement is a reasonable percentage of this potential  
15 PAGA recovery. Fourth, the interests of PAGA are also served by the Class recovery under the  
16 reasoning of the LWDA in *O'Connor v. Uber*.

17           c.       **Individual PAGA Payments.** The number of Aggrieved Employees was  
18 527 at the time of mediation who worked an estimated 40,555 pay periods in the PAGA Period.  
19 The PAGA Penalties are \$30,000, which means the 25% payable to the Aggrieved Employees is  
20 \$7,500, and the remaining 75% is paid to the LWDA. Using these figures, the average Individual  
21 PAGA Payment of an Aggrieved Employee is \$14.23 and the net payment per PAGA Pay Period is  
22 \$0.18 per pay period.

23           d.       **Comparable PAGA Settlements.** In reaching the settlement of the PAGA  
24

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25       <sup>3</sup> Stacking is where more than one civil penalty is imposed in a pay period for the same conduct.  
26 The valuation of between \$2,027,750 and \$405,550 is the civil penalty amount without stacking. If  
27 stacking is permitted, then the valuation increases with each additional penalty added to each pay  
28 period. Plaintiffs, however, are not aware of any PAGA award which permitted stacking and in the  
cases cited herein, only one penalty per pay period was assessed. Moreover, the recent amendments  
to the PAGA statutes cast further doubt on whether stacking is permitted.

1 claim, Class Counsel was also aware of what allocations other Courts have approved for similar  
2 PAGA settlements as compared to the total settlement amount. A class settlement that allocates  
3 approximately 2% of the total settlement value to resolve the PAGA claims applicable to the class is  
4 also supported by what has been approved in other wage-and-hour class settlements. Indeed, Courts  
5 typically approve PAGA settlement amounts in the range of between 0.27 to 2 percent of the total  
6 settlement. See *Davis v. Brown Shoe Co.*, 2015 U.S. Dist. LEXIS 149010 (E.D. Cal. 2015) (PAGA  
7 Payment of \$5,000 in a \$1.5 million class settlement); *Zamora v. Ryder Integrated Logistics, Inc.*,  
8 2014 U.S. Dist. LEXIS 184096 (S.D. Cal. 2014) (\$7,500 payment to LWDA for PAGA on a \$1.5  
9 million class settlement); *Lusby v. Gamestop Inc.*, 2015 U.S. Dist. LEXIS 42637 (N.D. Cal. 2015)  
10 (PAGA Payment of \$5,000 in a \$500,000 class settlement); *Cruz v. Sky Chefs, Inc.*, 2014 U.S. Dist  
11 Lexis 17693 (N.D. Cal. 2014) (approving payment of \$10,000 to the LWDA for PAGA out of  
12 \$1,750,000 class settlement); *Chu v. Wells Fargo Investments, LLC*, 2011 WL 672645, \*1 (N.D.  
13 Cal. 2011) (approving PAGA payment of \$7,500 to the LWDA out of \$6.9 million common-fund  
14 settlement); *Franco v. Ruiz Food Products, Inc.*, 2012 WL 5941801, \*13 (E.D. Cal. 2012)  
15 (approving PAGA payment of \$7,500 to the LWDA out of \$2.5 million common-fund settlement);  
16 *Hopson v. Hanesbrands Inc.*, 2009 WL 928133, \*9 (N.D. Cal. 2009) (approving PAGA allocation  
17 that was .49% of \$408,420.32 gross settlement); *Garcia v. Gordon Trucking, Inc.*,  
18 10-cv-00324-AWI-SKO, Dkt. 149-3, 165 (E.D. Cal.) (approving a class settlement of \$3,700,000,  
19 with \$10,000 allocated to the PAGA claim); *McKenzie v. Federal Express Corp.*, CV 10-02420  
20 GAF (PLAx), Dkt. 139 & 141 (C.D. Cal.) (court approved a settlement in an amount of \$8.25  
21 million, with \$82,500 allotted to the PAGA claim); *DeStefan v Frito-Lay*, 8:10-cv-00112-DOC  
22 (C.D. Cal.) (court approved a class settlement of \$2 million, with \$10,000 allocated to PAGA);  
23 *Martino v. Ecolab Inc.*, No. 3:14CV04358 (N.D. Cal. 2017) (\$100,000 allotted as PAGA penalties  
24 or 0.48% of \$21,000,000 settlement amount); *East v. Comprehensive Educational Services Inc.*,  
25 Fresno Superior Court Case No. 11-CECG-04226 (2015) (\$10,000 allotted as PAGA penalties or  
26 0.13% of \$7,595,846 settlement amount); *Bararsani v. Coldwell Banker Residential Brokerage*  
27 *Company*, Los Angeles Superior Court Case No. BC495767 (2016) (\$10,000 allotted as PAGA  
28 penalties or 0.22% of \$4,500,000 settlement amount); *Moppin v. Los Robles Medical Center*, No.

1 5:15CV01551 (C.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or 0.40% of \$3,775,000  
2 settlement amount); *Scott-George v. PVH Corporation*. No., 2:13CV00441 (E.D. Cal. 2017)  
3 (\$15,000 allotted as PAGA penalties or 0.46% of \$3,250,000 settlement amount); *Nehrlich v. RPM*  
4 *Mortgage Inc.*, Orange County Superior Court Case No. 30-2013-00666783-CU-OE-CXC (2017)  
5 (\$10,000 allotted as PAGA penalties or 0.40% of \$2,500,000 settlement amount); *Rubio v. KTI*  
6 *Incorporated*, San Bernardino Superior Court Case No. CIVDS-14-06132 (2015) (\$1,000 allotted as  
7 PAGA penalties or 0.18% of \$550,000 settlement amount); *Gray v. Mountain View Child Care Inc.*,  
8 San Bernardino Superior Court Case No. CIVDS-14-02285 (2016) (\$2,500 allotted as PAGA  
9 penalties or 0.37% of \$675,000 settlement amount); *Perez v. West Coast Liquidators Inc. d/b/a Big*  
10 *Lots*, San Bernardino Superior Court Case No. CIVDS-14-17863 (2016) (\$3,000 allotted as PAGA  
11 penalties or 0.33% of \$900,000 settlement amount); *Penaloza vs. PPG Industries Inc.*, Los Angeles  
12 Superior Court No. BC471369 (2013) (\$5,000 allotted as PAGA penalties or 0.38% of \$1,300,000  
13 settlement amount); *Mejia v. DHL Express (USA) Inc.*, No. 2:15CV00890 (C.D. Cal. 2017) (\$5,000  
14 allotted as PAGA penalties or 0.34% of \$1,450,000 settlement amount).

15  
16 34. Attorneys' Fees - The Class Counsel Fees Payment is capped at one-third of the  
17 Gross Settlement Amount. A fee award that is capped at one-third of the common fund is fair and  
18 reasonable, and at the time of final approval, my firm will present lodestar to further support the  
19 reasonableness of the requested fee award. My firm has been regularly awarded attorney's fees  
20 equal to one-third of the common fund in Court-approved wage and hour class settlements. Some  
21 of the class action awards obtained by Class Counsel in similar employment actions throughout the  
22 state bear out the reasonableness of a fee and costs award equivalent to one-third (1/3) of the total  
23 settlement value: On December 4, 2018, in *Panda Express Wage and Hour Cases* (Los Angeles  
24 Superior Court, Case No. JCCP 4919) Judge Carolyn Kuhl awarded Class Counsel a one-third fee  
25 award in a wage and hour class settlement. On February 1, 2019, in *Solarcity Wage and Hour*  
26 *Cases* (San Mateo Superior Court, Case No. JCCP 4945) Judge Marie Weiner awarded Class  
27 Counsel a one-third fee award in a wage and hour class settlement. On July 30, 2019, in *Erickson v.*  
28 *John Muir Health*, (Contra Costa Superior Court Case No. MSC18-00307) Judge Edward Weil

1 awarded Class Counsel a one-third fee award in a wage and hour class settlement. On December  
2 18, 2019, in *Velasco v. Lemonade Restaurant Group*, (Los Angeles Superior Court Case No.  
3 BC672235) Judge William Highberger awarded Class Counsel a one-third fee award in a wage and  
4 hour class settlement. On January 31, 2020, in *El Pollo Loco Wage and Hour Cases* (Orange  
5 County Superior Court Case No. JCCP 4957) Judge William Claster awarded Class Counsel a one-  
6 third award in a wage and hour class settlement. On October 23, 2020, in *Ontiveros v. Baker*  
7 *Concrete*, (Santa Clara Superior Court Case No. 18CV328679) Judge Brian Walsh awarded Class  
8 Counsel a one-third fee award in a wage and hour class settlement. On December 3, 2020, in  
9 *Blackshear v. California Fine Wine & Spirits* (Sacramento Superior Court Case No. 34-2018-  
10 00245842) Judge Christopher Krueger awarded BNBD a one-third fee award in a wage and hour  
11 class settlement. On June 2, 2021, in *Pacia v. CIM Group, L.P.* (Los Angeles Superior Court Case  
12 No. BC709666), Judge Amy D. Hogue awarded Class Counsel a one-third fee award in a wage and  
13 hour class settlement. On September 24, 2021, in *Prologistics Wage and Hour Cases* (Los Angeles  
14 Superior Court Case No. JCCP 4881), Judge William Claster awarded Class Counsel a one-third fee  
15 award in a wage and hour class settlement. On November 8, 2021, in *Securitas Wage and Hour*  
16 *Cases* (Los Angeles Superior Court Case No. JCCP4837) Judge David Cunningham awarded a  
17 one-third fee award in a wage and hour class settlement. On March 17, 2022, in *See's Candies*  
18 *Wage and Hour Cases* (Los Angeles Superior Court Case No. JCCP5004) Judge Maren Nelson  
19 awarded a one-third fee award in a wage and hour class action settlement. On April 12, 2022, in  
20 *O'Donnell v. Okta, Inc.*, (San Francisco Superior Court Case No. CGC-20-587665) Judge Richard  
21 Ulmer awarded a one-third fee award in a wage and hour class action settlement. On May 23, 2022,  
22 in *Ettedgui v. WB Studio Enterprises Inc.*, (United States District Court, Central District of  
23 California Case No. 2:20-cv-08053-MCS-JDE) Judge Mark C. Scarsi awarded a one-third fee award  
24 in a wage and hour class action settlement. On June 30, 2022, in *Armstrong, et al. v. Prometric*  
25 *LLC* (Los Angeles Superior Court Case No. 20STCV29967), Judge Maren E. Nelson awarded a  
26 one-third fee award in a wage and hour class action. On July 13, 2022, in *Crum v. S&D Carwash*  
27 *Management LLC*, (Sacramento Superior Court Case No. 2019-00251338), Judge Christopher E.  
28 Krueger awarded a one-third fee award in a wage and hour class action settlement. On August 10,

2022, in *Spears, et al. v. Health Net of California, Inc.*, (Sacramento Superior Court Case No. 34-2017-00210560-CU-OE-GDS), Judge Christopher E. Krueger awarded a one-third fee award in a wage and hour class action settlement. On September 7, 2022, in *Lucchese, et al. v. Kone, Inc.*, (San Francisco Superior Court Case No. CGC-20-588225), Judge Richard B. Ulmer, Jr. awarded a one-third fee award in a wage and hour class action settlement. On November 4, 2022, in *Infinity Energy Wage and Hour Cases* (San Diego Superior Court, Case No. JCCP5139), Judge Keri Katz awarded a one-third fee award in a wage and hour class action settlement. On February 1, 2023, in *Hogan v. AECOM Technical Services, Inc.* (Los Angeles Superior Court Case No. 19STCV40072), Judge Stuart Rice awarded a one-third fee award in a wage and hour class settlement. On February 28, 2023, in *Farthing v. Milestone Technologies* (San Francisco Superior Court Case No. CGC-21-591251), Judge Richard B. Ulmer, Jr. awarded a one-third fee award in a wage and hour class action settlement. On March 2, 2023, in *Leon v. Calaveras Materials* (Kings County Superior Court Case No. 21C-0105), Judge Melissa D'Morias awarded a one-third fee award in a wage and hour class settlement. On June 20, 2023, in *Gonzalez v. Pacific Western Bank* (San Bernardino County Superior Court Case No. CIVSB2127657) Judge David Cohn awarded a one-third fee award in a wage and hour class settlement, On June 30, 2023, in *Aguirre v. Headlands Ventures* (Sacramento County Superior Court Case No. 34-2021-00297290), Judge Jill Talley approved a one-third fee award in a wage and hour class settlement. On October 16, 2023, in *Flores v. Walmart*, (San Bernardino County Superior Court Case No. CIVDS2023061) Judge Joseph T. Ortiz awarded a one-third fee award in a wage and hour class settlement. On November 17, 2023, in *Silva v. Woodward HRT* (Los Angeles County Superior Court Case No. 21STCV42692), Judge Maren Nelson awarded a one-third fee award in a wage and hour class settlement. On November 29, 2023, in *Ochoa-Andrade v. See's Candies* (San Mateo County Superior Court Case no. 22-CIV-02481), Judge Marie Weiner approved a one-third fee award in a wage and hour class settlement. A fee award equal to one-third of the common fund is therefore reasonable in light of the fees that have been awarded in other similar cases.

35. Class Representative Service Payments - The reasonableness of the requested service

award is also established by reference to the amounts that other California courts have found to be reasonable in wage and hour class action settlements: *Andrews v. Plains All Am. Pipeline L.P.*, 2022 U.S. Dist. LEXIS 172183, at \*11 (C.D. Cal. 2022) (finding that the requested service awards of \$15,000 each are appropriate); *Reynolds v. Direct Flow Med., Inc.*, 2019 U.S. Dist. LEXIS 149865, at \*19 (N.D. Cal. 2019) (granting request for \$12,500 service award); *Mathein v. Pier 1 Imps.*, 2018 U.S. Dist. LEXIS 71386, 168 (E.D. Cal. 2018) (approving two service awards of \$12,500 each); *Louie v. Kaiser Foundation Health Plan, Inc.*, 2008 WL 4473183, \*7 (S.D. Cal. Oct. 06, 2008) (awarding \$25,000 service award to each of six plaintiffs in overtime class action); *Holman v. Experian Info. Solutions, Inc.*, 2014 U.S. Dist. LEXIS 173698 (approving \$10,000 service award where class member recovery was \$375); *Ontiveros v. Zamora*, 303 F.R.D. 356, 366 (E.D. Cal. 2014) (reducing \$20,000 award to \$15,000 where the plaintiff brought a class claim in lieu of bringing an individual action); *Glass v. UBS Fin. Servs.*, 2007 U.S. Dist. LEXIS 8476 at \*51-\*52 (N.D. Cal. 2007) (awarding \$25,000 service award in overtime wage class action); *Zamora v. Balboa Life & Casualty, LLC*, Case No. BC360036, Los Angeles County Superior Court (Mar. 7, 2013) (awarding \$25,000 service award); *Aguilar v. Cingular Wireless, LLC*, Case No. CV 06-8197 DDP (AJWx) (C.D. Cal. Mar. 17, 2011) (awarding \$14,767 service award); *Magee v. American Residential Services, LLC*, Case No. BC423798, Los Angeles County Superior Court (Apr. 21, 2011) (awarding \$15,000 service award); *Mares v. BFS Retail & Commercial Operations, LLC*, Case No. BC375967, Los Angeles County Superior Court (June 24, 2010) (awarding \$15,000 service award); *Baker v. L.A. Fitness Int'l, LLC*, Case No. BC438654, L.A. County Superior Court (Dec. 12, 2012) (awarding \$10,000 service awards to three named plaintiffs); *Blue v. Coldwell banker Residential Brokerage Co.*, Case No. BC417335, Los Angeles County Superior Court (Mar. 21, 2011) (awarding \$10,000 service award); *Buckmire v. Jo-Ann Stores, Inc.*, Case No. BC394795, Los Angeles County Superior Court (June, 11, 2010) (awarding \$10,000 service awards); *Coleman v. Estes Express Lines, Inc.*, Case No. BC429042, Los Angeles County Superior Court (Oct. 3, 2013) (awarding \$10,000 service award); *Ethridge v. Universal Health Services, Inc.*, Case No. BC391958, Los Angeles County Superior Court (May 27, 2011) (awarding \$10,000 service award); *Hickson v. South Coast Auto Ins. Marketing, Inc.*, Case No. BC390395, Los Angeles County

1 Superior Court (Mar. 27, 2012)(awarding \$10,000 service award); *Hill v. sunglass Hut Int'l, Inc.*,  
2 Case No. BC422934, Los Angeles County Superior Court (July 2, 2012)(awarding \$10,000 service  
3 award); *Kambamba v. Victoria's Secret Stores, LLC*, Case No. BC368528, Los Angeles County  
4 Superior Court, (Aug. 19, 2011)(awarding \$10,000 service award together with additional  
5 compensation for their general release); *Nevarez v. Trader Joe's Co.*, Case No. BC373910, Los  
6 Angeles County Superior Court (Jan. 29, 2010)(awarding \$10,000 service award); *Ordaz v. Rose*  
7 *Hills Mortuary, L.P.*, Case No. BC386500, Los Angeles County Superior Court, (Mar. 19,  
8 2010)(awarding \$10,000 service award); *Sheldon v. AHMC Monterey Park Hosp. LP*, Case No.  
9 BC440282, Los Angeles County Superior Court (Feb. 22, 2013)(awarding \$10,000 service award);  
10 *Silva v. Catholic Mortuary Services, Inc.*, Case No. BC408054, Los Angeles County Superior Court  
11 (Feb. 8, 2011)(awarding \$10,000 enhancement award); *Weisbarth v. Banc West Investment Services,*  
12 *Inc.*, Case No. BC422202, Los Angeles County Superior Court (May 24, 2013)(awarding \$10,000  
13 service award); *Lazar v. Kaiser Foundation Health Plan*, Case No. 14-cv-273289, Santa Clara  
14 County Superior Court (Dec. 28, 2015) (awarding \$10,000 service award); *Acheson v. Express,*  
15 *LLC*, Case No. 109CV135335, Santa Clara County Superior Court (Sept. 13, 2011)(awarding  
16 \$10,000 service award); *Bejarano v. Amerisave Mortgage Corp.*, Case No. EDCV 08-00599 SGL  
17 (Opx)(C.D. Cal. June 22, 2010)(awarding \$10,000 service award); *Carbajal v. Sally Beauty Supply*  
18 *LLC*, Case No. CIVVS 1004307, San Bernardino County Superior Court (Aug. 6, 2012)(awarding  
19 \$10,000 service award); *Contreras v. Serco Inc.*, Case No. 10-cv-04526-CAS-JEMx (C.D. Cal. Sep.  
20 10, 2012)(awarding \$10,000 service award); *Guerro v. R.R. Donnelley & Sons Co.*, Case No. RIC  
21 10005196, Riverside County Superior Court (July 16, 2013)(awarding \$10,000 service award);  
22 *Kisliuk v. ADT Security Services Inc.*, Case No. CV08-03241 DSF (RZx)(C.D. Cal. Jan. 10,  
23 2011)(awarding \$10,000 service award); *Morales v. BCBG Maxazria Int'l Holdings, Inc.*, Case No.  
24 JCCP 4582, Orange County Superior Court (Jan. 24, 2013)(awarding \$10,000 service award);  
25 *Barrett v. Doyon Security Services, LLC*, Case No. BS900199, BS900517, San Bernardino County  
26 Superior Court (Apr. 23, 2010)(awarding \$10,000 service award); *Zirpolo v. UAG Stevens Creek II,*  
27 Santa Clara Superior Court Case no. 17CV313457 (July 10, 2018) (awarding \$10,000 service  
28

award); *Taylor v. TIC - The Industrial Company*, U.S.D.C. Central District of California Case No. EDCV 16-186-VAP (Aug. 1, 2018) (awarding \$10,000 service award).

36. Potentially Related Other Actions - I am unaware of any other related cases pending against Defendant which would be impacted by this settlement. (Agreement at ¶ 2.14.) I have searched the LWDA database which evidences that there are no other currently pending PAGA notices served against Defendant (other than PAGA notice served in this case).

37. Administration - After seeking bids from qualified administrators, the estimate from ILYM Group was selected, as it provided for an estimate of \$10,950 to perform the settlement administration for a Class of up to 1,000, with any difference between the actual expenses and the budget of \$12,000 to be retained in the Net Settlement Amount for distribution to the Class. I have used ILYM Group successfully as the administrator in more than twenty class settlements in the last few years and know them to be competent and experienced. My firm has no relationship or connection with ILYM Group, and thus no conflict of interest exists. Submitted herewith is a true and correct copy of the Declaration of Anthony Rogers from ILYM Group which establishes its experience and security procedures, and also attaches the estimate for administration.

Service on the LWDA:

38. At the same time as the filing and service of this declaration, I am also serving the LWDA with the entire motion for preliminary approval which includes the Class Action and PAGA Settlement Agreement. This service is verified by the accompanying proof of service.

Defendant's Declaration Under Paragraph 7.1:

40. Defendant has provided the Declaration of Dawn Kopra in compliance with paragraph 7.1 of the Agreement. The Declaration of Dawn Kopra confirms the class size, the workweeks, and that Defendant is not aware of any other actions that would be adversely affected by this settlement. A copy of the Declaration of Dawn Kopra is attached hereto as Exhibit #5.

41. Final Approval Hearing. Plaintiff proposes a Final Approval Hearing date on or after March 15, 2024.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 27th day of August, 2024, at La Jolla, California.

By: /s/ Kyle Nordrehaug  
Kyle Nordrehaug



## CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Nicole Fritch (“Plaintiff”) and defendant The Coca-Cola Company (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as the “Parties,” or individually as “Party.”

### 1. DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

- 1.1. “Action” collectively means the Plaintiff’s lawsuits alleging wage and hour violations against Defendant captioned: (1) *Nicole Fritch v. The Coca-Cola Company*, Case No. 8:23-cv-00576-JWH-E, initiated on February 1, 2023 and pending in the United States District Court for the Central District of California; and (2) *Nicole Fritch v. The Coca-Cola Company*, Case No. 30-2023-01313737-CU-OE-CXC, initiated on March 21, 2023 and pending in the Superior Court of the State of California, County of Orange.
- 1.2. “Administrator” means ILYM Group, Inc. the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval.
- 1.4. “Class” means all individuals currently or formerly employed by Defendant in California and classified as an hourly, non-exempt employee at any time during the Class Period, excluding any *Flores* Settlement Members who worked from February 1, 2019 to February 23, 2022, and whose employment terminated on or before February 23, 2022 and who has not been since rehired by Defendant The Coca-Cola Company.
- 1.5. “Class Counsel” means Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik, Nicholas J. De. Blouw, Victoria Rivapalacio, Piya Mukherjee, Jeffrey S. Herman, and Charlotte James of Blumenthal Nordrehaug Bhowmik De Blouw LLP, and Shane Phayakapong, Shane Law, P.C.
- 1.6. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts to be paid to Class Counsel for fees and expenses, respectively, as approved by the Court, to compensate Class Counsel for their legal work in connection with the Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses billed in connection with the Action.

- 1.7. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s full name, last-known mailing address, Social Security number, and the number of Workweeks and PAGA Pay Periods for each Class Member.
- 1.8. “Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an PAGA Employee).
- 1.9. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members by use of available email addresses, phone numbers, social security numbers, credit reports, LinkedIn and Facebook.
- 1.10. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.11. “Class Notice Packet” means the Class Notice to be provided to the Class Members by the Administrator in the form set forth as Exhibit A to this Agreement (other than formatting changes to facilitate printing by the Administrator) along with a Request for Exclusion form and Dispute form substantively in the forms attached hereto as Exhibit A.
- 1.12. “Class Period” means the period of time from February 1, 2019, through the earlier of preliminary approval or August 3, 2024.
- 1.13. “Class Representative” means the named Plaintiff in the Operative Complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.14. “Class Representative Service Payment” means the service payment made to the Plaintiff as Class Representative in order to compensate for initiating the Action, performing work in support of the Action, undertaking the risk of liability for Defendant’s expenses, and for the release of claims by the Plaintiff in the Action, excluding her individual claims for discrimination, retaliation, failure to engage in the interactive process, failure to provide reasonable accommodation, and wrongful termination, which she is releasing in a separate confidential individual settlement agreement.
- 1.15. “Court” means the Superior Court of California, County of Orange.
- 1.16. “Defendant” means The Coca-Cola Company.

- 1.17. “Defense Counsel means Sophia B. Collins, Anthony G. Ly, Puja Sharma, and Yuri Choy of Littler Mendelson, P.C.
- 1.18. “Effective Date” means five (5) calendar days after the period for filing any appeal, writ, or other appellate proceeding opposing Final Approval and judgment has elapsed without any appeal, writ, or other appellate proceeding having been filed, i.e., 65 days from the date the court grants final approval and enters judgment; or, if any appeal, writ, or other appellate proceeding opposing Final Approval has been filed within that timeframe; five business days after any appeal, writ, or other appellate proceedings opposing the Settlement has finally and conclusively dismissed with no right to pursue further remedies or relief.
- 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.
- 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.
- 1.21. “*Flores*” means the class action and PAGA lawsuit *Flores v. The Coca-Cola Company, Los Angeles County Superior Court*, Case No. 20STCV07230 that resulted in a settlement covering the *Flores* Settlement Members.
- 1.22. “*Flores* Settlement Members” means all non-exempt employees who performed work for the Defendant at the Fontana, California and Ontario, California facilities during the period from July 31, 2018 to and including February 23, 2022, which released all claims alleged in the *Flores* action, or any claims that could have been alleged in the *Flores* action based on the facts alleged, including claims for (a) minimum wage; (b) overtime; (c) failure to provide accurate itemized statements; (d) failure to provide wages when due; (e) failure to timely pay wages; (f) failure to provide meal periods; (g) failure to provide rest breaks; (h) violation of Business & Professions Code 17200 *et seq.*; and (i) violation of the PAGA for the PAGA period of February 25, 2019 to February 23, 2022.
- 1.23. “Gross Settlement Amount” means One Million Five Hundred Thousand Dollars (\$1,500,000), which is the total amount to be paid by Defendant as provided by this Agreement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment and the Administration Expenses Payment. This Gross Settlement Amount is an all-in amount without any reversion to Defendant, and excludes any employer payroll taxes, if any, due on the portion of the Individual Class Payments allocated to wages which shall not be paid from the Gross Settlement and shall be the separate additional obligation of Defendant.

- 1.24. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.25. “Individual PAGA Payment” means the PAGA Employees’ pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period.
- 1.26. “Judgment” means the judgment entered by the Court based upon Final Approval substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.
- 1.27. “LWDA” means the California Labor and Workforce Development Agency.
- 1.28. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.29. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: the PAGA Penalties, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The Net Settlement Amount is to be paid to Participating Class Members as Individual Class Payments.
- 1.30. “Non-Participating Class Member” means a Class Member who opts out of the Class Settlement by submitting a valid and timely Request for Exclusion to the Administrator.
- 1.31. “PAGA Employees” means all Class Members who were employed by Defendant at any time during the PAGA Period, excluding any *Flores* Settlement Member who worked from February 1, 2019 to February 23, 2022 and whose employment terminated on or before February 23, 2022 and who has not been since rehired by Defendant The Coca-Cola Company.
- 1.32. “PAGA Pay Period” means any pay period during which a PAGA Employee worked for Defendant for at least one day during the PAGA Period.
- 1.33. “PAGA Period” means the period of time from January 10, 2022, through the earlier of preliminary approval or August 3, 2024.
- 1.34. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698 *et seq.*).
- 1.35. “PAGA Notice” means the Plaintiff’s January 10, 2023 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.36. “PAGA Penalties” means the total amount allocated as alleged civil penalties to be paid

from the Gross Settlement Amount, 25% of which shall be paid to the PAGA Employees (\$7,500) and 75% to the LWDA (\$22,500) in settlement of PAGA claims.

- 1.37. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion.
- 1.38. “Plaintiff” means Nicole Fritch the named plaintiff in the Action.
- 1.39. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement, substantially in the form attached hereto as Exhibit B to this Agreement and incorporated by this reference herein.
- 1.40. “Released Class Claims” means all claims set forth in the Operative Complaint that occurred during the Class Period, including: (1) unfair competition; (2) failure to pay minimum wages; (3) failure to pay overtime wages; (4) failure to provide meal periods; (5) failure to provide rest periods; (6) failure to provide accurate itemized statements; (7) failure to reimburse employees for required expenses; (8) failure to provide wages when due; and (9) failure to pay sick wages; as well as any claims that could have been pled from the same or similar facts pled in the Operative Complaint, including those claims for interest, penalties (including waiting time penalties), as well as any claims under the California Labor Code for violations of Labor Code sections 201, 202, 203, 204, 210, 218, 221, 226, 226.7, 233, 246, 247, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, 2810.5; Business and Professions Code §§ 17200, et seq.; the Fair Labor Standards Act, 29 U.S.C. §§ 201, et seq. (“FLSA”); and the applicable California Industrial Welfare Commission Wage Orders. The Released Class Claims include any claims for injunctive relief, declaratory relief, restitution, alleged or which could have been alleged under the facts, allegations and/or claims pleaded in the Operative Complaint that occurred during the Class Period. The Released Class Claims exclude all class claims outside of the Class Period, including Plaintiff’s individual claims that are subject to a separate release, claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or class claims based on facts occurring outside the Class Period, and, for *Flores* Settlement Class Members, the claims that were already resolved and released in the *Flores* settlement for the period between July 31, 2018 and February 23, 2022.
- 1.41. “Released PAGA Claims” means all alleged violations of PAGA in the Operative Complaint that occurred during the PAGA Period, including: claims alleged or claims based on the facts in the Operative Complaint in the PAGA Action for Violation of the California Private Attorneys General Act of 2004 (Labor Code §§ 2698, et seq.), and Plaintiff’s request for PAGA penalties based on the same facts alleged in the Operative Complaint and/or the January 10, 2023 PAGA Notice sent to the LWDA by Plaintiff under Labor Code section 2699.3 prior to filing the PAGA Action for alleged violations of the California Labor Code and California Industrial Welfare Commission Wage Orders

for violations of Labor Code sections 201, 202, 203, 204 et seq., 210, 221, 226, 226(a), 226.3, 226.7, 227.3, 246 et seq., 510, 512, 558, 1194, 1197, 1197.1, 1198, 2802, and applicable IWC Wage Orders, and California Code of Regulations, Title 8, section 11000 et seq. The Released PAGA Claims exclude PAGA claims outside of the PAGA Period, and, for *Flores* Settlement Members, the PAGA claims that were already resolved and released in the *Flores* settlement for the period of February 25, 2019 to February 23, 2022.

- 1.42. “Released Parties” means: Defendant and any of their past, present and future direct or indirect parents, subsidiaries, predecessors, successors and affiliates, as well as each of its past, present and future officers, directors, employees, partners, members, shareholders and agents, attorneys, insurers, reinsurers, and any individual or entity which could be jointly liable with Defendant.
- 1.43. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member. A Request for Exclusion will not exclude a Class Member from receiving his or her prorated portion of the PAGA Penalties to the extent the Class Member is also a PAGA Employee and his or her Request for Exclusion will not affect his or her Release of PAGA Claims.
- 1.44. “Response Deadline” means forty-five (45) calendar days after the Administrator mails Class Notice Packet to Class Members and shall be the last date on which Class Members may: (a) submit Requests for Exclusion from the Settlement, or (b) submit his or her Objection to the Settlement. Class Members to whom Class Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.45. “Settlement” means the disposition of the Action and all related claims effectuated by this Agreement and the Judgment.
- 1.46. “Workweek” means any week during the Class Period in which a Class Member worked for Defendant as a Class Member for at least one day.

## **2. RECITALS**

### **The Class Action**

- 2.1. On February 1, 2023, Plaintiff commenced this Action by filing a Class Action Complaint against Defendant in the Superior Court of the State of California, County of Orange (the “Class Action”). Plaintiff’s Class Action Complaint asserted class claims that Defendant:
- (a) Violated California Business and Professions Code § 17200 et seq.;
  - (b) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197 & 1197.1;

- (c) Failed to pay overtime wages in violation of California Labor Code § 510, *et seq.*;
- (d) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- (e) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- (f) Failed to provide accurate itemized wage statements in violation of California Labor Code § 226;
- (g) Failed to reimburse employees for required expenses in violation of California Labor Code § 2802;
- (h) Failed to provide wages when due in violation of California Labor Code §§ 201, 202 and 203;
- (i) Failure to pay sick pay wages in violation of California Labor Code §§ 201-204, 233, 246;
- (j) Discriminated and Retaliated in Violation of FEHA;
- (k) Failed To Engage in the Interactive Process in Violation of Cal. Gov. Code § 12940(N);
- (l) Failed to Provide Reasonable Accommodation in Violation of Cal. Gov. Code § 12940(m); and,
- (m) Wrongfully Terminated in violation of public policy.<sup>1</sup>

2.2. On March 30, 2023, Defendant removed Plaintiff's Class Action Complaint to the United States District Court for the Central District of California, where it is currently pending under Case No. Case No. 8:23-cv-00576-JWH-E.

2.3. On August 29, 2023, the Parties filed a Stipulation to Stay the Class Action pending mediation, which the Court granted on August 30, 2023.

2.4. On April 11, 2024, the Parties filed a Stipulation to Stay the Class Action pending a determination by the Court approving of or denying the settlement agreement entered into by the Parties.

2.5. On April 16, 2024, the Hon. John W. Holcomb granted the Parties' Stipulation to Stay the Class Action and stayed the Class Action.

### **The PAGA Action**

2.6. On March 21, 2023, Plaintiff filed a separate Representative Action Complaint against Defendant (the "PAGA Action"). Plaintiff's Representative Action Complaint asserted one cause of action against Defendant for Civil Penalties Pursuant to Labor Code §§ 2699, *et seq.* for violations of Labor Code §§ 201, 202, 203, 204, *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246, *et seq.*, 510, 512, 558(a)(1), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of

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<sup>1</sup> Claims (j)-(m) were asserted by Plaintiff individually, whereas the remaining claims were asserted by Plaintiff on classwide basis.

Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), and the applicable Wage Order(s).

2.7. On May 9, 2023, Defendant filed a Special Demurrer, or in the Alternative, Motion to Stay Plaintiff's Representative Action Complaint.

2.8. On June 8, 2023, the Court stayed the case, overruling Defendant's Special Demurrer, but granting Defendant's Motion to Stay the PAGA Action

### **Pleading Amendment**

2.9. As part of this Agreement, and for settlement purposes only, the Parties stipulate to the filing of a First Amended Class and Representative Action Complaint in the PAGA Action that adds the claims, allegations, and parties originally in the Class Action. The First Amended Class and Representative Action Complaint shall be the operative complaint in the Action (the "Operative Complaint"), which shall be provided to the Court with Plaintiff's Motion for Preliminary Approval and will be filed if the Court grants preliminary approval of the settlement. The Parties agree to stipulate to continue a stay in the Class Action pending in the Central District of California through the conclusion of the settlement approval process before the Orange County Superior Court. In the event that the settlement is not approved, the Parties will lift the stay in the Class Action within fourteen (14) days of the order denying the settlement, and (1) the Class Action will continue to be litigated before the Central District of California, (2) Plaintiff's PAGA Claim will continue to be litigated before the California Superior Court, County of Orange, and (3) the Parties shall stand in the same position, without prejudice, as if this Agreement was neither entered into nor filed with the Court. If the settlement is approved, the parties will stipulate to dismiss the Class Action without prejudice in the Central District of California.

2.10. Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint, and denies any and all liability for the causes of action alleged in the Operative Complaint.

### **Mediation and Settlement**

2.11. On April 3, 2024, the Parties participated in an all-day mediation presided over by Tripper Ortman, Esq. a respected mediator of wage and hour representative and class actions. Following the mediation, each side, represented by its respective counsel, was able to agree to settle the Action, which was memorialized in the form of a Memorandum of Understanding. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties.

2.12. Prior to mediation, Plaintiff obtained documents and information, including time and pay data for the alleged class, in formal and informal discovery to sufficiently investigate

the claims such that Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

2.13. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims in the Action of Plaintiff or the Class have merit or that Defendant bears any liability to Plaintiff or the Class on those claims or any other claims, or as an admission by Plaintiff that Defendant's defenses in the Action have merit. Defendant maintains, among other things, that it has complied with the law in all respects. Defendant further denies that, for any purpose other than settling the Action, that Plaintiff's Class Claims are appropriate for class treatment. Nothing in this Agreement shall be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendant reserves the right to contest certification of any class for any reason and reserves all available defenses to the claims in the Action.

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

### **3. MONETARY TERMS**

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay \$1,500,000 and no more as the Gross Settlement Amount. This amount is all-inclusive of all payments contemplated in this resolution, excluding any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages, which shall be separately paid by Defendant to the Administrator. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or PAGA Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2. Payments from the Gross Settlement Amount. Subject to the terms and conditions of this Agreement, the Administrator will make the following payments out of the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval.

(a) To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$10,000 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class

Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount for distribution to Participating Class Members. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

- (b) To Class Counsel: A Class Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be \$500,000, and a Class Counsel Litigation Expenses Payment of not more than \$50,000. Defendant will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount for distribution to Participating Class Members. Released Parties shall have no liability to Class Counsel or any other counsel for Plaintiff arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Released Parties harmless, and indemnifies Released Parties, from any dispute or controversy arising from or out of these payments, including but not limited to, any dispute regarding any division or sharing of these payments.
- (c) To the Administrator: An Administration Expenses Payment not to exceed \$12,000 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses Payment is less, or the Court approves payment less than \$12,000, the Administrator will retain the remainder in the Net Settlement Amount for distribution to Participating Class Members.
- (d) To the LWDA and PAGA Employees: PAGA Penalties in the amount of \$30,000 to be paid from the Gross Settlement Amount, with 75% (\$22,500) allocated to the LWDA PAGA Payment and 25% (\$7,500) allocated to the Individual PAGA Payments.
  - i. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the PAGA Employees' 25% share of PAGA Penalties (\$7,500) by the total number of PAGA Pay Periods worked by all PAGA Employees during the PAGA Period and (b) multiplying the result by each PAGA Employee's

PAGA Pay Periods. PAGA Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. Individual PAGA Payment calculation will exclude, for any *Flores* Settlement Members, those Pay Periods worked from February 1, 2019 to February 23, 2022.

- ii. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount for distribution to Participating Class Members. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.
- (e) To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. The Workweek calculation will exclude, for any *Flores* Settlement Members, those workweeks worked from February 1, 2019 and February 23, 2022.
- i. Tax Allocation of Individual Class Payments. 50% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. 50% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for non-wages, expense reimbursement, interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.
  - ii. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

#### 4. SETTLEMENT FUNDING

- 4.1. Class Workweeks and PAGA Employee Pay Periods. Based on its records as of February 17, 2024, Defendant estimates that the Class consists of 904 Class Members who collectively worked a total of 111,249 Workweeks, and 527 PAGA Employees who worked a total of 40,555 PAGA Pay Periods.
- 4.2. Class Data. Not later than 60 days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data

to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted Class Member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

- 4.3. Funding of the Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than ten (10) calendar days after the Effective Date.

## **5. PAYMENTS FROM THE GROSS SETTLEMENT AMOUNT**

- 5.1. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment.
- 5.2. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the "void date," which is 180 days after the date of mailing, when the check will be voided. Before checks are mailed, the Administrator shall update address information through the National Change of Address database. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Class Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all PAGA Employees including Non-Participating Class Members who qualify as PAGA Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Administrator must update the recipients' mailing addresses using the National Change of Address Database. If a Participating Class Member's or PAGA Employee's check is not cashed within 120 days after its last mailing to the affected individual, the Administrator will also send the individual a notice informing him or her that unless the check is cashed by the void date, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed.
- 5.3. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without a USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the

USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

5.4. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

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

**6. RELEASE OF CLAIMS.** Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Participating Class Members, PAGA Employees and the LWDA will release claims against all Released Parties as follows:

6.1. Plaintiff's Release. Plaintiff and her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint or Plaintiff's PAGA Notice ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to Plaintiff's individual non-wage and hour claims against Defendant alleged in causes of action 10 through 13 of the Operative Complaint that are being separately settled, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, or workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

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

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

- (b) Plaintiff's Other Claims. Plaintiff represents that she has additional individual tort, non-wage and hour, claims against Defendant alleged in causes of action 10 through 13 of the Operative Complaint. Plaintiff is separately settling these individual claims. In addition to the Gross Settlement Amount, Plaintiff will also separately be paid for resolution of her individual claims alleged in causes of action 10 through 13 of the Operative Complaint as set forth in her separate confidential individual settlement agreement. This individual settlement to be paid to Plaintiff is in addition to the Gross Settlement Amount and will be memorialized in confidential individual settlement agreement that will be separate from this Agreement. If the Court requires the Parties to submit the terms of the individual settlement agreement to obtain approval of this Settlement, the Parties agree that the individual settlement agreement will be submitted in camera under seal to the Court.

6.2. Release by Participating Class Members. All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from the Released Class Claims.

6.3. Release of PAGA Claims. All PAGA Employees and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from the Released PAGA Claims.

**7. MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's procedures and instructions.

7.1. Defendant's Responsibilities. Within 14 days of the full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed Declaration averring that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement. In this Declaration, Defendant shall also aver as to the number of Class Members and the number of Workweeks for the Class during the Class Period as referenced in Section 4.1 above.

7.2. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed

Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and (vi) all facts relevant to any actual or potential conflict of interest with Class Members. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

7.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval to the Administrator.

7.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court’s concerns. Any dispute between the parties related to this Agreement or any motion seeking approval of the settlement shall be presented to the Court for resolution only after first attempting to resolve the matter with the mediator.

## **8. SETTLEMENT ADMINISTRATION**

8.1. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc. agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Administrator’s duties will include preparing, printing, and mailing the Class Notice

Packet to all Class Members; conducting a National Change of Address search to update Class Member addresses before mailing the Class Notice Packets; re-mailing Class Notice Packets that are returned to the Class Member's new address; setting up a toll-free telephone number and email and a fax number to receive communications from Class Members; receiving and reviewing for validity completed Requests for Exclusion; providing the Parties with weekly status reports about the delivery of Class Notice Packets and receipt of Requests for Exclusion, objections and disputes; calculating Individual Class Payments and Individual PAGA Payments; issuing the checks to effectuate the payments due under the Settlement; issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

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

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

8.4. Notice to Class Members.

- (a) No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
- (b) Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- (c) Not later than 7 days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

- (d) The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the Response Deadline provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- (e) If the Administrator, the Parties, Defense Counsel or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

#### 8.5. Requests for Exclusion (Opt-Outs).

- (a) Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than the Response Deadline (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
- (b) The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator shall demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.
- (c) Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraph 6.2 of the Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

- (d) Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are PAGA Employees are deemed to release the claims identified in Paragraph 6.3 of this Agreement and are eligible for an Individual PAGA Payment regardless of whether they choose to submit a Request for Exclusion. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted, and the objection will be void.

8.6. Challenges to Calculation of Workweeks. Each Class Member shall have until the Response Deadline (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. Any dispute as to Workweeks and/or Pay Periods shall be initially resolved by the Administrator, with input and assistance from Defendant's Counsel, where applicable, and shall be subject to the jurisdiction of the Court. . The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination as to the challenges.

8.7. Objections to Settlement.

- (a) Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.
- (b) Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, or in addition to a written objection, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than the Response Deadline (plus an additional 14 days for Class Members whose Class Notice was re-mailed).
- (c) Non-Participating Class Members have no right to object to any of the class action components of the Settlement. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted, and the objection will be void.

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

- (a) Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.
- (b) Request for Exclusion (Opt-Outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 7 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).
- (c) Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- (d) Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include providing the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- (e) Administrator’s Declaration. Not later than 7 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to

locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

- (f) Final Report by Administrator. Within 10 days after the Administrator disburses all funds of the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 7 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court. If a second declaration attesting to the distribution of uncashed checks is required, the Administrator shall provide this second declaration at least 7 days before any deadline for a second declaration and Class Counsel shall be responsible for filing the second declaration with the Court.

**9. CLASS SIZE MODIFICATION AND ESCALATOR CLAUSE.** Based on its records, Defendant provided figures as to the Class size as set forth in paragraph 4.1 above. In regard hereto, Defendant is providing a declaration as set forth in paragraph 7.1 above. If the total number of 111,249 Workweeks worked by the Class Members during the Class Period increases by more than 10%, then the Gross Settlement Amount will be increased proportionately. For example, if the number is 11% higher, the Gross Settlement Amount will be increased by 1%. In the alternative, Defendant may elect to shorten the Class Period to stay within the 10% cushion.

**10. DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5% of the total of all Class Members, Defendant may, but is not obligated to, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Administration Expenses incurred as of the date Defendant makes this election to withdraw. Defendant's rescission shall have the same effect as a termination of the Settlement Agreement for failure to satisfy a condition of settlement. Defendant must notify Class Counsel and the Court of its election to withdraw not later than fifteen (15) days after the Administrator sends the final Exclusion List to Defense Counsel. Invalid Requests for Exclusion will have no effect on this threshold for an election. Defendant agrees to meet and confer in good faith with Class Counsel before rescinding or voiding the Settlement Agreement. In the event that Defendant elects to rescind/void the Settlement Agreement, Defendant shall provide written notice of such rescission to Settlement Class Counsel.

**11. MOTION FOR FINAL APPROVAL.** Unless otherwise ordered by the Court, not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699(1), a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiff shall provide drafts of these documents to Defense Counsel not later than 14 days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer and in good faith, to resolve any disagreements concerning the Motion for Final Approval. With the motion for final approval, Plaintiff will present a full report to the Court on all exclusions and objections received. The Court will consider any objections at the Final Approval Hearing.

- 11.1. Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 11.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final Approval. The Court’s decision to award less than the amounts requested for a Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administration Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.
- 11.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement under C.C.P. section 664.6 solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.
- 11.4. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court’s concerns and to obtain Final Approval and entry of Judgment, sharing, on an equal basis, any additional Administration Expenses reasonably incurred at the time of remittitur. An appellate decision to vacate, reverse, or modify the Court’s award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

**12. AMENDED JUDGMENT.** If any amended judgment is required under C.C.P. section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

### **13. ADDITIONAL PROVISIONS**

13.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or Judgment pursuant to this Agreement, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. Further, if, for any reason the Court does not grant Preliminary Approval, Final Approval or Judgment pursuant to this Agreement, (1) the Parties' prior Memorandum of Understanding and this Agreement shall be null and void; (2) neither the settlement nor any of the related negotiations or proceedings shall be of any force or effect; and (3) all Parties to the settlement shall stand in the same position, without prejudice, as if the Memorandum of Understanding Agreement were not entered into and the Agreement was not filed with the Court. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

13.2. Dismissal of Class Claims in the Action. If, for any reason the Court does not grant Final Approval or Judgment pursuant to this Agreement, the Parties will stipulate and take all actions necessary to obtain the dismissal of Plaintiff's Class Claims without prejudice from the Operative Complaint in the Action and Plaintiff will litigate those Class Claims before the United States District Court for the Central District of California, Case No. Case No. 8:23-cv-00576-JWH-E, where the Class Claims are currently stayed.

13.3. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter concerning any of the claims being released by this Agreement; (3) to the extent necessary to report income to appropriate taxing

authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Class Counsel will take all steps necessary to ensure that Plaintiff is aware of, and will encourage her to adhere to, the restriction against any public disclosure of the Settlement until after the Settlement is preliminarily approved by the Court (subject to any independent requirement of her confidential individual settlement agreement). Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that “the matter was resolved,” or words to that effect. This paragraph does not restrict Class Counsel’s communications with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members. After preliminary approval Class Counsel and Plaintiff agree not to publicize the terms of this Settlement with the media, including but not limited to, any newspaper, journal, magazine, website and/or online reporter of settlements or on any website.

- 13.4. No Solicitation. The Parties separately agree that they and their respective counsel and employees have not and will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel’s ability to communicate with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.
- 13.5. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 13.6. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 13.7. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator first, and then, to the extent necessary, the Court, for resolution.

- 13.8. Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 13.9. Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 13.10. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 13.11. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 13.12. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 13.13. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 13.14. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 13.15. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendant.
- 13.16. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 13.17. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement

falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

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

*To Plaintiff and the Class:*

Norman B. Blumenthal  
Kyle R. Nordrehaug  
Blumenthal Nordrehaug Bhowmik De Blouw LLP  
2255 Calle Clara  
La Jolla, CA 92037  
Tel.: (858) 551-1223  
Fax: (858) 551-1232  
E-Mail: [norm@bamlawca.com](mailto:norm@bamlawca.com)  
[kyle@bamlawca.com](mailto:kyle@bamlawca.com)

*To Defendant:*

Anthony Ly  
Littler Mendelson, P.C.  
2049 Century Park East, 5th Floor  
Los Angeles, CA 90067-3107  
Tel.: (310) 553-0308  
Fax: (310) 553-5583  
E-Mail: [aly@littler.com](mailto:aly@littler.com)

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

- 13.20. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to C.C.P. section 583.330 to extend the date to bring a case to trial under C.C.P. section 583.310 for the entire period of not less than one (1) year starting from the date of the signing of this agreement by all parties until the entry of the final approval order and judgment or, if not entered, the date this Agreement shall no longer be of any force or effect.

13.21. Fair Settlement. The Parties, Class Counsel and Defense Counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, both current and potential.

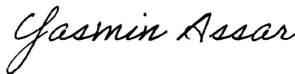
#### 14. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: Jul 8, 2024

  
\_\_\_\_\_  
Nicole Fritch (Jul 8, 2024 11:15 PDT)  
Plaintiff Nicole Fritch

Dated: 7/2/2024

  
\_\_\_\_\_  
Yasmin Assar  
For Defendant The Coca-Cola Company

Dated: 7/8/24

  
\_\_\_\_\_  
Kyle Nordrehaug  
Blumenthal Nordrehaug Bhowmik De Blouw LLP  
Attorney for Plaintiff

Dated: Jul 18, 2024

  
\_\_\_\_\_  
Shane Phayakapong (Jul 18, 2024 12:55 PDT)  
Shane Phayakapong, Esq.  
Shane Law, P.C.  
Attorney for Plaintiff

**EXHIBIT A**

[NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION AND HEARING DATE FOR  
FINAL COURT APPROVAL]

# **COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL**

***Fritch v. The Coca-Cola Company, Superior Court of the  
State of California, County of Orange, Case No. 30-2023-01313737-CU-OE-CXC***

*A court authorized this notice. This is not a solicitation.  
This is not a lawsuit against you, and you are not being sued.*

**To: All individuals currently or formerly employed by Defendant The Coca-Cola Company (“Defendant”) in California and classified as an hourly, non-exempt employee at any time during the Class Period (February 1, 2019, through **August 3, 2024**).**

The Superior Court of the State of California, County of Orange has granted preliminary approval of a proposed settlement of the above-captioned action. Because your rights may be affected by this settlement, please read this Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval (“Class Notice”) carefully. The purpose of this Class Notice is to provide a description of the claims alleged in the action, the key terms of the settlement, and your rights and options with respect to the settlement.

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

| <b>SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Do Nothing and<br/>Receive a Payment</b>                                  | <p>To receive a cash payment from the Settlement, you do <b>not</b> have to do anything.</p> <p><b>Your estimated Individual Class Payment is: \$&lt;&lt; __ &gt;&gt;. See the explanation in Section 5 below.</b></p> <p>After final approval by the Court, the payment will be mailed to you at the same address as this notice. In exchange for the settlement payment, you will release claims against the Defendant as detailed in Section 4 below. If your address has changed, you must notify the Administrator as explained in Section 6 below.</p> |
| <b>Exclude Yourself</b><br><br><b>The Response<br/>Deadline is</b><br>_____. | <p>To exclude yourself, you must send a written request for exclusion to the Administrator as provided below. <b>If you request exclusion, you will receive no money from the class action portion of the Settlement and you will not be bound by the class action portion of the Settlement.</b></p> <p>Instructions are set forth in Section 7 below.</p>                                                                                                                                                                                                  |
| <b>Object</b><br><br><b>The Response<br/>Deadline is</b><br>_____.           | <p>Write to the Administrator about why you do not agree with the settlement or appear at the Final Approval Hearing to make an oral objection. The Court’s Final Approval Hearing is scheduled to take place on _____ at 1:30 p.m., at the Orange County Superior Court, located at 751 West Santa Ana Blvd., Santa Ana, CA 92701, before Judge Lon Hurwitz in Department CX103.</p> <p>Directions regarding Objections are provided in Section 8 below.</p>                                                                                                |

## **1. Why did I receive this Class Notice?**

On February 1, 2023, Nicole Fritch (“Plaintiff”) filed a lawsuit alleging class claims against Defendant The Coca-Cola Company (“Defendant”) in the Superior Court of the State of California, County of Orange, which was later removed to the United States District Court for the Central District of California (the “Class Action”). Separately, on March 21, 2023, Nicole Fritch (“Plaintiff”) filed a lawsuit against Defendant The Coca-Cola Company (“Defendant”) in the Superior Court of the State of California, County of Orange alleging a claim under the Labor Code Private Attorneys General Act of 2004 (the “PAGA Action”). The class claims from the Class Action were added to the PAGA Action for purposes of settlement (the PAGA Action with the added class claims that is being settled is referred to herein as the “Action”).

Pursuant to a court order, you are hereby notified that Plaintiff and Defendant have reached a proposed class action settlement of the Action. The Honorable Lon Hurwitz has been assigned as the judge overseeing the Action and Settlement.

The Court held a hearing on [REDACTED]. After the hearing, the Court granted Preliminary Approval of the Settlement. The Court conditionally certified the Class for settlement purposes only and directed that you receive this Class Notice to provide a summary of the Settlement so that you may better understand your rights and options under the Settlement. Capitalized terms in this Class Notice are defined herein and/or in the Parties’ Class Action and PAGA Settlement Agreement (“Agreement”).

A proposed class action settlement (the “Settlement”) of the above-captioned action pending in the Superior Court of the State of California, in and for the County of Orange (the “Court”) has been reached between Plaintiff and Defendant and has been granted preliminary approval by the Court.

You have received this Class Notice because you have been identified as a member of the Class and may be entitled to receive money from this Settlement.

The Class is defined as:

All individuals currently or formerly employed by Defendant in California and classified as an hourly, non-exempt employee at any time during the Class Period, excluding any *Flores* Settlement Members who worked from February 1, 2019 to February 23, 2022, and whose employment terminated on or before February 23, 2022 and who has not been since rehired by Defendant The Coca-Cola Company.

The Class Period is February 1, 2019, through August 3, 2024.

“*Flores*” means the class action and PAGA lawsuit *Flores v. The Coca-Cola Company, Los Angeles County Superior Court*, Case No. 20STCV07230 that resulted in a settlement covering the *Flores* Settlement Members. “*Flores* Settlement Members” means all non-exempt employees who performed work for the Defendant at the Fontana, California and Ontario, California facilities during the period from July 31, 2018 to and including February 23, 2022, which released all claims alleged in the *Flores* action, or any claims that could have been alleged in the *Flores* action based on the facts alleged, including claims for (a) minimum wage; (b) overtime; (c) failure to provide accurate itemized statements; (d) failure to provide wages when due; (e) failure to timely pay wages; (f) failure to provide meal periods; (g) failure to provide rest breaks; (h) violation of Business & Professions Code 17200 *et seq.*; and (i) violation of the PAGA for the PAGA period of February 25, 2019 to February 23, 2022.

It is important that you read this Class Notice carefully as your rights may be affected by the Settlement.

## **2. What is this class action lawsuit about?**

In the Action, Plaintiff alleges the following class claims against Defendant: (1) unfair competition; (2) failure to pay minimum wages; (3) failure to pay overtime wages; (4) failure to provide meal periods; (5) failure to provide rest periods; (6) failure to provide accurate itemized statements; (7) failure to reimburse employees for required expenses; (8) failure to provide wages when due; and (9) failure to pay sick wages. The Action also alleges a representative claim under the California Private Attorneys General Act, Cal. Labor Code §§ 2698, *et seq.* (“PAGA”) for civil penalties based upon the above alleged violations.

On \_\_\_\_\_, 2024, the Court issued an Order granting leave to file the First Amended Class and Representative Action Complaint in the Action that adds the claims, allegations, and parties originally in the class action. The First Amended Class and Representative Action Complaint was filed \_\_\_\_\_, 2024 and is the operative complaint in the Action (the “Operative Complaint”).

Defendant expressly denies any wrongdoing or legal liability arising out of the claims alleged in the Action. Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint, and denies any and all liability for the causes of action alleged in the Operative Complaint. Defendant further denies that, for any purpose other than settling the Action, that Plaintiff’s Class Claims are appropriate for class treatment. Defendant has asserted numerous procedural and legal defenses to the Action and contends that the facts and applicable law do not allow for any monetary or other relief to Plaintiff or the Class. Defendant wishes to settle the Action only to avoid costly, disruptive, and time-consuming litigation. The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendant that Plaintiff’s claims in the lawsuit have merit, that it has any liability to Plaintiff or the group of individuals that Plaintiff seeks to represent in this lawsuit, or that it engaged in any wrongdoing.

The Court has not made any determination as to whether Plaintiff’s claims have any merit. In other words, the Court has not determined whether any laws have been violated, nor has it decided in favor of Plaintiff or Defendant. Instead, both sides agreed to resolve the Action with no decision or admission of who is right or wrong.

The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firm Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class Counsel. In granting preliminary approval of the Settlement, the Court has determined that there is sufficient evidence that the proposed Settlement is fair, adequate, and reasonable, and that any final determination of those issues will be made at the Final Approval Hearing concerning the Settlement.

### **3. What are the terms of the Settlement?**

Gross Settlement Amount. Defendants have agreed to pay an “all in” amount of One Million Five Hundred Thousand Dollars (\$1,500,000) (the “Gross Settlement Amount”) to fund the settlement of the Action.

Amounts to be Paid From the Gross Settlement Amount. The Settlement provides for certain payments to be made from the Gross Settlement Amount as follows, which will be subject to final Court approval, and which will be deducted from the Gross Settlement Amount before Individual Class Payments are made to Participating Class Members:

- *Administration Expenses Payment.* Payment to the Administrator, estimated not to exceed \$12,000, for expenses, including notifying the Class Members of the Settlement, distributing Individual Class Payments and tax forms, and handling questions about the Settlement.

- *Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment.* Payment to Class Counsel of reasonable attorneys' fees not to exceed one-third (1/3) of the Gross Settlement Amount, which is presently \$500,000, and an additional amount to reimburse actual litigation costs incurred by the Plaintiff not to exceed \$50,000. Class Counsel has been prosecuting the Action on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money) and has been paying all litigation costs and expenses.
- *Class Representative Service Payment.* A Class Representative Service Payment in an amount not to exceed \$10,000 to the Plaintiff, subject to Court approval, to compensate Plaintiff for services on behalf of the Class in initiating and prosecuting the Action, and for the risks Plaintiff undertook.
- *PAGA Penalties.* A payment of \$30,000 relating to the claim for penalties under PAGA, 75% (\$22,500) of which will be paid to the California Labor Workforce Development Agency ("LWDA"), and 25% (\$7,500) of which shall be distributed as "Individual PAGA Payments" to the PAGA Employees based on their respective pay periods worked during the PAGA Period. Individual PAGA Payment calculation will exclude, for any *Flores* Settlement Members, those Pay Periods worked from February 1, 2019 to February 23, 2022.
  - The "PAGA Period" is January 10, 2022, through August 3, 2024.
  - "PAGA Employees" means all Class Members who were employed by Defendant at any time during the PAGA Period, excluding any *Flores* Settlement Member who worked from February 1, 2019 to February 23, 2022 and whose employment terminated on or before February 23, 2022 and who has not been since rehired by Defendant The Coca-Cola Company. As part of the resolution of the PAGA claim through this PAGA Payment, PAGA Employees will release all Released PAGA Claims for civil penalties alleged in the Action which arose during the PAGA Period as set forth below.

#### Calculation of Payments to Class Members ("Individual Class Payments").

The "Net Settlement Amount" means the total sum available for payout to Participating Class Members, which equals the Gross Settlement Amount minus the above-described Class Representative Service Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, the PAGA Penalties, and the Administration Expenses Payment. The Net Settlement Amount is estimated to be at least \$\_\_\_\_\_. The Administrator will pay an Individual Class Payment from the Net Settlement Amount to each Participating Class Member. The Individual Class Payment for each Participating Class Member will be calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. The Workweek calculation will exclude, for any *Flores* Settlement Members, those workweeks worked from February 1, 2019 and February 23, 2022. "Workweek" means any week during the Class Period in which a Class Member worked for Defendant as a Class Member for at least one day. The number of Workweeks will be based on Defendant's records, however, Class Members may challenge the number of Workweeks as explained below.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering Judgment.

#### **4. What Do I Release Under the Settlement?**

Released Class Claims. Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from the Released Class Claims. The “Released Class Claims” are all claims set forth in the Operative Complaint that occurred during the Class Period, including: (1) unfair competition; (2) failure to pay minimum wages; (3) failure to pay overtime wages; (4) failure to provide meal periods; (5) failure to provide rest periods; (6) failure to provide accurate itemized statements; (7) failure to reimburse employees for required expenses; (8) failure to provide wages when due; and (9) failure to pay sick wages; as well as any claims that could have been pled from the same or similar facts pled in the Operative Complaint, including those claims for interest, penalties (including waiting time penalties), as well as any claims under the California Labor Code for violations of Labor Code sections 201, 202, 203, 204, 210, 218, 221, 226, 226.7, 233, 246, 247, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, 2810.5; Business and Professions Code §§ 17200, et seq.; the Fair Labor Standards Act, 29 U.S.C. §§ 201, et seq. (“FLSA”); and the applicable California Industrial Welfare Commission Wage Orders. The Released Class Claims include any claims for injunctive relief, declaratory relief, restitution, alleged or which could have been alleged under the facts, allegations and/or claims pleaded in the Operative Complaint that occurred during the Class Period. The Released Class Claims exclude all class claims outside of the Class Period, including Plaintiff’s individual claims that are subject to a separate release, claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or class claims based on facts occurring outside the Class Period, and, for *Flores* Settlement Class Members, the claims that were already resolved and released in the *Flores* settlement for the period between July 31, 2018 and February 23, 2022.

This means that, if you do not timely exclude yourself from the Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against the Released Parties for the Released Class Claims resolved by this Settlement. It also means that all of the Court’s orders in the Action will apply to you and legally bind you.

Released PAGA Claims. Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, the PAGA Employees and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from the Released PAGA Claims. The “Released PAGA Claims” are all alleged violations of PAGA in the Operative Complaint that occurred during the PAGA Period, including: claims alleged or claims based on the facts in the Operative Complaint in the PAGA Action for Violation of the California Private Attorneys General Act of 2004 (Labor Code §§ 2698, et seq.), and Plaintiff’s request for PAGA penalties based on the same facts alleged in the Operative Complaint and/or the January 10, 2023 PAGA Notice sent to the LWDA by Plaintiff under Labor Code section 2699.3 prior to filing the PAGA Action for alleged violations of the California Labor Code and California Industrial Welfare Commission Wage Orders for violations of Labor Code sections 201, 202, 203, 204 et seq., 210, 221, 226, 226(a), 226.3, 226.7, 227.3, 246 et seq., 510, 512, 558, 1194, 1197, 1197.1, 1198, 2802, and applicable IWC Wage Orders, and California Code of Regulations, Title 8, section 11000 *et seq.* The Released PAGA Claims exclude PAGA claims outside of the PAGA Period, and, for *Flores* Settlement Members, the PAGA claims that were already resolved and released in the *Flores* settlement for the period of February 25, 2019 to February 23, 2022. The release of the Released PAGA Claims shall be effective as to all PAGA Employees, regardless of whether a PAGA Employee submitted a request for an exclusion from the Class.

“Released Parties” collectively mean: Defendant and any of their past, present and future direct or indirect parents, subsidiaries, predecessors, successors and affiliates, as well as each of its past, present and future officers, directors, employees, partners, members, shareholders and agents, attorneys, insurers, reinsurers, and any individual or entity which could be jointly liable with Defendant.

## 5. How much will my payment be?

Defendant's records reflect that you have <<\_\_\_\_>> Workweeks during the Class Period (February 1, 2019 to August 3, 2024). The Workweeks listed excludes workweeks covered by the *Flores* Action, as delineated above.

**Although the exact share of the Net Settlement Amount cannot be precisely calculated at this time, based on this information, your estimated Individual Class Payment is <<\_\_\_\_>>.**

**[if applicable - In addition, your Individual PAGA Payment is <<\_\_\_\_>>.]**

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Administrator at the address provided in this Class Notice no later than the Response Deadline, which is \_\_\_\_\_ [forty-five (45) days after the mailing of the Class Notice or 59 days in the event of a re-mailing]. You may also fax the dispute to \_\_\_\_\_ or email the dispute to \_\_\_\_\_ by no later than the Response Deadline. Any dispute should include credible written evidence and will be resolved by the Administrator. A Dispute form is included with this Class Notice.

**Tax Matters.** Each Participating Class Member's Individual Class Payment will be apportioned as follows: (1) fifty percent (50%) shall be allocated to alleged wages for which an IRS Form W-2 will issue and which shall be subject to tax withholdings customarily made from an employee's wages and all other authorized and required withholdings; and (2) fifty percent (50%) shall be allocated to settlement of claims for non-wages, expense reimbursement, interest and penalties, not subject to wage withholdings, for which an IRS Form 1099 will issue.

Neither Class Counsel nor Defendant's Counsel intend anything contained in this Class Notice to constitute advice regarding taxes or taxability. The tax issues for each Participating Class Member are unique to him/her, and each Participating Class Member may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

## 6. How can I get a payment?

To get money from the Settlement, **you do not have to do anything.** A check for your Individual Class Payment, and any Individual PAGA Payment (if applicable), will be mailed automatically to the same address as this Class Notice. If your address is incorrect or has changed, you must notify the Administrator. The Administrator is: \_\_\_\_\_ (800) \_\_\_\_\_.

If the Court grants final approval of the Settlement and enters Judgment on the Settlement, and there are no objections or appeals, your Settlement payment will be mailed approximately three months after final approval. If there are objections or appeals the payments will be delayed because resolving them can take time, usually more than a year. Please be patient.

## 7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will receive NO money from the Settlement, and you will not be bound by its terms, which means you will retain your right to sue the Defendant as to the issues resolved by this Settlement.**

However, PAGA Employees who opt out will still be paid their Individual PAGA Payment and will remain bound by the release of the Released PAGA Claims regardless of their request for exclusion.

To opt out, you must mail to the Administrator, by First Class Mail, a written, signed and dated request to opt-out postmarked no later than the Response Deadline which is \_\_\_\_\_ [forty-five (45) days after the mailing of the Class Notice or 59 days in the event of a re-mailing]. You may also fax your request to opt out to \_\_\_\_\_ or email the dispute to \_\_\_\_\_ by no later than the Response Deadline. A Request for Exclusion form is included with this Class Notice. The Request for Exclusion should state in substance: “I wish to be excluded from the Class in the *Fritch v. The Coca-Cola Company* lawsuit.” The Request for Exclusion must state the Class Member’s full name, address, telephone number, and the name and number of the case, which is *Fritch v. The Coca-Cola Company*, Case No. 30-2023-01313737-CU-OE-CXC. The request to opt-out must be completed by you. No other person may opt-out for a living member of the Class.

The address for the Administrator is \_\_\_\_\_. Absent good cause found by the Court, written requests for exclusion that are faxed, emailed, or postmarked after \_\_\_\_\_, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release(s) described above.

#### **8. How do I tell the Court that I don’t agree with the Settlement?**

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason may object to the proposed Settlement, either in writing or in person. Objections that are in writing must state (1) the Class Member’s name, current address, telephone number, and the dates of employment in California by Defendant; (2) the words “Notice of Objection” or “Formal Objection”; (3) describe why you believe the Settlement is unfair and whether you intend to appear at the Final Approval Hearing; and (4) the name and number of the case, which is *Fritch v. The Coca-Cola Company*, in the Superior Court of the State of California, County of Orange, Case No. 30-2023-01313737-CU-OE-CXC.

All written objections must be mailed to the Administrator at \_\_\_\_\_ with copies to the Parties’ counsel, no later than the Response Deadline of \_\_\_\_\_ [forty-five (45) days after the mailing of the Class Notice or 59 days in the event of a re-mailing]. You may also fax the objection to \_\_\_\_\_ or email the objection to \_\_\_\_\_ by no later than this Response Deadline.

Alternatively, Class Members may appear at the Final Approval Hearing to make an oral objection without submitting a written objection. At this time, the Court now hears matters both in person and remotely through Zoom through the court’s online check-in process. If you need assistance, you may contact Class Counsel. Please check the Court’s website for current information and instructions concerning appearances and how to view Court proceedings: <https://www.occourts.org/media-relations/civil.html>.

To object to the Settlement, you must not opt out, and if the Court approves the Settlement despite your objection, you will be bound by the terms of the Settlement in the same way as Class Members who do not object and you will still be mailed a check for your Individual Class Payment and any Individual PAGA Payment owed. Absent good cause found by the Court, any Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

#### **9. Who are the attorneys representing the Parties?**

The addresses for Parties’ counsel are as follows:

**Class Counsel:**

Norman Blumenthal  
 Kyle Nordrehaug  
 Blumenthal Nordrehaug Bhowmik De Blouw LLP  
 2255 Calle Clara  
 La Jolla, CA 92037  
 Tel: 858-551-1223 / Fax: 858-551-1232  
 Email: [kyle@bamlawca.com](mailto:kyle@bamlawca.com)  
 Website: [www.bamlawca.com](http://www.bamlawca.com)

**Counsel for Defendant:**

Sophia B. Collins  
 Anthony Ly  
 Puja Sharma  
 Littler Mendelson, P.C.  
 1255 Treat Blvd, Suite 600,  
 Walnut Creek, CA 94597  
 Email: [SCollins@littler.com](mailto:SCollins@littler.com)  
 Website: [www.littler.com](http://www.littler.com)

**12. When and where will the Court decide whether to approve the Settlement?**

The Court will hold a Final Approval Hearing at 1:30 p.m. on \_\_\_\_\_, in Department CX103 of the Superior Court of California, County of Orange, 751 West Santa Ana Blvd., Santa Ana, CA 92701, before Judge Lon Hurwitz. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval of the Settlement. If there are objections, the Court will consider them. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

**13. How do I get more information about the Settlement?**

You may contact the Administrator at or contact Class Counsel for more information. The Administrator's contact information is as follows:

Administrator:

Name of Company: ILYM Group, Inc.

Email Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Settlement Website: \_\_\_\_\_

This Class Notice summarizes the proposed Settlement. More details are in the Agreement. You may receive a copy of the Agreement, the Final Judgment or other Settlement documents by going to The Administrator's website at <<\_\_\_\_\_>> where they will be posted as they become available. You may also get more details by examining the Court's file via the Civil Case and Document Access for the California Superior Court for the County of Orange (<https://www.occourts.org/online-services/case-access/>) and entering the Case No. 30-2023-01313737.

**PLEASE DO NOT CALL THE COURT ABOUT THIS CLASS NOTICE.**

IMPORTANT:

- You must inform the Administrator of any change of address to ensure receipt of your Settlement payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Administrator will pay all unclaimed funds to the paid to the California Controller's

Unclaimed Property Fund in the name of the Participating Class Member where the funds may be claimed at [https://www.sco.ca.gov/upd\\_msg.html](https://www.sco.ca.gov/upd_msg.html).

- If your check is lost or misplaced, you should contact the Administrator immediately to request a replacement.

## **REQUEST FOR EXCLUSION FORM**

### ***Fritch v. The Coca-Cola Company*, Superior Court of the State of California, County of Orange, Case No. 30-2023-01313737-CU-OE-CXC**

I confirm that I have received the Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval, which describes my rights and the options I may take in response to the parties' proposed Settlement in the above-referenced lawsuit.

By signing and returning this Request for Exclusion Form, I confirm that I wish to be removed from the proposed Class, that I do not want to participate as a Class Member, and that I do not want to be included in the proposed Class Settlement.

I understand and acknowledge that, by signing and submitting this form: (1) I will not receive any money from the proposed Settlement except my portion, if any, of the civil penalties that is allocated in settlement of the California Labor Code Private Attorney General Act of 2004 claim alleged by Plaintiff in the above-referenced Action; (2) I will not be bound by the class portion of the proposed Settlement and will only be bound by the release of the Released PAGA Claims; and (3) I will not have any right to object to the proposed Settlement.

**THE EXCLUSION FORM MUST BE SIGNED, DATED, AND MAILED BY FIRST CLASS U.S. MAIL, POSTMARKED NO LATER THAN [INSERT DATE] TO: FRITCH V. THE COCA-COLA COMPANY ADMINISTRATOR, C/O ILYM GROUP, INC., [INSERT ADDRESS]**

---

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

\_\_\_\_\_  
(Sign your name here)

\_\_\_\_\_  
Date

## **DISPUTE FORM**

### ***Fritch v. The Coca-Cola Company, Superior Court of the State of California, County of Orange, Case No. 30-2023-01313737-CU-OE-CXC***

Indicate Name/Address Changes, if any:

<<Name>>

<<Address>>

<<City>>, <<State>> <<Zip Code>>

XX - XX - \_ \_ \_ \_

If you were employed by Defendant The Coca-Cola Company (“Defendant”) in California and classified as an hourly, non-exempt employee at any time during the Class Period (February 1, 2019, through **August 3, 2024**), then you may be a Class Member.

The amount of your estimated Individual Class Payment is based upon the Workweeks you worked during the Class Period based on Defendant’s company records, as set forth below and in the Class Notice you received. As explained in the Class Notice, this amount excludes, for any *Flores* Settlement Members, those workweeks worked from February 1, 2019 and February 23, 2022. “*Flores* Settlement Members” means all non-exempt employees who performed work for the Defendant at the Fontana, California and Ontario, California facilities during the period from July 31, 2018 to and including February 23, 2022, which released all claims alleged in *Flores v. The Coca-Cola Company, Los Angeles County Superior Court*, Case No. 20STCV07230.

#### **I. YOUR COMPENSABLE WORKWEEKS**

Defendant’s records show that during the Class Period, you worked as a non-exempt employee in California, which qualifies you as a Class Member, and your total number of Workweeks during the Class Period are:

<<**NUMBER OF WEEKS**>>.

#### **II. YOUR ESTIMATED INDIVIDUAL CLASS PAYMENT**

Based upon the above numbers of Workweeks listed above, your estimated pre-tax Individual Class Payment is

<<**INSERT**>>.

#### **III. CHALLENGE TO WEEKS WORKED**

If you believe that the number of Workweeks stated above is correct, you do not have to do anything.

If you wish to dispute the number of Workweeks worked listed above, you must complete and postmark this Dispute Form, and provide all supporting information and/or documentation, to the Administrator by

<<**RESPONSE DEADLINE**>>.

***Check the box below ONLY if you wish to dispute the information listed above:***

☐ I wish to dispute the number of Workweeks listed above. I believe the correct amount of my Workweeks during the Class Period is \_\_\_\_\_. I have also included information and/or documentary evidence that support my dispute. I understand that, by submitting this dispute, I hereby authorize the Administrator to review Defendant's records and make a determination as to the validity of my dispute based upon Defendant's records as well as the records and information that I submit to the Administrator.

I declare under penalty of perjury under the laws of the State of California that the information I provided in this Dispute Form is true and correct.

Dated: \_\_\_\_\_

Signature: \_\_\_\_\_

Print or Type Name: \_\_\_\_\_

**THIS DISPUTE FORM MUST BE SIGNED, DATED, AND MAILED BY FIRST CLASS U.S. MAIL, POSTMARKED NO LATER THAN [INSERT DATE] TO:**

***Fritch v. The Coca-Cola Company Administrator  
c/o ILYM Group, Inc.***

**address**

**EXHIBIT B**

[ORDER GRANTING PRELIMINARY APPROVAL]

1 **BLUMENTHAL NORDREHAUG BHOWMIK**  
2 **DE BLOUW LLP**

3 Norman B. Blumenthal (State Bar #068687)

4 Kyle R. Nordrehaug (State Bar #205975)

5 Aparajit Bhowmik (State Bar #248066)

6 2255 Calle Clara

7 La Jolla, CA 92037

8 Telephone: (858)551-1223

9 Facsimile: (858) 551-1232

10 Attorneys for Plaintiff

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **COUNTY OF ORANGE**

13 NICOLE FRITCH, on behalf of the State of  
14 California, as a private attorney general,

15 Plaintiffs,

16 vs.

17 THE COCA-COLA COMPANY, a  
18 Corporation; and DOES 1 through 50,  
19 inclusive,

20 Defendants.

CASE NO.: **30-2023-01313737-CU-OE-CXC**

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

Hearing Date:

Hearing Time:

Judge: Hon. Lon Hurwitz

Dept.: CX103

Action Filed: March 21, 2023

Trial Date: Not Set

21  
22  
23  
24 This matter, having come before the Honorable Lon Hurwitz of the Superior Court of the  
25 State of California, in and for the County Orange, on \_\_\_\_\_, for the motion by Nicole  
26 Fritch ("Plaintiff") for preliminary approval of the class settlement with Defendant The Coca-Cola  
27 Company ("Defendant"). The Court, having considered the briefs, argument of counsel and all  
28

**PRELIMINARY APPROVAL ORDER**

1 matters presented to the Court and good cause appearing, hereby GRANTS Plaintiff's Motion for  
2 Preliminary Approval of Class Action Settlement.

3 **IT IS HEREBY ORDERED:**

4 1. The Court grants preliminary approval of the Settlement based upon the terms set  
5 forth in the Class Action and PAGA Settlement Agreement ("Agreement") attached as Exhibit #1  
6 to the Declaration of Kyle Nordrehaug in Support of Plaintiff's Motion for Preliminary Approval  
7 of Class Action Settlement [ROA # \_\_\_\_]. This is based on the Court's determination that the  
8 Settlement set forth in the Agreement is within the range of possible final approval, pursuant to the  
9 provisions of Section 382 of the California Code of Civil Procedure and California Rules of Court,  
10 rule 3.769. This Order incorporates by reference the definitions in the Agreement, and all terms  
11 defined therein shall have the same meaning in this Order as set forth in the Agreement.

12 Capitalized terms herein shall have the definitions set forth in the Agreement.

13 2. Plaintiff is granted leave to file the First Amended Class and Representative Action  
14 Complaint, a copy of which was submitted with the Motion for Preliminary Approval

15 3. The Gross Settlement Amount is One Million Five Hundred Thousand Dollars  
16 (\$1,500,000). It appears to the Court on a preliminary basis that the Settlement is fair, adequate  
17 and reasonable to the Class. It further appears that investigation and research have been conducted  
18 such that counsel for the Parties are able to reasonably evaluate their respective positions. It  
19 further appears to the Court that settlement at this time will avoid substantial additional costs by  
20 all Parties, as well as avoid the delay and risks that would be presented by the further prosecution  
21 of the Action. It further appears that the Settlement has been reached as the result of serious and  
22 non-collusive, arms-length negotiations after mediation with a respectable mediator, Tripper  
23 Ortman. The Court therefore preliminarily finds that the Settlement is fair, adequate, and  
24 reasonable when balanced against the probable outcome of further litigation and the significant  
25 risks relating to certification, liability, and damages issues. The Settlement falls within the range  
26 of reasonableness and appears to be presumptively valid, subject only to any objections that may  
27 be raised at the Final Approval Hearing and final approval by this Court.

1           4.       The Court provisionally appoints Plaintiff as the representative of the Class. The  
2 Court provisionally appoints Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik,  
3 Nicholas J. De. Blouw, Victoria Rivapalacio, Piya Mukherjee, Jeffrey S. Herman, and Charlotte  
4 James of Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class Counsel for the Class.

5           5.       A Final Approval Hearing on the question of whether the Settlement should be  
6 finally approved as fair, reasonable and adequate as to all Class Members who do not submit a  
7 valid and timely request to exclude themselves from the Settlement is scheduled for  
8 \_\_\_\_\_ at 1:30 p.m. in Department CX103 of the Orange County Superior  
9 Court. Other matters for determination at the Final Approval Hearing shall include whether the  
10 Final Approval Order and Judgment should be entered herein; and whether the plan of allocation  
11 contained in the Agreement should be approved as fair, adequate and reasonable to the Class  
12 Members. The motion for final approval and for attorneys' fees, costs and service awards shall be  
13 heard at the Final Approval Hearing and the papers are to be filed with the Court and served on all  
14 counsel no later than sixteen (16) court days before the hearing.

15           6.       Plaintiff shall serve this Order on the LWDA.

16           7.       For settlement purposes only, the Court conditionally certifies the following Class:  
17 "all individuals currently or formerly employed by Defendant in California and classified as an  
18 hourly, non-exempt employee at any time during the Class Period, excluding any *Flores*  
19 Settlement Members who worked from February 1, 2019 to February 23, 2022, and whose  
20 employment terminated on or before February 23, 2022 and who has not been since rehired by  
21 Defendant The Coca-Cola Company." The Class Period is February 1, 2019 to August 3, 2024.  
22 "*Flores* Settlement Members" means all non-exempt employees who performed work for the  
23 Defendant at the Fontana, California and Ontario, California facilities during the period from July  
24 31, 2018 to and including February 23, 2022. There are approximately 904 individuals in the  
25 Class.

26           8.       The Court hereby appoints ILYM Group, Inc. as Administrator. No later than 60  
27 calendar days after preliminary approval of the Settlement by the Court, Defendant shall provide  
28

1 to the Administrator an electronic spreadsheet with the Class Data. The Administrator will  
2 perform address updates and verifications as necessary prior to the mailing of the Class Notice.  
3 Using best efforts to mail it as soon as possible, and in no event later than 14 days after receiving  
4 the Class information spreadsheet, the Administrator will mail the Class Notice Packet to all Class  
5 Members via first-class U.S. Mail.

6 9. The Court hereby approves, as to form and content, the Court Approved Notice of  
7 Class Action Settlement and Hearing Date for Final Court Approval (“Class Notice”) attached  
8 hereto as Exhibit #1. The Court finds that the Class Notice appears to fully and accurately inform  
9 the Class of all material elements of the proposed Settlement, Class Members’ right to be excluded  
10 from the Class by submitting a written opt-out request, and each member’s right and opportunity  
11 to object to the Settlement. The Court further finds that the distribution of the Class Notice  
12 substantially in the manner and form set forth in the Agreement and this Order meets the  
13 requirements of due process, is the best notice practicable under the circumstances, and shall  
14 constitute due and sufficient notice to all persons entitled thereto. The font of the Class Notice  
15 shall not be smaller than what was provided to the Court. The Court orders the mailing of the  
16 Class Notice Packets by first class mail, pursuant to the terms and implementation schedule set  
17 forth in the Agreement.

18 10. The Court approves, as to the form and content, the Dispute Form and the Request  
19 for Exclusion Form that the Class Members may use to dispute their employment dates or opt out  
20 of the Settlement, respectively, attached hereto as Exhibits #2 and #3, respectively.

21 11. The Court hereby approves the proposed procedure for exclusion from the  
22 Settlement. Any Class Member may individually choose to opt out of and be excluded from the  
23 Class as provided in the Class Notice by following the instructions for requesting exclusion from  
24 the Class that are set forth in the Class Notice. All requests for exclusion must be postmarked by  
25 no later than forty-five (45) calendar days after the date of the mailing of the Class Notice and  
26 received by the Administrator. If a Class Notice Packet is re-mailed, the response date for opt-  
27 outs will be extended an additional 14 days. Any such person who chooses to opt out of and be  
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1 excluded from the Class will not be entitled to any recovery under the Settlement and will not be  
2 bound by the Settlement or have any right to object, appeal or comment thereon (except that no  
3 PAGA Employee may opt out of the PAGA portion of the settlement and any PAGA Employee  
4 who requests exclusion from the Class will still recover their portion of the PAGA Penalties and  
5 will be bound by the release of the Released PAGA Claims). Class Members who have not timely  
6 requested exclusion shall be bound by all determinations of the Court, the Agreement and the  
7 Judgment. A request for exclusion may only opt out that particular individual, and any attempt to  
8 affect an opt out of a group, class, or subclass of individuals is not permitted and will be deemed  
9 invalid.

10       12. Any Class Member who has not opted out may object or express the Member's  
11 views regarding the Settlement, may appear at the final approval hearing, and may present  
12 evidence and file briefs or other papers that may be proper and relevant to the issues to be heard  
13 and determined by the Court as provided in the Notice. Class Members will have forty-five (45)  
14 days from the date of the mailing of the Class Notices to submit their written objections to the  
15 Administrator and counsel for both parties in accordance with the instructions in the Class Notice.  
16 If a Class Notice Packet is re-mailed, the response date for written objections will be extended an  
17 additional 14 days. Alternatively, Class Members may appear at the Final Approval Hearing to  
18 make an oral objection.

19       13. Neither the Settlement, Agreement, nor any exhibit, document, or instrument  
20 delivered thereunder shall be construed as a concession or admission by Defendant in any way that  
21 the claims asserted have any merit or that this Action was properly brought as a class or  
22 representative action, and shall not be used as evidence of, or used against Defendant as, an  
23 admission or indication in any way, including with respect to any claim of any liability,  
24 wrongdoing, fault or omission by Defendant or with respect to the truth of any allegation asserted  
25 by any person. Whether or not the Settlement is finally approved, neither the Settlement,  
26 Agreement, nor any exhibit, document, statement, proceeding or conduct related to the Settlement,  
27 nor any reports or accounts thereof, shall in any event be construed as, offered or admitted in  
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1 evidence as, received as or deemed to be evidence for any purpose adverse to the Defendant,  
2 including, but not limited to, evidence of a presumption, concession, indication or admission by  
3 Defendant of any liability, fault, wrongdoing, omission, concession or damage.

4 14. The Court reserves the right to adjourn or continue the date of the final approval  
5 hearing and all dates provided for in the Agreement without further notice to Class Members and  
6 retains jurisdiction to consider all further applications arising out of or connected with the  
7 proposed Settlement.

8 15. The Action is stayed, and all trial and related pre-trial dates are vacated, subject to  
9 further orders of the Court at the Final Approval Hearing.

10 **IT IS SO ORDERED.**

11  
12 Dated: \_\_\_\_\_

13 \_\_\_\_\_  
14 HON. LON HURWITZ  
15 JUDGE, SUPERIOR COURT OF CALIFORNIA  
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**EXHIBIT C**

[FINAL APPROVAL ORDER AND JUDGMENT]

1 **BLUMENTHAL NORDREHAUG BHOWMIK**  
2 **DE BLOUW LLP**

3 Norman B. Blumenthal (State Bar #068687)

4 Kyle R. Nordrehaug (State Bar #205975)

5 Aparajit Bhowmik (State Bar #248066)

6 2255 Calle Clara

7 La Jolla, CA 92037

8 Telephone: (858)551-1223

9 Facsimile: (858) 551-1232

10 Attorneys for Plaintiff

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF ORANGE  
13

14 NICOLE FRITCH, on behalf of the State of  
15 California, as a private attorney general,

16 Plaintiffs,

17 vs.

18 THE COCA-COLA COMPANY, a  
19 Corporation; and DOES 1 through 50,  
20 inclusive,

21 Defendants.  
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24  
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27  
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**CASE NO.: 30-2023-01313737-CU-OE-CXC**

**[PROPOSED] FINAL APPROVAL  
ORDER AND JUDGMENT**

Hearing Date:

Hearing Time:

Judge: Hon. Lon Hurwitz

Dept.: CX103

Action Filed: March 21, 2023

Trial Date: Not Set

1 The motion of Plaintiff Nicole Fritch (“Plaintiff”) for an order finally approving the Class  
2 Action and PAGA Settlement Agreement (“Agreement”) with Defendant The Coca-Cola  
3 Company (“Defendant”), attorneys’ fees and costs, service payments, and the expenses of the  
4 Administrator duly came on for hearing on \_\_\_\_\_ before the Honorable Lon Hurwitz.

5  
6 **I.**

7 **FINDINGS**

8 Based on the oral and written argument and evidence presented in connection with the  
9 motion, the Court makes the following findings:

- 10 1. All terms used herein shall have the same meaning as defined in the Agreement.
- 11 2. This Court has jurisdiction over the subject matter of this litigation pending before  
12 the California Superior Court for the County of Orange, and over all Parties to this litigation,  
13 including the Class as that term is defined in the Agreement.
- 14 3. Based on a review of the papers submitted by Plaintiffs and a review of the  
15 applicable law, the Court finds that the Gross Settlement Amount of One Million Five Hundred  
16 Thousand Dollars (\$1,500,000), and the terms set forth in the Agreement are fair, reasonable, and  
17 adequate.
- 18 4. The Court further finds that the Settlement was the result of arm’s length  
19 negotiations conducted after Class Counsel had adequately investigated the claims and became  
20 familiar with the strengths and weaknesses of those claims. In particular, the amount of the  
21 Settlement, the risks relating to certification, liability, and damages issues, and the assistance of an  
22 experienced mediator in the settlement process, among other factors, support the Court’s  
23 conclusion that the Settlement is fair, reasonable, and adequate.

24 **Preliminary Approval of the Settlement**

- 25 5. On \_\_\_\_\_, the Court granted preliminary approval of the Settlement and  
26 approved conditional certification of the Class for settlement purposes only.

27 **Notice to the Class**

1           6.       In compliance with the Preliminary Approval Order, the Class Notice was mailed  
2 by first class mail to members of the Class at their last known addresses on or about  
3 \_\_\_\_\_. Mailing of the Class Notice to their last known addresses was the best notice  
4 practicable under the circumstances and was reasonably calculated to communicate actual notice  
5 of the litigation and the proposed settlement to the Class. The Class Notice given to the Class  
6 Members fully and accurately informed the Class Members of all material elements of the  
7 proposed Settlement and of their opportunity to object to or comment thereon or to seek exclusion  
8 from the Settlement; was valid, due, and sufficient notice to all Class Members; and complied  
9 fully with the laws of the State of California, the United States Constitution, due process and other  
10 applicable law. The Class Notice fairly and adequately described the Settlement and provided  
11 Class Members adequate instructions and a variety of means to obtain additional information.

12           7.       The deadline for opting out of the Class or submitting written objections to the  
13 Settlement was \_\_\_\_\_. There was an adequate interval between notice and the deadline  
14 to permit Class Members to choose what to do and act on their decision. A full opportunity has  
15 been afforded to the Class Members to participate in the final approval hearing on \_\_\_\_\_,  
16 and all Class Members and other persons wishing to be heard have been heard. Class Members  
17 also have had a full and fair opportunity to exclude themselves from the proposed Settlement and  
18 Class. Accordingly, the Court determines that all Class Members who did not timely and properly  
19 submit a request for exclusion are bound by the Settlement and this Final Approval Order and  
20 Judgment.

21           **Fairness Of Settlement**

22           8.       The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*  
23 48 Cal.App.4th 1794, 1801 (1996).

24           a.       The settlement was reached through arm's-length bargaining between the  
25 parties during an all-day mediation before Tripper Ortman, a respected and experienced mediator  
26 of wage and hour class actions. Prior to mediation, Plaintiff conducted written discovery and the  
27 parties also exchanged informal discovery, all of which included time and pay data for the class  
28

1 and relevant policies. There has been no collusion between the parties in reaching the proposed  
2 settlement.

3           b.       Plaintiff's investigation and discovery have been sufficient to allow the  
4 Court and counsel to act intelligently.

5           c.       Counsel for both parties are experienced in similar employment class action  
6 litigation. All counsel recommended approval of the Agreement.

7           d.       The percentage of objectors and requests for exclusion is small. \_\_\_\_\_  
8 objections were received. \_\_\_\_\_ timely requests for exclusion were received.

9           e.       The participation rate was high. \_\_\_\_\_ Class Members will be mailed a  
10 settlement payment, representing \_\_\_\_\_ of the overall Class.

11       9.       The consideration to be given to the Class Members under the terms of the  
12 Agreement is fair, reasonable and adequate considering the strengths and weaknesses of the claims  
13 asserted in this action and is fair, reasonable and adequate compensation for the release of Class  
14 Members' claims, given the uncertainties and significant risks of the litigation and the delays  
15 which would ensue from continued prosecution of the Action.

16       10.      The Agreement is approved as fair, adequate and reasonable and in the best  
17 interests of the Class Members.

18           **Attorneys' Fees and Costs**

19       11.      An award of \$500,000 for attorneys' fees, representing one-third of the Gross  
20 Settlement Amount, and \$ \_\_\_\_\_ for litigation costs and expenses, is reasonable, in light of  
21 the contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results  
22 achieved by Class Counsel. The requested award has been supported by Class Counsel's lodestar  
23 and litigation expense billing statement.

24           **Class Representative Service Payment**

25       12.      The Agreement provides for Class Representative Service Payment of not more  
26 than \$10,000 to the Plaintiff, subject to the Court's approval. The Court finds that Class  
27 Representative Service Payment in the amount of \$10,000 to the Plaintiff is reasonable in light of  
28

1 the risks and burdens undertaken by the Plaintiff in this litigation and for her time and effort in  
2 bringing and prosecuting this matter on behalf of the Class. In making this award, the Court has  
3 considered only the factors set forth in *Golba v. Dick's Sporting Goods, Inc.* (2015) 238  
4 Cal.App.4th 1251 and *Clark v. Am. Residential Servs. LLC* (2009) 175 Cal.App.4th 785.

5 **Administration Expenses Payment**

6 13. The Administrator shall calculate and administer the payments to be made to the  
7 Participating Class Members and PAGA Employees, transmit payment for attorneys' fees and  
8 costs to Class Counsel, transmit the Class Representative Service Payment to the Plaintiff,  
9 distribute the PAGA Penalties, issue any required tax reporting forms, calculate withholdings and  
10 perform the other remaining duties set forth in the Agreement. The Administrator has documented  
11 \$ \_\_\_\_\_ in fees and expenses, and this amount is reasonable in light of the work  
12 performed by the Administrator.

13 **PAGA Penalties**

14 14. The Agreement provides for PAGA Penalties in the amount of \$30,000 to be paid  
15 out of the Gross Settlement Amount, which shall be allocated 75% (\$22,500) to the LWDA PAGA  
16 Payment and 25% (\$7,500) to the Individual PAGA Payments to be distributed by (a) dividing the  
17 amount of the PAGA Employees' 25% share of PAGA Penalties (\$7,500) by the total number of  
18 PAGA Pay Periods worked by all PAGA Employees during the PAGA Period and (b) multiplying  
19 the result by each PAGA Employee's PAGA Pay Periods. PAGA Employees assume full  
20 responsibility and liability for any taxes owed on their Individual PAGA Payment. Individual  
21 PAGA Payment calculation will exclude, for any *Flores* Settlement Members, those Pay Periods  
22 worked from February 1, 2019 to February 23, 2022. "PAGA Employees" are all Class Members  
23 who were employed by Defendant at any time during the PAGA Period, excluding any *Flores*  
24 Settlement Member who worked from February 1, 2019 to February 23, 2022 and whose  
25 employment terminated on or before February 23, 2022 and who has not been since rehired by  
26 Defendant The Coca-Cola Company. "*Flores* Settlement Members" means all non-exempt  
27 employees who performed work for the Defendant at the Fontana, California and Ontario,  
28

1 California facilities during the period from July 31, 2018 to and including February 23, 2022.  
2 The LWDA was notified of the settlement and served with a copy of the Agreement, and the  
3 LWDA has not objected to the Settlement. The Court finds this PAGA Penalties amount to be  
4 reasonable.

5  
6 **II.**  
7 **ORDERS**

8 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

9 1. The Class is certified for the purposes of settlement only. The Class is hereby  
10 defined as follows:

11 All individuals currently or formerly employed by Defendant in California and  
12 classified as an hourly, non-exempt employee at any time during the Class Period,  
13 excluding any *Flores* Settlement Members who worked from February 1, 2019 to  
14 February 23, 2022, and whose employment terminated on or before February 23,  
15 2022 and who has not been since rehired by Defendant The Coca-Cola Company.

16 The Class Period is February 1, 2019, through August 3, 2024. “*Flores* Settlement  
17 Members” means all non-exempt employees who performed work for the Defendant at the  
18 Fontana, California and Ontario, California facilities during the period from July 31, 2018  
19 to and including February 23, 2022.

20 2. All persons who meet the foregoing definition are members of the Class, except for  
21 those individuals who filed a valid request for exclusion (“opt out”) from the Class: [identify any  
22 requests for exclusion].

23 3. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the  
24 best interest of the Class. The payment of the Individual Class Payments to the Participating Class  
25 Members as set forth in the Agreement is approved.

26 4. Class Counsel are awarded attorneys' fees in the amount of \$500,000 and costs in  
27 the amount of \$ \_\_\_\_\_. Class Counsel shall not seek or obtain any other compensation or  
28 reimbursement from Defendant, Plaintiff or members of the Class.

1           5.       The payment of the Class Representative Service Payment in the amount of  
2 \$10,000 to the Plaintiff is approved.

3           6.       The payment of \$ \_\_\_\_\_ to the Administrator for their fees and expenses  
4 is approved.

5           7.       The PAGA Penalties amount of \$30,000 is approved to be distributed in  
6 accordance with the Agreement.

7           8.       The Agreement and this Settlement are not an admission by Defendant, nor is this  
8 Final Approval Order and Judgment a finding of the validity of any claims in the Action, any  
9 wrongdoing by Defendant, or that this Action is appropriate for class treatment (other than for  
10 settlement purposes). Neither this Final Approval Order and Judgment, the Agreement, nor any  
11 document referred to herein, nor any action taken to carry out the Agreement is, may be construed  
12 as, or may be used as an admission by or against Defendant of any fault, negligence, wrongdoing,  
13 or liability whatsoever. The entering into or carrying out of the Agreement, and any negotiations  
14 or proceedings related thereto, shall not in any event be construed as, or deemed to be evidence of,  
15 any liability, culpability, negligence, or wrongdoing on the part of Defendant, or an admission or  
16 concession with regard to the denials or defenses by Defendant. Notwithstanding these  
17 restrictions, Defendant may file in the Action or in any other proceeding this Final Approval Order  
18 and Judgment, the Agreement, or any other papers and records on file in the Action as evidence of  
19 the Settlement to support a defense of res judicata, collateral estoppel, release, or other theory of  
20 claim or issue preclusion or similar defense as to the claims being released by the Settlement.

21           9.       Notice of entry of this Final Approval Order and Judgment shall be given to all  
22 Parties by Class Counsel on behalf of Plaintiff and all Class Members. The Final Approval Order  
23 and Judgment shall be posted on the Administrator's website as set forth in the Class Notice to the  
24 Class. It shall not be necessary to send notice of entry of this Final Approval Order and Judgment  
25 to individual Class Members. Pursuant to Labor Code section 2699, subdivision (l)(2), Class  
26 Counsel shall submit a copy of this Final Approval Order and Judgment to the LWDA within 10  
27 days after its entry.

1           10.     If the Agreement does not become final and effective in accordance with the terms  
2 of the Agreement, then this Final Approval Order and Judgment, and all orders entered in  
3 connection herewith, shall be rendered null and void and shall be vacated, and the Parties shall  
4 revert to their respective positions as of before entering into the Agreement, and expressly reserve  
5 their respective rights regarding the prosecution and defense of this Action, including all available  
6 defenses and affirmative defenses, and arguments that any claim in the Action could not be  
7 certified as a class action and/or managed as a representative action. In accordance with the  
8 Agreement, the parties shall stipulate to the dismissal of Plaintiff's class claims without prejudice  
9 in the Action and Plaintiff will litigate those claims before the United States District Court for the  
10 Central District of California, Case No. Case No. 8:23-cv-00576-JWH-E.

11 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

12           1.     Except as set forth in the Agreement and this Final Approval Order and Judgment,  
13 Plaintiffs, and all members of the Class, shall take nothing in the Action.

14           2.     Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain  
15 jurisdiction to construe, interpret, implement and enforce the Agreement, to hear and resolve any  
16 contested challenge to a claim for settlement benefits, and to supervise and adjudicate any dispute  
17 arising from or in connection with the distribution of settlement benefits.

18           3.     The Parties are authorized, with further approval from the Court, to agree to and to  
19 adopt such amendments, modifications and expansions of the Agreement and all exhibits attached  
20 thereto which are consistent with this Final Approval Order and Judgment and do not limit the  
21 rights of the Parties or Class Members under the Agreement.

22           4.     Each party shall bear its own attorneys' fees and costs, except as otherwise  
23 provided in the Agreement and in this Final Approval Order and Judgment.

24           5.     Effective on the date when Defendant fully funds the entire Gross Settlement  
25 Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class  
26 Payments, all Participating Class Members, on behalf of themselves and their respective former  
27  
28

1 and present representatives, agents, attorneys, heirs, administrators, successors, and assigns,  
2 release Released Parties from the Released Class Claims

3 6. As used in paragraph 5 above, the quoted terms have the meanings set forth below:

4 (a) "Released Class Claims" means all claims set forth in the Operative  
5 Complaint that occurred during the Class Period, including: (1) unfair competition; (2) failure to  
6 pay minimum wages; (3) failure to pay overtime wages; (4) failure to provide meal periods; (5)  
7 failure to provide rest periods; (6) failure to provide accurate itemized statements; (7) failure to  
8 reimburse employees for required expenses; (8) failure to provide wages when due; and (9) failure  
9 to pay sick wages; as well as any claims that could have been pled from the same or similar facts  
10 pled in the Operative Complaint, including those claims for interest, penalties (including waiting  
11 time penalties), as well as any claims under the California Labor Code for violations of Labor  
12 Code sections 201, 202, 203, 204, 210, 218, 221, 226, 226.7, 233, 246, 247, 510, 512, 558, 1174,  
13 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, 2810.5; Business and Professions Code §§  
14 17200, et seq.; the Fair Labor Standards Act, 29 U.S.C. §§ 201, et seq. ("FLSA"); and the  
15 applicable California Industrial Welfare Commission Wage Orders. The Released Class Claims  
16 include any claims for injunctive relief, declaratory relief, restitution, alleged or which could have  
17 been alleged under the facts, allegations and/or claims pleaded in the Operative Complaint that  
18 occurred during the Class Period. The Released Class Claims exclude all class claims outside of  
19 the Class Period, including Plaintiff's individual claims that are subject to a separate release,  
20 claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing  
21 Act, unemployment insurance, disability, social security, workers' compensation, or class claims  
22 based on facts occurring outside the Class Period, and, for *Flores* Settlement Class Members, the  
23 claims that were already resolved and released in the *Flores* settlement for the period between July  
24 31, 2018 and February 23, 2022.

25 (b) "Released Parties" collectively mean: Defendant and any of their past,  
26 present and future direct or indirect parents, subsidiaries, predecessors, successors and affiliates, as  
27 well as each of its past, present and future officers, directors, employees, partners, members,  
28

1 shareholders and agents, attorneys, insurers, reinsurers, and any individual or entity which could  
2 be jointly liable with Defendant.

3         7.       Effective on the date when Defendant fully funds the entire Gross Settlement  
4 Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class  
5 Payments, the PAGA Employees and the LWDA are deemed to release, on behalf of themselves  
6 and their respective former and present representatives, agents, attorneys, heirs, administrators,  
7 successors, and assigns, the Released Parties from the Released PAGA Claims. The “Released  
8 PAGA Claims” are all alleged violations of PAGA in the Operative Complaint that occurred  
9 during the PAGA Period, including: claims alleged or claims based on the facts in the Operative  
10 Complaint in the PAGA Action for Violation of the California Private Attorneys General Act of  
11 2004 (Labor Code §§ 2698, et seq.), and Plaintiff’s request for PAGA penalties based on the same  
12 facts alleged in the Operative Complaint and/or the January 10, 2023 PAGA Notice sent to the  
13 LWDA by Plaintiff under Labor Code section 2699.3 prior to filing the PAGA Action for alleged  
14 violations of the California Labor Code and California Industrial Welfare Commission Wage  
15 Orders for violations of Labor Code sections 201, 202, 203, 204 et seq., 210, 221, 226, 226(a),  
16 226.3, 226.7, 227.3, 246 et seq., 510, 512, 558, 1194, 1197, 1197.1, 1198, 2802, and applicable  
17 IWC Wage Orders, and California Code of Regulations, Title 8, section 11000 *et seq.* The  
18 Released PAGA Claims exclude PAGA claims outside of the PAGA Period, and, for *Flores*  
19 Settlement Members, the PAGA claims that were already resolved and released in the *Flores*  
20 settlement for the period of February 25, 2019 to February 23, 2022. The release of the Released  
21 PAGA Claims shall be effective as to all PAGA Employees, regardless of whether an PAGA  
22 Employee submitted a request for an exclusion from the Class.

23         8.       Effective on the date when Defendant fully funds the entire Gross Settlement  
24 Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class  
25 Payments, Plaintiff has generally and fully released and discharged the Released Parties from all  
26 claims, transactions, or occurrences that occurred during the Class Period, as fully set forth in the  
27 Agreement.

1           9.       If a settlement check remains uncashed by the expiration date, the funds from such  
2 uncashed checks will be paid to the California State Controller's Unclaimed Property Fund in the  
3 name of the Participating Class Member/PAGA Employee.

4           10.      Pursuant to CCP §384(b), Plaintiff shall submit to the Court a final report on or  
5 before \_\_\_\_\_ setting forth the actual amounts paid to class members and other  
6 amounts disbursed pursuant to the settlement. Upon receiving the report, the Court will determine  
7 whether further reports and/or a hearing will be necessary.

8           11.      THE PARTIES ARE HEREBY ORDERED TO COMPLY WITH THE TERMS  
9 OF THE AGREEMENT. PURSUANT TO CALIFORNIA RULE OF COURT 3.769, THE  
10 COURT HEREBY ENTERS FINAL JUDGMENT BASED UPON THE TERMS OF THIS  
11 ORDER AND THE AGREEMENT AND, WITHOUT AFFECTING THE FINALITY OF THIS  
12 MATTER, RETAINS EXCLUSIVE AND CONTINUING JURISDICTION TO ENFORCE THIS  
13 ORDER, THE SETTLEMENT AGREEMENT, AND THE JUDGMENT THEREON.

14 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO ORDERED.**

15  
16 Dated: \_\_\_\_\_

17 \_\_\_\_\_  
18 HON. LON HURWITZ  
19 JUDGE, SUPERIOR COURT OF CALIFORNIA  
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**FIRM RESUME**

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Practice Areas: Consumer and Securities Class Action, Civil Litigation, Wage and Hour Class Actions, Transactional Law

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Biography: Law Clerk to Justice Thomas J. Moran, Illinois Supreme Court, 1973-1975, while on Illinois Court of Appeals. Instructor, Oil and Gas Law: California Western School of Law, 1981; University of San Diego School of Law, 1983. Sole Practitioner 1976-1987. Partner, Blumenthal & Ostroff, 1988-1995. Partner, Blumenthal, Ostroff & Markham, 1995-2001. Partner, Blumenthal & Markham, 2001-2007. Partner, Blumenthal & Nordrehaug, 2007. Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2018. Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP, 2018 - present.

Member: San Diego County, Illinois State and American Bar Associations; State Bar of California.

Educated: University of Wisconsin (B.A., 1970); Loyola University of Chicago (J.D., 1973);

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Member: State Bar of California, Ninth Circuit Court of Appeals, Third Circuit Court of Appeals

Educated: University of California at Berkeley (B.A., 1994); University of San Diego School of Law (J.D. 1999)

Awards: Top Labor & Employment Attorney 2016; Top Appellate Reversal - Daily Journal 2015; Super Lawyer 2015-2018

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Admitted: 2024, California; 2014, Mexico

Educated: The Juarez University

**REPORTED CASES**

Sakkab v. Luxottica Retail N. Am., Inc., 803 F.3d 425 (9<sup>th</sup> Cir. 2015) (The panel reversed the district court's order granting Luxottica Retail North America, Inc.'s motion to compel arbitration of claims and dismissing plaintiff's first amended complaint, in a putative class action raising class employment-related claims and a non-class representative claim for civil penalties under the Private Attorney General Act.);

Securitas Security Services USA, Inc. v. Superior Court, 234 Cal. App. 4<sup>th</sup> 1109 (Cal. Feb. 27, 2015) (Court of Appeal concluded the trial court correctly ruled that *Iskanian* rendered the PAGA waiver within the parties' dispute resolution agreement unenforceable. However, the Court of Appeal then ruled the trial court erred by failing to invalidate the non-severable class action waiver from the agreement and remanded the entire complaint, including class action and PAGA claims, be litigated in the Superior Court);

Sussex v. United States Dist. Court for the Dist. of Nev., 781 F.3d 1065 (9<sup>th</sup> Cir. 2015) (The panel determined that the district court clearly erred in holding that its decision to intervene mid-arbitration was justified under *Aerojet-General*. Specifically, the panel held that the district court erred in predicting that an award issued by the arbitrator would likely be vacated because of his "evident partiality" under 9 U.S.C. § 10(a)(2).);

Provost v. YourMechanic, Inc., 2020 Cal. App. Lexis 955 (Oct. 15, 2020) (Court of Appeals affirmed denial of arbitration of PAGA claim, and held in a case of first impression, that there was no additional standing rules for PAGA claim brought by independent contractor);

In re Tobacco Cases II, 41 Cal. 4th 1257 (2007); Washington Mutual Bank v. Superior Court, 24 Cal. 4th 906 (2001); Rocker v. KPMG LLP, 148 P.3d 703; 122 Nev. 1185 (2006); PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP, 150 Cal. App. 4th 384 (2007); Hall v. County of Los Angeles, 148 Cal. App. 4th 318 (2007); Coshov v. City of Escondido, 132 Cal. App. 4th 687 (2005); Daniels v. Philip Morris, 18 F.Supp 2d 1110 (S.D. Cal.1998); Gibson v. World Savings & Loan Asso., 103 Cal. App. 4th 1291 (2003); Jordan v. Department of Motor Vehicles,

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*Sponte* Granted for Plaintiff, Rieve v. Coventry Health Care, Inc., 870 F. Supp. 2d 856 (C.D. Cal. 2012)

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Case No. 37-2018-00058254-CU-OE-CTL; Tarkington v. Freetime, Inc. – San Diego County Superior Court, Case No. 37-2019-00011473-CU-OE-CTL; McIntyre v. J.J.R. Enterprises, Inc. – Sacramento County Superior Court, Case No. 34-2019-00251220; Bucur v. Pharmaca Integrative Pharmacy, Inc. – San Diego County Superior Court, Case No. 37-2019-00009409-CU-OE-CTL; Batin v. McGee Air Services, Inc. – Santa Clara County Superior Court, Case No. 19CV347733; Terry v. McGee Air Services, Inc. – King County Superior Court of Washington, Case No. 19-2-3321-5 KNT; Weiss v. Niznik Behavioral Health Resources, Inc. – San Diego County Superior Court, Case No. 37-2019-00039441-CU-OE-CTL; Cavada v. Inter-Continental Hotels Group, Inc. – U.S. District Court, Southern District of California, Case No. 3:19-cv-01675-GPC-AHG; Lešević v. Spectraforce Technologies, Inc. – U.S. District Court, Northern District of California, Case No. 5:19-cv-03126-LHK; Mutchler v. Circle K Stores, Inc. – San Diego County Superior Court, Case No. 37-2020-00016331-CU-OE-CTL, Azima v. CSI Medical Group, – Santa Clara County Superior Court, Case No. 19CV345450; Porrás v. Baypointe Enterprises, LLC – Los Angeles County Superior Court, Case No. 19STCV31015; Mitchell v. Mack Trucking, Inc. – San Bernardino County Superior Court, Case No. CIVDS1928334; Watts v. T.R.L. Systems, Incorporated – Orange County Superior Court, Case No. 30-2019-01102457-CU-OE-CXC; Price v. DMSD Restaurants Inc. – San Diego County Superior Court, Case No. 37-2019-00024062-CU-OE-CTL; Jacobs v. Nortek Security & Control LLC – San Diego County Superior Court, Case No. 37-2019-0019735-CU-OE-CTL; Gonzalez v. Hub International Midwest – San Bernardino County Superior Court, Case No. CIVDS1900463; Cisneros v. Bluepearl California, Inc. – San Mateo Superior Court, Case No. 19-CIV-05707; Garcia v. Gallagher Basset Services – San Bernardino Superior Court, Case No. CIVDS2004140; Callow v. Adventist Health System/West – Placer County Superior Court, Case No. SCV0043607; Dominguez v. Kimco Facility Services, LLC – Los Angeles County Superior Court, Case No. 19STCV37592; Searles v. Robert Heath Trucking, Inc. – Los Angeles County Superior Court, Case No. 19STCY30808; Rangel v. Pioneer Hi-Bred international, Inc. – Yolo County Superior Court, Case No. CV-19-1797; Ivon v. Sinclair Television of California, Humboldt County Superior Court, Case No. DR190699; Williams v. Henkels & McCoy, Inc. – San Bernardino County Superior Court, Case No. CIVDS2003888; Cano v. Larry Green Chrysler Jeep Dodge, Inc. – Riverside County Superior Court, Case No. BLC1900184; Lopez v. Cepheid – Santa Clara County Superior Court, Case No. 19CV358827; Hernandez v. Quick Dispense, Inc. – Los Angeles County Superior Court, Case No. 19STCV29405; Lopez v. Lacoste USA, Inc. – San Bernardino County Superior Court, Case No. CIVDS1914626; Duhe v. Hospital Couriers Nevada, LLC – Contra Costa County Superior Court, Case No. MSC19-01377; Law v. Sequoia Equities, Incorporated – Contra Costa Superior Court, Case No. C19-01925; Dvorak v. Rockwell Collins, Inc. – San Diego County Superior Court, Case No. 37-2019-00064397-CU-OE-CTL; Noguera v. Metal Container Corporation – Riverside County Superior Court, Case No. RIC2003235; Leon v. Miller Event Management, Inc. – San Luis Obispo Superior Court, Case No. 19CV-0435; Leon v. Miller Event Management, Inc. – San Luis Obispo County Superior Court, Case No. 19CV-0435, Camacho-Bias v. Serve U Brands Inc. – Butte County Superior Court, Case No. 20CV00603; La Pietra v. Entertainment Partners Services, LLC – Los Angeles County Superior Court, Case No. 19STCV39529; Celis v. Theatre Box - San Diego, LLC – San Diego County Superior Court, Case No. \_\_\_\_; Ignacio v. Laboratory Corporation of America – U.S. District Court, California Central District, Case No. 2:19-cv-06079-AB-RAO; Kovnas v. Cahill Contractors LLC – Alameda County Superior Court, Case No. RG19037852; Hersh v. Mrs. Gooch's Natural Food – Los Angeles County Superior Court, Case No. 19STCV10444; Miller v. The Permanente Medical Group – Alameda County Superior Court, Case No. RG19045904; Vasquez v. Autoalert, LLC – Orange County Superior Court, Case No. 30-2019-01114549-CU-OE-CXC; Cavanaugh v. Morton Golf, LLC – Sacramento County Superior Court, Case No. 34-2019-00270176; Coley v. Monroe Operations, LLC – Alameda County Superior Court, Case No. RG20063188; Ramirez v. Sierra Aluminum Company – U.S. District Court, California Central District Court, Case No. 5:20-cv-00417-JGB-KK; Marrero v. Stat Med, P.C. – Alameda County Superior Court, Case No. HG19043214; Enriquez v. Solari Enterprises, Inc. – Los Angeles County Superior Court, Case No. 20STCV11129; Craig v.

Hometown Heart – San Francisco County Superior Court, Case No. CGC-20-582454; Lopez v. Hy0Lang Electric California, Inc. – San Diego County Superior Court, Case No. 37-2020-00012543-CU-OE-CTL; Heuklom v. Clara Medical Group, P.C. – San Francisco County Superior Court, Case No. CGC-20-585918; Dominguez v. Lifesafer of Northern California – Monterey County Superior Court, Case No. 20CV002586; Kiseleva v. Totalmed Staffing Inc. – U.S. District Court, California Northern District, Case No. 5:19-cv-06480; Vires v. Sweetgreen, Inc. – Santa Clara County Superior Court, Case No. 20CV365918; Kim v. Wireless Vision, LLC – San Bernardino County Superior Court, Case No. CIVDS2000074; Senoren v. Air Canada Corporation – Los Angeles County Superior Court, Case No. 20STCV13942; Clark v. Quest Diagnostics Incorporated – San Bernardino County Superior Court, Case No. CIVDS2018707; Green v. Shipt, Inc. – Los Angeles County Superior Court, Case No. 20STCV01001; Respass v. The Scion Group LLC – Sacramento County Superior County, Case No. 34-2020-00285265; Jackson v. Decathlon USA LLC – Alameda County Superior Court, Case No. RG2003024; Avacena v. FTG Aerospace Inc. – Los Angeles County Superior Court, Case No. 20STCV28767; Perez v. Butler America, LLC – Los Angeles County Superior Court, Case No. 20STCV20218; Christensen v. Carter’s Retail, Inc. – Orange County Superior Court, Case No. 30-2020-01138792-CU-OE-CXC; Astudillo v. Torrance Health Association, Inc. – Los Angeles County Superior Court, Case No. 20STCV18424; Hansen v. Holiday AI Management Sub LLC – Contra Costa County Superior Court, Case No. CIVMSC20-00779; Almahdi v. Vitamin Shoppe Industries Inc – Santa Clara County Superior Court, Case No. 20CV365150; Krisinda v. Loyal Source Government Services LLC – U.S. District Court, California Southern District, Case No. 3:20-cv-879-LAB-NLS; Ettedgui v. WB Studio Enterprises Inc – U.S. District Court, California Central District, Case No. 2:20-CV-08053-MCS (MAAx); Fernandez v. Nuvision Federal Credit Union – Orange County Superior Court, Case No. 30-2020-01161691-CU-OE-CJC; Aviles v. UPS Supply Chain Solutions, Inc. – Riverside County Superior Court, Case No. RIC2000727; Alcocer v. DSV Solutions, LLC – San Bernardino Superior Court, Case No. CIVDS2010345; Wilson v. Wholesome Harvest Baking, LLC – U.S. District Court, California Northern District, Case No. 4:20-cv-05186-YGR; Gregory v. Verio Healthcare, Inc. – Los Angeles County Superior Court, Case No. 20STCV37254; Rose v. Impact Group, LLC – Orange County Superior Court, Case No. 30-2020-01141107-CU-OE-CXC; Monasterio v. Citibank, N.A. – San Mateo County Superior Court, Case No. 20-CIV-03650; Martinez-Lopez v. Medamerica, Inc. – San Diego County Superior Court, Case No. 37-2020-00034393-CU-OE-CTL; Cox v. PRB Management, LLC – Solano County Superior Court, Case No. FCS055514; Nash v. K. Hovnanian Companies, LLC – Riverside County Superior Court, Case No. RIC2003319; Kyler v. Harbor Freight Tools USA, Inc. – San Diego County Superior Court, Case No. 37-2020-00015828-CU-OE-CTL; Roberts v. Solantic Corporation – Los Angeles County Superior Court, Case No. 20STCV41117; Price v. Mistras Group, Inc. – Los Angeles County Superior Court, Case No. 20STCV22485; Macias v. ABM Electrical & Lighting Solutions, Inc. – San Diego County Superior Court, Case No. 37-2020-00024997-CU-OE-CTL; Basu-Kesselman v. Garuda Labs, Inc. – San Francisco County Superior Court, Case No. CGC-20-585229; Armstrong v. Prometric LLC – Los Angeles County Superior Court, Case No. 20STCV29967; Ashlock v. Advantis Medical Staffing, LLC – San Diego County Superior Court, Case No. 37-2020-00022305-CU-OE-CTL; Wilson v. WXI Global Solutions, LLC – Los Angeles County Superior Court, Case No. 20STCV25007; Gandhale v. Select Rehabilitation, LLC – Monterey County Superior Court, Case No. 20CV002240; Starvoice v. G4S Secure Solutions (USA) Inc. – San Diego County Superior Court, Case No. 37-2020-00029421-CU-OE-CTL; Mbise v. Axlehire, Inc. – Alameda County Superior Court, Case No. RG20067350; Points v. C&J Services, Inc. – Kern County Superior Court, Case No. BCV-20-102483; Marshall v. PHI Air Medical, LLC – Lassen County Superior Court, Case No. 62973; Jauregui v. Cyctec Engineered Materials, Inc. – Orange County Superior Court, Case No. 30-2020-01164932-CU-OE-CXC



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**WRITERS EXT:  
1004**

**January 10, 2023  
CA2670**

**VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT**

**Labor and Workforce Development Agency  
Online Filing**

**The Coca-Cola Company  
Certified Mail #702224100000608262288  
AMANDA GARCIA  
330 N. BRAND BLVD., SUITE 700  
GLENDALE, CA 91203**

**Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.**

**Dear Sir/Madam:**

“Aggrieved Employees” refers to all individuals who are or previously were employed by The Coca-Cola Company in California, including any employees staffed with The Coca-Cola Company by a third party, and classified as non-exempt employees during the time period of January 10, 2022 until a date as determined by the Court. Our offices represent Plaintiff Nicole Fritch (“Plaintiff”) and other Aggrieved Employees in a lawsuit The Coca-Cola Company (“Defendant”). Plaintiff was employed by Defendant in California as a non-exempt employee from February of 2020 to February 4, 2022 and entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5<sup>th</sup> 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant

failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to Plaintiff, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, Plaintiff and the Aggrieved Employees were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to Plaintiff and the Aggrieved Employees failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiff against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiff and all Aggrieved Employees.

Your earliest response to this notice is appreciated. If you have any questions of concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.



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Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF ORANGE**

NICOLE FRITCH, on behalf of the State of California,  
as a private attorney general,

Plaintiff,

vs.

THE COCA-COLA COMPANY, a Corporation; and  
DOES 1 through 50, inclusive,

Defendants.

Case No. Case No. 30-2023-01313737-CU-OE-CXC

**FIRST AMENDED CLASS AND REPRESENTATIVE  
ACTION COMPLAINT FOR:**

1. Unfair Competition In Violation Of Cal. Bus. & Prof. Code §§  
17200, et seq.;

2. Failure To Pay Minimum Wages In Violation Of Cal. Lab. Code  
§§ 1194, 1197 & 1197.1;

3. Failure To Pay Overtime Wages In Violation Of Cal. Lab. Code  
§ 510;

4. Failure To Provide Required Meal Periods In Violation Of Cal.  
Lab. Code §§ 226.7 & 512 And The Applicable IWC Wage Order;

5. Failure To Provide Required Rest Periods In Violation Of Cal.  
Lab. Code §§ 226.7 & 512 And The Applicable IWC Wage Order;

6. Failure To Provide Accurate Itemized Statements In Violation Of  
Cal. Lab. Code § 226;

7. Failure To Reimburse Employees For Required Expenses In  
Violation Of Cal. Lab. Code § 2802;

8. Failure To Provide Wages When Due In Violation Of Cal. Lab.  
Code §§ 201, 202 And 203;

9. Failure To Pay Sick Pay Wages In Violation Of Cal. Lab Code  
§§201-204, 233, 246;

10. Discrimination And Retaliation In Violation Of Feha;

11. Failure To Engage In The Interactive Process In Violation Of  
Cal. Gov. Code § 12940(N);

12. Failure To Provide Reasonable Accommodation In Violation Of  
Cal. Gov. Code § 12940(M);

13. Wrongful Termination In Violation Of Public Policy; And

14. Civil Penalties Pursuant To Labor Code 2699, et. seq. For  
Violations Of Labor Code 201, 202, 203. 204 et. seq.,221, 226(a),  
226.7, 227.3, 246 et seq., 510, 512, 558(A)(1)(2), 1194, 1197,  
1197.1, 1198, 2802, California Code Of Regulations, Title 8,  
Section 11040 Subdivisions 5(A)-(B), California Code Of  
Regulations, Title 8, Section 1 1070(14) (Failure To Provide  
Seating), and the Applicable Wage Order(S).

**DEMAND FOR JURY TRIAL**

1 Plaintiff Nicole Fritch ("PLAINTIFF"), an individual, on behalf of herself and all other similarly  
2 situated current and former employees, as well as an "aggrieved employee" acting as a private attorney  
3 general under the Labor Code Private Attorney General Act of 2004, § 2699, et seq. ("PAGA") only,  
4 alleges on information and belief, except for her own acts and knowledge which are based on personal  
5 knowledge, the following:

#### 6 **THE PARTIES**

7 1. The Coca-Cola Company ("DEFENDANT") is a Corporation that at all relevant times  
8 mentioned herein conducted and continues to conduct substantial business in the state of California.

9 2. DEFENDANT is an American beverage corporation founded in 1892, best known as the  
10 producer of Coca Cola.

11 3. PLAINTIFF was employed by DEFENDANT in California from February of 2020 to February  
12 1, 2022 and was at all times classified by DEFENDANT as a non-exempt employee, paid on an hourly  
13 basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime  
14 wages due for all time worked.

15 4. "Flores" means the class action and PAGA lawsuit Flores v. The Coca-Cola Company, Los  
16 Angeles County Superior Court, Case No. 20STCV07230 that resulted in a settlement covering the  
17 Flores Settlement Members. PLAINTIFF brings this Class Action on behalf of herself and a California  
18 class, defined as all individuals currently or formerly employed by Defendant The Coca-Cola Company  
19 ("DEFENDANT") in California and classified as an hourly, non-exempt employee at any time during  
20 the period of time from February 1, 2019, through the earlier of preliminary approval or August 3, 2024  
21 (the "CALIFORNIA CLASS PERIOD"), excluding any Flores Settlement Members who worked from  
22 February 1, 2019 to February 23, 2022, and whose employment terminated on or before February 23,  
23 2022 and who has not been since rehired by Defendant (the "CALIFORNIA CLASS"). The amount in  
24 controversy for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars  
25 (\$5,000,000.00).

26 5. PLAINTIFF brings this Class Action on behalf of herself and a CALIFORNIA CLASS in order  
27 to fully compensate the CALIFORNIA CLASS for their losses incurred during the CALIFORNIA  
28 CLASS PERIOD caused by DEFENDANT's policy and practice which failed to lawfully compensate  
these employees. DEFENDANT's policy and practice alleged herein was an unlawful, unfair and  
deceptive business practice whereby DEFENDANT retained and continues to retain wages due

1 PLAINTIFF and the other members of the CALIFORNIA CLASS. PLAINTIFF and the other members  
2 of the CALIFORNIA CLASS seek an injunction enjoining such conduct by DEFENDANT in the future,  
3 relief for the named PLAINTIFF and the other members of the CALIFORNIA CLASS who have been  
4 economically injured by DEFENDANT's past and current unlawful conduct, and all other appropriate  
5 legal and equitable relief.

6 6. PLAINTIFF additionally brings this action against DEFENDANT seeking to recover PAGA  
7 civil penalties for herself, and on behalf of all current and former aggrieved employees that worked for  
8 DEFENDANT.

9 7. California has enacted the PAGA to permit an individual to bring an action on behalf of herself  
10 and on behalf of others for PAGA penalties only, which is in part the nature of this action.

11 8. PLAINTIFF, and such persons that may be added from time to time who satisfy the requirements  
12 and exhaust the administrative procedures under the Private Attorney General Act, brings this  
13 Representative Action on behalf of the State of California with respect to herself and all members of  
14 the CALIFORNIA CLASS who were employed by Defendant at any time during the period from  
15 January 10, 2022 through the earlier of preliminary approval or August 3, 2024 ("PAGA Period"),  
16 excluding any Flores Settlement Member who worked from February 1, 2019 to February 23, 2022 and  
17 whose employment terminated on or before February 23, 2022 and who has not been since rehired by  
18 Defendant The Coca-Cola Company ("AGGRIEVED EMPLOYEES").

19 9. PLAINTIFF, on behalf of herself and all AGGRIEVED EMPLOYEES, brings this representative  
20 action pursuant to Labor Code § 2699, et seq. seeking fixed civil penalties for DEFENDANT's violation  
21 of California Labor Code §§ 201, 202, 203, 204 et seq., 210, 221, 226(a), 226.7, 227.3, 246 et seq., 510,  
22 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section  
23 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to  
24 Provide Seating), and the applicable Wage Order(s). Based upon the foregoing, PLAINTIFF and all  
25 AGGRIEVED EMPLOYEES are aggrieved employees within the meaning of Labor Code § 2699, et  
26 seq.

27 10. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate  
28 or otherwise of defendants DOES 1 through 50, inclusive, are presently unknown to PLAINTIFF who  
therefore sues these Defendants by such fictitious names pursuant to Cal. Civ. Proc. Code § 474.  
PLAINTIFF will seek leave to amend this Complaint to allege the true names and capacities of Does

1 1 through 50, inclusive, when they are ascertained. PLAINTIFF is informed and believes, and based  
2 upon that information and belief alleges, that the Defendants named in this Complaint, including DOES  
3 1 through 50, inclusive, are responsible in some manner for one or more of the events and happenings  
4 that proximately caused the injuries and damages hereinafter alleged.

5 11. The agents, servants and/or employees of the Defendants and each of them acting on behalf of  
6 the Defendants acted within the course and scope of his, her or its authority as the agent, servant and/or  
7 employee of the Defendants, and personally participated in the conduct alleged herein on behalf of the  
8 Defendants with respect to the conduct alleged herein. Consequently, the acts of each Defendant are  
9 legally attributable to the other Defendants and all Defendants are jointly and severally liable to  
10 PLAINTIFF and the other members of the CALIFORNIA CLASS, for the loss sustained as a proximate  
11 result of the conduct of the Defendants' agents, servants and/or employees.

### 12 THE CONDUCT

13 12. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was required to  
14 pay PLAINTIFF and CALIFORNIA CLASS Members and the AGGRIEVED EMPLOYEES for all  
15 their time worked, meaning the time during which an employee is subject to the control of an employer,  
16 including all the time the employee is suffered or permitted to work. DEFENDANT requires  
17 PLAINTIFF and CALIFORNIA CLASS Members and the AGGRIEVED EMPLOYEES to work  
18 without paying them for all the time they are under DEFENDANT's control. Among other things,  
19 DEFENDANT requires PLAINTIFF to work while clocked out during what is supposed to be  
20 PLAINTIFF's off-duty meal break. PLAINTIFF was from time to time interrupted by work assignments  
21 while clocked out for what should have been PLAINTIFF's off-duty meal break. DEFENDANT, as a  
22 matter of established company policy and procedure, administers a uniform practice of rounding the  
23 actual time worked and recorded by PLAINTIFF and CALIFORNIA CLASS Members and the  
24 AGGRIEVED EMPLOYEES, always to the benefit of DEFENDANT, so that during the course of their  
25 employment, PLAINTIFF and CALIFORNIA CLASS Members and the AGGRIEVED EMPLOYEES  
26 are paid less than they would have been paid had they been paid for actual recorded time rather than  
27 "rounded" time. Additionally, DEFENDANT engages in the practice of requiring PLAINTIFF and  
28 CALIFORNIA CLASS Members and the AGGRIEVED EMPLOYEES to perform work off the clock  
that DEFENDANT, as a condition of employment, required these employees to submit to mandatory  
temperature checks and symptom questionnaires for COVID-19 screening prior to clocking into  
DEFENDANT's timekeeping system for the workday. As a result, PLAINTIFF and other

1 CALIFORNIA CLASS Members and the AGGRIEVED EMPLOYEES forfeit minimum wage,  
2 overtime wage compensation, and off-duty meal breaks by working without their time being correctly  
3 recorded and without compensation at the applicable rates. DEFENDANT's policy and practice not to  
4 pay PLAINTIFF and the AGGRIEVED EMPLOYEES and other CALIFORNIA CLASS Members for  
all time worked, is evidenced by DEFENDANT's business records.

5  
6 13. State and federal law provides that employees must be paid overtime and meal and rest break  
7 premiums at one-and-one-half times their "regular rate of pay." PLAINTIFF and other CALIFORNIA  
8 CLASS Members and the AGGRIEVED EMPLOYEES are compensated at an hourly rate plus  
incentive pay that is tied to specific elements of an employee's performance.

9  
10 14. The second component of PLAINTIFF's and other CALIFORNIA CLASS Members' and the  
11 AGGRIEVED EMPLOYEES' compensation is DEFENDANT's non-discretionary incentive program  
12 that paid PLAINTIFF and other CALIFORNIA CLASS Members and the AGGRIEVED EMPLOYEES  
13 incentive wages based on their performance for DEFENDANT. The non-discretionary incentive  
14 program provided all employees paid on an hourly basis with incentive compensation when the  
15 employees met the various performance goals set by DEFENDANT. However, when calculating the  
16 regular rate of pay in order to pay overtime and meal and rest break premiums to PLAINTIFF and other  
17 CALIFORNIA CLASS Members and the AGGRIEVED EMPLOYEES, DEFENDANT failed to  
18 include the incentive compensation as part of the employees' "regular rate of pay" for purposes of  
19 calculating overtime pay and meal and rest break premium pay. Management and supervisors described  
20 the incentive program to potential and new employees as part of the compensation package. As a matter  
21 of law, the incentive compensation received by PLAINTIFF and other CALIFORNIA CLASS Members  
22 and the AGGRIEVED EMPLOYEES must be included in the "regular rate of pay." The failure to do  
23 so has resulted in a underpayment of overtime compensation and meal and rest break premiums to  
PLAINTIFF and other CALIFORNIA CLASS Members and the AGGRIEVED EMPLOYEES by  
DEFENDANT.

24 15. As a result of their rigorous work schedules, PLAINTIFF and other CALIFORNIA CLASS  
25 Members and the AGGRIEVED EMPLOYEES were from time to time unable to take thirty (30) minute  
26 off duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and other  
27 CALIFORNIA CLASS Members and the AGGRIEVED EMPLOYEES were required from time to time  
28 to perform work as ordered by DEFENDANT for more than five (5) hours during some shifts without  
receiving a meal break. Further, DEFENDANT from time to time failed to provide PLAINTIFF and

1 CALIFORNIA CLASS Members and the AGGRIEVED EMPLOYEES with a second off-duty meal  
2 period for some workdays in which these employees were required by DEFENDANT to work ten (10)  
3 hours of work. DEFENDANT also engaged in the practice of rounding the meal period times to avoid  
4 paying penalties to PLAINTIFF and other CALIFORNIA CLASS Members and the AGGRIEVED  
5 EMPLOYEES. PLAINTIFF and other members of the CALIFORNIA CLASS and the AGGRIEVED  
6 EMPLOYEES therefore forfeit meal breaks without additional compensation and in accordance with  
7 DEFENDANT's corporate policy and practice.

8 16. During the CALIFORNIA CLASS PERIOD and PAGA PERIOD, PLAINTIFF and other  
9 CALIFORNIA CLASS Members and the AGGRIEVED EMPLOYEES were also required from time  
10 to time to work in excess of four (4) hours without being provided ten (10) minute rest periods. Further,  
11 these employees were denied their first rest periods of at least ten (10) minutes for some shifts worked  
12 of at least two (2) to four (4) hours from time to time, a first and second rest period of at least ten (10)  
13 minutes for some shifts worked of between six (6) and eight (8) hours from time to time, and a first,  
14 second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more  
15 from time to time. PLAINTIFF and other CALIFORNIA CLASS Members and the AGGRIEVED  
16 EMPLOYEES were also not provided with one hour wages in lieu thereof. Additionally, the applicable  
17 California Wage Order requires employers to provide employees with off-duty rest periods, which the  
18 California Supreme Court defined as time during which an employee is relieved from all work related  
19 duties and free from employer control. In so doing, the Court held that the requirement under California  
20 law that employers authorize and permit all employees to take rest period means that employers must  
21 relieve employees of all duties and relinquish control over how employees spend their time which  
22 includes control over the locations where employees may take their rest period. Employers cannot  
23 impose controls that prohibit an employee from taking a brief walk - five minutes out, five minutes  
24 back. Here, DEFENDANT's policy restricted PLAINTIFF and other CALIFORNIA CLASS Members  
25 and the AGGRIEVED EMPLOYEES from unconstrained walks and is unlawful based on  
26 DEFENDANT's rule which states PLAINTIFF and other CALIFORNIA CLASS Members and the  
27 AGGRIEVED EMPLOYEES cannot leave the work premises during their rest period.

28 17. During the CALIFORNIA CLASS PERIOD and PAGA PERIOD, DEFENDANT failed to  
accurately record and pay PLAINTIFF and other CALIFORNIA CLASS Members and the  
AGGRIEVED EMPLOYEES for the actual amount of time these employees worked. Pursuant to the  
Industrial Welfare Commission Wage Orders, DEFENDANT was required to pay PLAINTIFF and

1 other CALIFORNIA CLASS Members and the AGGRIEVED EMPLOYEES for all time worked,  
2 meaning the time during which an employee was subject to the control of an employer, including all  
3 the time the employee was permitted or suffered to permit this work. DEFENDANT required these  
4 employees to work off the clock without paying them for all the time they were under DEFENDANT's  
5 control. As such, DEFENDANT knew or should have known that PLAINTIFF and the other members  
6 of the CALIFORNIA CLASS and the AGGRIEVED EMPLOYEES were under compensated for all  
7 time worked. As a result, PLAINTIFF and other CALIFORNIA CLASS Members and the  
8 AGGRIEVED EMPLOYEES forfeited time worked by working without their time being accurately  
9 recorded and without compensation at the applicable minimum wage and overtime wage rates. To the  
10 extent that the time worked off the clock does not qualify for overtime premium payment,  
11 DEFENDANT fails to pay minimum wages for the time worked off-the-clock in violation of Cal. Lab.  
12 Code §§ 1194, 1197, and 1197.1.

13 18. From time to time, DEFENDANT also failed to provide PLAINTIFF and the other members  
14 of the CALIFORNIA CLASS and the AGGRIEVED EMPLOYEES with complete and accurate wage  
15 statements which failed to show, among other things, the correct gross and net wages earned. Cal. Lab.  
16 Code § 226 provides that every employer shall furnish each of his or her employees with an accurate  
17 itemized wage statement in writing showing, among other things, gross wages earned and all applicable  
18 hourly rates in effect during the pay period and the corresponding amount of time worked at each hourly  
19 rate. PLAINTIFF and CALIFORNIA CLASS Members and the AGGRIEVED EMPLOYEES were  
20 paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during  
21 the pay period and the total hours worked, and the applicable pay period in which the wages were  
22 earned pursuant to California Labor Code Section 226(a). The wage statements DEFENDANT  
23 provided to PLAINTIFF and other CALIFORNIA CLASS Members and the AGGRIEVED  
24 EMPLOYEES failed to identify such information. More specifically, the wage statements failed to  
25 identify the accurate total hours worked each pay period. When the hours shown on the wage  
26 statements were added up, they did not equal the actual total hours worked during the pay period in  
27 violation of Cal. Lab. Code 226(a)(2). Aside, from the violations listed above in this paragraph,  
28 DEFENDANT failed to issue to PLAINTIFF an itemized wage statement that lists all the requirements  
under California Labor Code 226 et seq. As a result, DEFENDANT from time to time provided  
PLAINTIFF and the other members of the CALIFORNIA CLASS and the AGGRIEVED EMPLOYEES  
with wage statements which violated Cal. Lab. Code § 226.

1 19. Cal. Lab. Code § 204(d) provides, the requirements of this section shall be deemed satisfied by  
2 the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than  
3 seven (7) calendar days following the close of the payroll period. Cal. Lab. Code § 210 provides:

4 [I]n addition to, and entirely independent and apart from, any other penalty provided  
5 in this article, every person who fails to pay the wages of each employee as  
6 provided in Sections. . . .204. . . shall be subject to a civil penalty as follows: (1) For  
any initial violation, one hundred dollars (\$100) for each failure to pay each employee;  
7 (2) For each subsequent violation, or any willful or intentional violation, two hundred  
dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount  
unlawfully withheld.

8 20. DEFENDANT from time to time failed to pay PLAINTIFF and members of the CALIFORNIA  
9 LABOR SUB-CLASS (as defined below) Members and the AGGRIEVED EMPLOYEES within seven  
10 (7) days of the close of the payroll period in accordance with Cal. Lab. Code § 204(d), including but  
11 not limited to for the "Hourly" regular wage payments.

12 21. DEFENDANT underpaid sick pay wages to PLAINTIFF and other CALIFORNIA CLASS  
13 Members and the AGGRIEVED EMPLOYEES by failing to pay such wages at the regular rate of pay  
14 in violation of Cal. Lab. Code Section 246. Specifically, PLAINTIFF and other non-exempt employees  
15 earn non-discretionary remuneration. Rather than pay sick pay at the regular rate of pay, DEFENDANT  
16 underpaid sick pay to PLAINTIFF and other CALIFORNIA CLASS Members and the AGGRIEVED  
EMPLOYEES at their base rates of pay.

17 22. Cal. Lab. Code Section 246(1)(2) requires that paid sick time for nonexempt employees be  
18 calculated by dividing the employee's total wages, not including overtime premium pay, by the  
19 employee's total hours worked in the full pay periods of the prior 90 days of employment.

20 23. DEFENDANT violated Cal. Lab. Code Section 246 by failing to pay sick pay at the regular rate  
21 of pay. PLAINTIFF and CALIFORNIA CLASS Members and the AGGRIEVED EMPLOYEES  
22 routinely earned non-discretionary incentive wages which increased their regular rate of pay. However,  
23 when sick pay was paid, it was paid at the base rate of pay for PLAINTIFF and members of the  
24 CALIFORNIA CLASS and the AGGRIEVED EMPLOYEES, as opposed to the correct, higher regular  
25 rate of pay, as required under Cal. Lab. Code Section 246.

26 24. As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFF and other members  
27 of the CALIFORNIA CLASS and the AGGRIEVED EMPLOYEES their correct wages and accordingly  
28 owe waiting time penalties pursuant to Cal. Lab. Code Section 203. Further, PLAINTIFF is informed

1 and believes and based thereon alleges that such failure to pay sick pay at regular rate was willful, such  
2 that PLAINTIFF and members of the CALIFORNIA CLASS and the AGGRIEVED EMPLOYEES  
3 whose employment has separated are entitled to waiting time penalties pursuant to Cal. Lab. Code  
4 Sections 201-203.

5 25. Pursuant to Cal. Lab. Code Section 221, "It shall be unlawful for any employer to collect or  
6 receive from an employee any part of wages theretofore paid by said employer to said employee."  
7 DEFENDANT failed to pay all compensation due to PLAINTIFF and other CALIFORNIA LABOR  
8 SUB-CLASS (as defined below) Members and the AGGRIEVED EMPLOYEES, made unlawful  
9 deductions from compensation payable to PLAINTIFF and CALIFORNIA LABOR SUB-CLASS  
10 Members and the AGGRIEVED EMPLOYEES, failed to disclose all aspects of the deductions from  
11 compensation payable to PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members and the  
12 AGGRIEVED EMPLOYEES, and thereby failed to pay these employees all wages due at each  
13 applicable pay period and upon termination. PLAINTIFF and members of the CALIFORNIA LABOR  
14 SUB-CLASS seek recovery of all illegal deductions from wages according to proof, related penalties,  
15 interest, attorney fees and costs.

16 26. DEFENDANT intentionally and knowingly failed to reimburse and indemnify PLAINTIFF and  
17 the other CALIFORNIA CLASS Members and the AGGRIEVED EMPLOYEES for required business  
18 expenses incurred by the PLAINTIFF and other CALIFORNIA CLASS Members and the  
19 AGGRIEVED EMPLOYEES in direct consequence of discharging their duties on behalf of  
20 DEFENDANT. Under California Labor Code Section 2802, employers are required to indemnify  
21 employees for all expenses incurred in the course and scope of their employment. Cal. Lab. Code §  
22 2802 expressly states that "an employer shall indemnify his or her employee for all necessary  
23 expenditures or losses incurred by the employee in direct consequence of the discharge of his or her  
24 duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the  
25 employee, at the time of obeying the directions, believed them to be unlawful."

26 27. In the course of their employment PLAINTIFF and other CALIFORNIA CLASS Members and  
27 the AGGRIEVED EMPLOYEES as a business expense, were required by DEFENDANT to use their  
28 own personal cellular phones as a result of and in furtherance of their job duties as employees for  
DEFENDANT but are not reimbursed or indemnified by DEFENDANT for the cost associated with  
the use of their personal cellular phones for DEFENDANT's benefit. Specifically, PLAINTIFF and  
other CALIFORNIA CLASS Members and the AGGRIEVED EMPLOYEES were required by

1 DEFENDANT to use their personal cellular phones. As a result, in the course of their employment with  
2 DEFENDANT, PLAINTIFF and other members of the CALIFORNIA CLASS and the AGGRIEVED  
3 EMPLOYEES incurred unreimbursed business expenses which included, but were not limited to, costs  
4 related to the use of their personal cellular phones all on behalf of and for the benefit of DEFENDANT.

5 28. Specifically as to PLAINTIFF, DEFENDANT failed to provide all the legally required off-duty  
6 meal and rest breaks to PLAINTIFF as required by the applicable Wage Order and Labor Code and  
7 failed to pay PLAINTIFF all minimum and overtime wages due to PLAINTIFF. DEFENDANT did not  
8 have a policy or practice which provided timely off-duty meal and rest breaks to PLAINTIFF and also  
9 failed to compensate PLAINTIFF for PLAINTIFF's missed meal and rest breaks. The nature of the work  
10 performed by the PLAINTIFF did not prevent PLAINTIFF from being relieved of all of PLAINTIFF's  
11 duties for the legally required off-duty meal periods. As a result, DEFENDANT's failure to provide  
12 PLAINTIFF with the legally required meal periods is evidenced by DEFENDANT's business records.

13 29. Furthermore, PLAINTIFF went on protected leave for her worsening stress and anxiety caused  
14 by DEFENDANT's workplace condition in June of 2021. Furthermore, the continuous stress from work  
15 caused PLAINTIFF to feel afraid of going into work. In retaliation for taking the protected leave,  
16 DEFENDANT terminated PLAINTIFF's employment on February 4, 2022. DEFENDANT's decision  
17 and real motivation to terminate PLAINTIFF was in retaliation for PLAINTIFF for taking the protected  
18 leave for her worsening stress condition.

19 30. Prior to filing this action, PLAINTIFF exhausted her administrative remedies by filing a timely  
20 administrative complaint with the Department of Fair Employment and Housing ("DFEH") and received  
21 a DFEH right-to-sue letter on January 10, 2023.

22 31. In violation of the applicable sections of the California Labor Code and the requirements of the  
23 applicable Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a matter of company  
24 policy, practice and procedure, intentionally, knowingly and systematically failed to provide  
25 PLAINTIFF and the other AGGRIEVED EMPLOYEES suitable seating when the nature of these  
26 employees' work reasonably permitted sitting.

27 32. DEFENDANT knew or should have known that PLAINTIFF and other AGGRIEVED  
28 EMPLOYEES were entitled to suitable seating and/or were entitled to sit when it did not interfere with  
the performance of their duties, and that DEFENDANT did not provide suitable seating and/or did not  
allow them to sit when it did not interfere with the performance of their duties.

1 33. By reason of this conduct applicable to PLAINTIFF and all AGGRIEVED EMPLOYEES,  
2 DEFENDANT violated California Labor Code Section 1198 and Wage Order 4-2001, Section 14 by  
3 failing to provide suitable seats. PLAINTIFF seeks penalties on behalf of PLAINTIFF and other  
4 AGGRIEVED EMPLOYEES as provided herein. Providing suitable seating is the DEFENDANT's  
5 burden. As a result of DEFENDANT's intentional disregard of the obligation to meet this burden,  
6 DEFENDANT violated the California Labor Code and regulations promulgated thereunder as herein  
alleged.

7 34. The employment of PLAINTIFF and some AGGRIEVED EMPLOYEES has terminated and  
8 DEFENDANT has not tendered payment of all wages owed as required by law. Additionally, at all  
9 times during the term of PLAINTIFF's employment with DEFENDANT, PLAINTIFF and other  
10 AGGRIEVED EMPLOYEES earned and accrued vested vacation and holiday time on the date of their  
11 termination pursuant to DEFENDANT's uniform vacation policies and applicable California law. The  
12 amount of vacation pay PLAINTIFF and the other AGGRIEVED EMPLOYEES earned and  
13 accumulated is evidenced by DEFENDANT's business records. Additionally, DEFENDANT also  
14 underpaid accrued vested vacation wages to PLAINTIFF and other AGGRIEVED EMPLOYEES by  
15 failing to pay such wages at the regular rate of pay and more specifically the final rate of pay that  
16 included all non-discretionary incentive compensation. Rather than pay vacation wages at the regular  
17 rate of pay, DEFENDANT underpaid vacation wages to PLAINTIFF and other AGGRIEVED  
18 EMPLOYEES at their base rates of pay, instead of including all of PLAINTIFF's and other  
19 AGGRIEVED EMPLOYEES' non-discretionary incentive compensation into the vacation wage  
20 payment calculations. DEFENDANT failed to specify in DEFENDANT's written vacation policy the  
21 rate at which PLAINTIFF and other AGGRIEVED EMPLOYEES would be paid vacation upon leaving  
22 employment with DEFENDANT. As a result of DEFENDANT's unlawful practice, policy and  
23 procedure to deny paying the PLAINTIFF and other AGGRIEVED EMPLOYEES all of their vested  
24 vacation and holiday time, DEFENDANT failed to pay the PLAINTIFF and other AGGRIEVED  
25 EMPLOYEES all vested vacation time as wages due upon employment termination, in violation of the  
26 California Labor Code, Sections 201, 202, 203 and 227.3. Similarly, DEFENDANT underpaid waiting  
27 time penalties to PLAINTIFF and other AGGRIEVED EMPLOYEES at their base rates of pay, instead  
28 of including all of PLAINTIFF's and other AGGRIEVED EMPLOYEES' non-discretionary  
compensation into the waiting time penalty calculations. This failure by DEFENDANT is believed to  
be the result of DEFENDANT's unlawful, unfair and deceptive refusal to provide compensation for

1 earned, accrued and vested vacation and holiday time, as well as the corresponding waiting time  
2 penalties that were paid. DEFENDANT perpetrated this unlawful, unfair and deceptive practice to the  
3 detriment of PLAINTIFF and other AGGRIEVED EMPLOYEES. DEFENDANT's uniform practice  
4 and policy of failing to pay the AGGRIEVED EMPLOYEES for all vested vacation and holiday time  
5 accumulated at employment termination violated and continues to violate Section 227.3 of the  
6 California Labor Code.

7 35. All of the conduct and violations alleged herein occurred during the PAGA PERIOD. To the  
8 extent that any of the conduct and violations alleged herein did not affect PLAINTIFF during the PAGA  
9 PERIOD, PLAINTIFF seeks penalties for those violations that affected the AGGRIEVED  
10 EMPLOYEES pursuant to Carrington v. Starbucks Corp. 2018 AJDAR 12157 (Certified for Publication  
11 12/19/18).

### 12 **JURISDICTION AND VENUE**

13 36. This Court has jurisdiction over this Action pursuant to California Code of Civil Procedure,  
14 Section 410.10 and California Business & Professions Code, Section 17203. This action is brought as  
15 a Class Action on behalf of PLAINTIFF and similarly situated employees of DEFENDANT pursuant  
16 to Cal. Code of Civ. Proc. § 382.

17 37. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections 395 and  
18 395.5, because PLAINTIFF worked in this County for DEFENDANT and DEFENDANT (i) currently  
19 maintains and at all relevant times maintained offices and facilities in this County and/or conducts  
20 substantial business in this County, and (ii) committed the wrongful conduct herein alleged in this  
21 County against members of the CALIFORNIA CLASS and other AGGRIEVED EMPLOYEES.

### 22 **THE CALIFORNIA CLASS**

23 38. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and Deceptive Business  
24 Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, et seq. (the "UCL") as a Class Action, pursuant  
25 to Cal. Code of Civ. Proc. § 382, on behalf of a California Class as defined above. The amount in  
26 controversy for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars  
27 (\$5,000,000.00).

28 39. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS against  
DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted accordingly.

1 40. DEFENDANT, as a matter of company policy, practice and procedure, and in violation of the  
2 applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements, and the  
3 applicable provisions of California law, intentionally, knowingly, and willfully, engaged in a practice  
4 whereby DEFENDANT failed to record all meal and rest breaks missed by PLAINTIFF and other  
5 CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit of this work, required  
6 employees to perform this work and permits or suffers to permit this work.

7 41. DEFENDANT has the legal burden to establish that each and every CALIFORNIA CLASS  
8 Member was paid accurately for all meal and rest breaks missed as required by California laws. The  
9 DEFENDANT, however, as a matter of policy and procedure failed to have in place during the  
10 CALIFORNIA CLASS PERIOD and still fails to have in place a policy or practice to ensure that each  
11 and every CALIFORNIA CLASS Member is paid as required by law. This common business practice  
12 is applicable to each and every CALIFORNIA CLASS Member can be adjudicated on a class-wide basis  
13 as unlawful, unfair, and/or deceptive under Cal. Business & Professions Code §§ 17200, et seq. (the  
14 "UCL") as causation, damages, and reliance are not elements of this claim.

15 42. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA CLASS Members  
16 is impracticable.

17 43. DEFENDANT violated the rights of the CALIFORNIA CLASS under California law by:

18 (a) Committing an act of unfair competition in violation of, Cal. Bus. & Prof. Code §§  
19 17200, et seq. (the "UCL"), by unlawfully, unfairly and/or deceptively having in place company  
20 policies, practices and procedures that failed to record and pay PLAINTIFF and the other  
21 members of the CALIFORNIA CLASS for all time worked, including minimum wages owed  
22 and overtime wages owed for work performed by these employees; and,

23 (b) Committing an act of unfair competition in violation of the UCL, by failing to provide  
24 the PLAINTIFF and the other members of the CALIFORNIA CLASS with the legally required  
25 meal and rest periods.

26 44. This Class Action meets the statutory prerequisites for the maintenance of a Class Action as set  
27 forth in Cal. Code of Civ. Proc. § 382, in that:  
28

1 (a) The persons who comprise the CALIFORNIA CLASS are so numerous that the joinder  
2 of all such persons is impracticable and the disposition of their claims as a class will benefit the  
3 parties and the Court;

4 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are raised  
5 in this Complaint are common to the CALIFORNIA CLASS and will apply to every member  
6 of the CALIFORNIA CLASS;

7 (c) The claims of the representative PLAINTIFF are typical of the claims of each member  
8 of the CALIFORNIA CLASS. PLAINTIFF, like all the other members of the CALIFORNIA  
9 CLASS, was classified as a non-exempt employee paid on an hourly basis who was subjected  
10 to the DEFENDANT's deceptive practice and policy which failed to provide the legally required  
11 meal and rest periods to the CALIFORNIA CLASS and thereby underpaid compensation to  
12 PLAINTIFF and CALIFORNIA CLASS. PLAINTIFF sustained economic injury as a result of  
13 DEFENDANT's employment practices. PLAINTIFF and the members of the CALIFORNIA  
14 CLASS were and are similarly or identically harmed by the same unlawful, deceptive and unfair  
misconduct engaged in by DEFENDANT; and,

15 (d) The representative PLAINTIFF will fairly and adequately represent and protect the  
16 interest of the CALIFORNIA CLASS, and has retained counsel who are competent and  
17 experienced in Class Action litigation. There are no material conflicts between the claims of  
18 the representative PLAINTIFF and the members of the CALIFORNIA CLASS that would make  
19 class certification inappropriate. Counsel for the CALIFORNIA CLASS will vigorously assert  
20 the claims of all CALIFORNIA CLASS Members.

21 45. In addition to meeting the statutory prerequisites to a Class Action, this action is properly  
22 maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

23 (a) Without class certification and determination of declaratory, injunctive, statutory and  
24 other legal questions within the class format, prosecution of separate actions by individual  
25 members of the CALIFORNIA CLASS will create the risk of:

26 1) Inconsistent or varying adjudications with respect to individual members of  
27 the CALIFORNIA CLASS which would establish incompatible standards of conduct  
28 for the parties opposing the CALIFORNIA CLASS; and/or,

1                   2)     Adjudication with respect to individual members of the CALIFORNIA  
2     CLASS which would as a practical matter be dispositive of interests of the other  
3     members not party to the adjudication or substantially impair or impede their ability  
4     to protect their interests.

5           (b)     The parties opposing the CALIFORNIA CLASS have acted or refused to act on grounds  
6     generally applicable to the CALIFORNIA CLASS, making appropriate class-wide relief with  
7     respect to the CALIFORNIA CLASS as a whole in that DEFENDANT failed to pay all wages  
8     due to members of the CALIFORNIA CLASS as required by law;

9                   1)     With respect to the First Cause of Action, the final relief on behalf of the  
10     CALIFORNIA CLASS sought does not relate exclusively to restitution because  
11     through this claim PLAINTIFF seeks declaratory relief holding that the  
12     DEFENDANT's policy and practices constitute unfair competition, along with  
13     declaratory relief, injunctive relief, and incidental equitable relief as may be  
14     necessary to prevent and remedy the conduct declared to constitute unfair  
15     competition;

16           (c)     Common questions of law and fact exist as to the members of the CALIFORNIA  
17     CLASS, with respect to the practices and violations of California law as listed above, and  
18     predominate over any question affecting only individual CALIFORNIA CLASS Members, and  
19     a Class Action is superior to other available methods for the fair and efficient adjudication of  
20     the controversy, including consideration of:

21                   1)     The interests of the members of the CALIFORNIA CLASS in individually  
22     controlling the prosecution or defense of separate actions in that the substantial  
23     expense of individual actions will be avoided to recover the relatively small amount  
24     of economic losses sustained by the individual CALIFORNIA CLASS Members  
25     when compared to the substantial expense and burden of individual prosecution of  
26     this litigation;

27                   2)     Class certification will obviate the need for unduly duplicative litigation that  
28     would create the risk of:

1           A. Inconsistent or varying adjudications with respect to individual  
2 members of the CALIFORNIA CLASS, which would establish incompatible  
3 standards of conduct for the DEFENDANT; and/or,

4           B. Adjudications with respect to individual members of the  
5 CALIFORNIA CLASS would as a practical matter be dispositive of the  
6 interests of the other members not parties to the adjudication or substantially  
7 impair or impede their ability to protect their interests;

8  
9           3) In the context of wage litigation because a substantial number of individual  
10 CALIFORNIA CLASS Members will avoid asserting their legal rights out of fear of  
11 retaliation by DEFENDANT, which may adversely affect an individual's job with  
12 DEFENDANT or with a subsequent employer, the Class Action is the only means  
13 to assert their claims through a representative; and,

14           4) A class action is superior to other available methods for the fair and efficient  
15 adjudication of this litigation because class treatment will obviate the need for unduly  
16 and unnecessary duplicative litigation that is likely to result in the absence of  
17 certification of this action pursuant to Cal. Code of Civ. Proc. § 382.

18       46. This Court should permit this action to be maintained as a Class Action pursuant to Cal. Code  
19 of Civ. Proc. § 382 because:

20           (a) The questions of law and fact common to the CALIFORNIA CLASS predominate over  
21 any question affecting only individual CALIFORNIA CLASS Members because the  
22 DEFENDANT's employment practices are applied with respect to the CALIFORNIA CLASS;

23           (b) A Class Action is superior to any other available method for the fair and efficient  
24 adjudication of the claims of the members of the CALIFORNIA CLASS because in the context  
25 of employment litigation a substantial number of individual CALIFORNIA CLASS Members  
26 will avoid asserting their rights individually out of fear of retaliation or adverse impact on their  
27 employment;

1 (c) The members of the CALIFORNIA CLASS are so numerous that it is impractical to  
2 bring all members of the CALIFORNIA CLASS before the Court;

3 (d) PLAINTIFF, and the other CALIFORNIA CLASS Members, will not be able to obtain  
4 effective and economic legal redress unless the action is maintained as a Class Action;

5 (e) There is a community of interest in obtaining appropriate legal and equitable relief for  
6 the acts of unfair competition, statutory violations and other improprieties, and in obtaining  
7 adequate compensation for the damages and injuries which DEFENDANT's actions have  
8 inflicted upon the CALIFORNIA CLASS;

9 (f) There is a community of interest in ensuring that the combined assets of DEFENDANT  
10 are sufficient to adequately compensate the members of the CALIFORNIA CLASS for the  
11 injuries sustained;

12 (g) DEFENDANT has acted or refused to act on grounds generally applicable to the  
13 CALIFORNIA CLASS, thereby making final class-wide relief appropriate with respect to the  
14 CALIFORNIA CLASS as a whole;

15 (h) The members of the CALIFORNIA CLASS are readily ascertainable from the business  
16 records of DEFENDANT; and,

17 (i) Class treatment provides manageable judicial treatment calculated to bring an efficient  
18 and rapid conclusion to all litigation of all wage and hour related claims arising out of the  
19 conduct of DEFENDANT as to the members of the CALIFORNIA CLASS.

20 47. DEFENDANT maintains records from which the Court can ascertain and identify by job title  
21 each of DEFENDANT's employees who have been intentionally subjected to DEFENDANT's company  
22 policy, practices and procedures as herein alleged. PLAINTIFF will seek leave to amend the Complaint  
23 to include any additional job titles of similarly situated employees when they have been identified.

24  
25 **THE CALIFORNIA LABOR SUB-CLASS**

26 48. PLAINTIFF further brings the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth and Ninth  
27 causes Action on behalf of a California sub-class, defined as all individuals currently or formerly  
28 employed by DEFENDANT in California and classified as an hourly, non-exempt employee at any time  
during the period from February 1, 2019, through the earlier of preliminary approval or August 3, 2024,

1 (the "CALIFORNIA LABOR SUB-CLASS PERIOD"), excluding any Flores Settlement Member who  
2 worked from February 1, 2019 to February 23, 2022 and whose employment terminated on or before  
3 February 23, 2022 and who has not been since rehired by DEFENDANT The Coca-Cola Company  
4 ("CALIFORNIA LABOR SUB-CLASS"), pursuant to Cal. Code of Civ. Proc. § 382. The amount in  
5 controversy for the aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under five  
6 million dollars (\$5,000,000.00).

7 49. DEFENDANT, in violation of the applicable Labor Code, Industrial Welfare Commission  
8 ("IWC") Wage Order requirements, and the applicable provisions of California law, intentionally,  
9 knowingly, and willfully, engaged in a practice whereby DEFENDANT failed to correctly calculate  
10 compensation for the time worked by PLAINTIFF and the other members of the CALIFORNIA  
11 LABOR SUB-CLASS and reporting time wages owed to these employees, even though DEFENDANT  
12 enjoyed the benefit of this work, required employees to perform this work and permitted or suffered to  
13 permit this work. DEFENDANT has denied these CALIFORNIA LABOR SUB-CLASS Members  
14 wages to which these employees are entitled in order to unfairly cheat the competition and unlawfully  
15 profit. To the extent equitable tolling operates to toll claims by the CALIFORNIA LABOR  
16 SUB-CLASS against DEFENDANT, the CALIFORNIA LABOR SUB-CLASS PERIOD should be  
17 adjusted accordingly.

18 50. DEFENDANT maintains records from which the Court can ascertain and identify by name and  
19 job title, each of DEFENDANT's employees who have been intentionally subjected to DEFENDANT's  
20 company policy, practices and procedures as herein alleged. PLAINTIFF will seek leave to amend the  
21 complaint to include any additional job titles of similarly situated employees when they have been  
22 identified.

23 51. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all CALIFORNIA  
24 LABOR SUB-CLASS Members is impracticable.

25 52. Common questions of law and fact exist as to members of the CALIFORNIA LABOR  
26 SUB-CLASS, including, but not limited, to the following:

- 27 (a) Whether DEFENDANT unlawfully failed to correctly calculate and pay  
28 compensation due to members of the CALIFORNIA LABOR SUB-CLASS for missed meal  
and rest breaks in violation of the California Labor Code and California regulations and the  
applicable California Wage Order;

1 (b) Whether DEFENDANT failed to provide the PLAINTIFF and the other members of  
2 the CALIFORNIA LABOR SUB-CLASS with accurate itemized wage statements;

3 (c) Whether DEFENDANT has engaged in unfair competition by the above listed  
4 conduct;

5 (d) The proper measure of damages and penalties owed to the members of the  
6 CALIFORNIA LABOR SUB-CLASS; and,

7 (e) Whether DEFENDANT's conduct was willful.

8  
9 53. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS under California  
10 law by:

11 (a) Violating Cal. Lab. Code § 510, by failing to correctly pay the PLAINTIFF and the  
12 members of the CALIFORNIA LABOR SUB-CLASS all wages due for overtime worked,  
13 for which DEFENDANT is liable pursuant to Cal. Lab. Code § 1194;

14 (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 et seq., by failing to accurately pay  
15 PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS the correct  
16 minimum wage pay for which DEFENDANT is liable pursuant to Cal. Lab. Code §§ 1194  
17 and 1197;

18 (c) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the members  
19 of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized statement in writing  
20 showing the corresponding correct amount of wages earned by the employee;

21 (d) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFF and the  
22 other members of the CALIFORNIA LABOR SUB-CLASS with all legally required  
23 off-duty, uninterrupted thirty (30) minute meal breaks and the legally required off-duty rest  
24 breaks;

25 (e) Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when an  
26 employee is discharged or quits from employment, the employer must pay the employee all  
27 wages due without abatement, by failing to tender full payment and/or restitution of wages  
28 owed or in the manner required by California law to the members of the CALIFORNIA  
LABOR SUB-CLASS who have terminated their employment; and,

1 (f) Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF and the  
2 CALIFORNIA LABOR SUB-CLASS members with necessary expenses incurred in the  
3 discharge of their job duties.

4 54. This Class Action meets the statutory prerequisites for the maintenance of a Class Action as set  
5 forth in Cal. Code of Civ. Proc. § 382, in that:

6 (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS are so  
7 numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS Members is  
8 impracticable and the disposition of their claims as a class will benefit the parties and the  
9 Court;

10 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are  
11 raised in this Complaint are common to the CALIFORNIA LABOR SUB-CLASS and will  
12 apply to every member of the CALIFORNIA LABOR SUB-CLASS;

13 (c) The claims of the representative PLAINTIFF are typical of the claims of each  
14 member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF, like all the other  
15 members of the CALIFORNIA LABOR SUB-CLASS, was a non-exempt employee paid on  
16 an hourly basis who was subjected to the DEFENDANT's practice and policy which failed  
17 to pay the correct amount of wages due to the CALIFORNIA LABOR SUB-CLASS.  
18 PLAINTIFF sustained economic injury as a result of DEFENDANT's employment practices.  
19 PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS were and are  
20 similarly or identically harmed by the same unlawful, deceptive, and unfair misconduct  
engaged in by DEFENDANT; and,

21 (d) The representative PLAINTIFF will fairly and adequately represent and protect the  
22 interest of the CALIFORNIA LABOR SUB-CLASS, and has retained counsel who are  
23 competent and experienced in Class Action litigation. There are no material conflicts  
24 between the claims of the representative PLAINTIFF and the members of the CALIFORNIA  
25 LABOR SUB-CLASS that would make class certification inappropriate. Counsel for the  
26 CALIFORNIA LABOR SUB-CLASS will vigorously assert the claims of all CALIFORNIA  
27 LABOR SUB-CLASS Members.  
28

1 55. In addition to meeting the statutory prerequisites to a Class Action, this action is properly  
2 maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

3 (a) Without class certification and determination of declaratory, injunctive, statutory and  
4 other legal questions within the class format, prosecution of separate actions by individual  
5 members of the CALIFORNIA LABOR SUB-CLASS will create the risk of:

6 1) Inconsistent or varying adjudications with respect to individual members of  
7 the CALIFORNIA LABOR SUB-CLASS which would establish incompatible  
8 standards of conduct for the parties opposing the CALIFORNIA LABOR  
9 SUB-CLASS; or,

10 2) Adjudication with respect to individual members of the CALIFORNIA  
11 LABOR SUB-CLASS which would as a practical matter be dispositive of interests  
12 of the other members not party to the adjudication or substantially impair or impede  
13 their ability to protect their interests.

14 (b) The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted or refused  
15 to act on grounds generally applicable to the CALIFORNIA LABOR SUB-CLASS, making  
16 appropriate class-wide relief with respect to the CALIFORNIA LABOR SUB-CLASS as a  
17 whole in that DEFENDANT fails to pay all wages due. Including the correct wages for all  
18 time worked by the members of the CALIFORNIA LABOR SUB-CLASS as required by  
19 law;

20 (c) Common questions of law and fact predominate as to the members of the  
21 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and violations of  
22 California Law as listed above, and predominate over any question affecting only individual  
23 CALIFORNIA LABOR SUB-CLASS Members, and a Class Action is superior to other  
24 available methods for the fair and efficient adjudication of the controversy, including  
25 consideration of:

26 1) The interests of the members of the CALIFORNIA LABOR SUB-CLASS in  
27 individually controlling the prosecution or defense of separate actions in that the  
28 substantial expense of individual actions will be avoided to recover the relatively  
small amount of economic losses sustained by the individual CALIFORNIA LABOR

1 SUB-CLASS Members when compared to the substantial expense and burden of  
2 individual prosecution of this litigation;

3 2) Class certification will obviate the need for unduly duplicative litigation that  
4 would create the risk of:

5 A. Inconsistent or varying adjudications with respect to individual  
6 members of the CALIFORNIA LABOR SUB-CLASS, which would establish  
7 incompatible standards of conduct for the DEFENDANT; and/or,

8 B. Adjudications with respect to individual members of the  
9 CALIFORNIA LABOR SUB-CLASS would as a practical matter be  
10 dispositive of the interests of the other members not parties to the  
11 adjudication or substantially impair or impede their ability to protect their  
12 interests;

13 3) In the context of wage litigation because a substantial number of individual  
14 CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their legal rights  
15 out of fear of retaliation by DEFENDANT, which may adversely affect an  
16 individual's job with DEFENDANT or with a subsequent employer, the Class Action  
17 is the only means to assert their claims through a representative; and,

18 4) A class action is superior to other available methods for the fair and efficient  
19 adjudication of this litigation because class treatment will obviate the need for unduly  
20 and unnecessary duplicative litigation that is likely to result in the absence of  
21 certification of this action pursuant to Cal. Code of Civ. Proc. § 382.

22 56. This Court should permit this action to be maintained as a Class Action pursuant to Cal. Code  
23 of Civ. Proc. § 382 because:

24 (a) The questions of law and fact common to the CALIFORNIA LABOR SUB-CLASS  
25 predominate over any question affecting only individual CALIFORNIA LABOR  
26 SUB-CLASS Members;

27 (b) A Class Action is superior to any other available method for the fair and efficient  
28 adjudication of the claims of the members of the CALIFORNIA LABOR SUB-CLASS

1 because in the context of employment litigation a substantial number of individual  
2 CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their rights individually  
3 out of fear of retaliation or adverse impact on their employment;

4 (c) The members of the CALIFORNIA LABOR SUB-CLASS are so numerous that it  
5 is impractical to bring all members of the CALIFORNIA LABOR SUB-CLASS before the  
6 Court;

7 (d) PLAINTIFF, and the other CALIFORNIA LABOR SUB-CLASS Members, will not  
8 be able to obtain effective and economic legal redress unless the action is maintained as a  
9 Class Action;

10 (e) There is a community of interest in obtaining appropriate legal and equitable relief  
11 for the acts of unfair competition, statutory violations and other improprieties, and in  
12 obtaining adequate compensation for the damages and injuries which DEFENDANT's  
13 actions have inflicted upon the CALIFORNIA LABOR SUB-CLASS;

14 (f) There is a community of interest in ensuring that the combined assets of  
15 DEFENDANT are sufficient to adequately compensate the members of the CALIFORNIA  
16 LABOR SUB-CLASS for the injuries sustained;

17 (g) DEFENDANT has acted or refused to act on grounds generally applicable to the  
18 CALIFORNIA LABOR SUB-CLASS, thereby making final class-wide relief appropriate  
19 with respect to the CALIFORNIA LABOR SUB-CLASS as a whole;

20 (h) The members of the CALIFORNIA LABOR SUB-CLASS are readily ascertainable  
21 from the business records of DEFENDANT. The CALIFORNIA LABOR SUB-CLASS  
22 consists of all CALIFORNIA CLASS Members who worked for DEFENDANT in California  
23 at any time during the CALIFORNIA LABOR SUB-CLASS PERIOD; and,

24 (i) Class treatment provides manageable judicial treatment calculated to bring a efficient  
25 and rapid conclusion to all litigation of all wage and hour related claims arising out of the  
26 conduct of DEFENDANT as to the members of the CALIFORNIA LABOR SUB-CLASS.

27 ///

1 **FIRST CAUSE OF ACTION**

2 For Unlawful Business Practices

3 [Cal. Bus. And Prof. Code §§ 17200, et seq.]

4 (By PLAINTIFF and the CALIFORNIA CLASS and Against All Defendants)

5 57. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and incorporate by  
6 this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

7 58. DEFENDANT is a "person" as that term is defined under Cal. Bus. and Prof. Code § 17021.

8 59. California Business & Professions Code §§ 17200, et seq. (the "UCL") defines unfair  
9 competition as any unlawful, unfair, or fraudulent business act or practice. Section 17203 authorizes  
10 injunctive, declaratory, and/or other equitable relief with respect to unfair competition as follows:

11 Any person who engages, has engaged, or proposes to engage in unfair competition  
12 may be enjoined in any court of competent jurisdiction. The court may make such  
13 orders or judgments, including the appointment of a receiver, as may be necessary to  
14 prevent the use or employment by any person of any practice which constitutes unfair  
15 competition, as defined in this chapter, or as may be necessary to restore to any  
16 person in interest any money or property, real or personal, which may have been  
17 acquired by means of such unfair competition.

18 Cal. Bus. & Prof. Code § 17203.

19 60. By the conduct alleged herein, DEFENDANT has engaged and continues to engage in a business  
20 practice which violates California law, including but not limited to, the applicable Industrial Wage  
21 Order(s), the California Code of Regulations and the California Labor Code including Sections 204,  
22 210, 221, 226.7, 246, 510, 512, 1194, 1197, 1197.1, 1198, 2802 and the Fair Labor Standards Act and  
23 federal regulations promulgated thereunder, for which this Court should issue declaratory and other  
24 equitable relief pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy  
25 the conduct held to constitute unfair competition, including restitution of wages wrongfully withheld.

26 61. By the conduct alleged herein, DEFENDANT's practices were unlawful and unfair in that these  
27 practices violate public policy, were immoral, unethical, oppressive, unscrupulous or substantially  
28 injurious to employees, and were without valid justification or utility for which this Court should issue  
equitable and injunctive relief pursuant to Section 17203 of the California Business & Professions  
Code, including restitution of wages wrongfully withheld.

62. By the conduct alleged herein, DEFENDANT's practices were deceptive and fraudulent in that  
DEFENDANT's policy and practice failed to provide the legally mandated meal and rest periods, the

1 required amount of compensation for missed meal and rest periods and overtime and minimum wages  
2 owed, failed to timely pay wages, and failed to reimburse all necessary business expenses incurred, and  
3 failed to provide Fair Labor Standards Act overtime wages due for overtime worked as a result of  
4 failing to include non-discretionary incentive compensation into their regular rates of pay for purposes  
5 of computing the proper overtime pay due to a business practice that cannot be justified, pursuant to the  
6 applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in violation of Cal. Bus.  
7 Code §§ 17200, et seq., and for which this Court should issue injunctive and equitable relief, pursuant  
8 to Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully withheld.

9 63. By the conduct alleged herein, DEFENDANT's practices were also unlawful, unfair and  
10 deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the other members of  
11 the CALIFORNIA CLASS to be underpaid during their employment with DEFENDANT.

12 64. By the conduct alleged herein, DEFENDANT's practices were also unlawful, unfair and  
13 deceptive in that DEFENDANT's policies, practices and procedures failed to provide all legally required  
14 meal breaks to PLAINTIFF and the other members of the CALIFORNIA CLASS as required by Cal.  
15 Lab. Code §§ 226.7 and 512.

16 65. Therefore, PLAINTIFF demands on behalf of herself and on behalf of each CALIFORNIA  
17 CLASS Member, one (1) hour of pay for each workday in which an off-duty meal period was not timely  
18 provided for each five (5) hours of work, and/or one (1) hour of pay for each workday in which a second  
19 off-duty meal period was not timely provided for each ten (10) hours of work.

20 66. PLAINTIFF further demands on behalf of herself and each member of the CALIFORNIA  
21 LABOR SUB-CLASS, one (1) hour of pay for each workday in which an off duty paid rest period was  
22 not timely provided as required by law.

23 67. By and through the unlawful and unfair business practices described herein, DEFENDANT has  
24 obtained valuable property, money and services from PLAINTIFF and the other members of the  
25 CALIFORNIA CLASS, including earned wages for all time worked, and has deprived them of valuable  
26 rights and benefits guaranteed by law and contract, all to the detriment of these employees and to the  
27 benefit of DEFENDANT so as to allow DEFENDANT to unfairly compete against competitors who  
28 comply with the law.

1 68. All the acts described herein as violations of, among other things, the Industrial Welfare  
2 Commission Wage Orders, the California Code of Regulations, and the California Labor Code, were  
3 unlawful and in violation of public policy, were immoral, unethical, oppressive and unscrupulous, were  
4 deceptive, and thereby constitute unlawful, unfair and deceptive business practices in violation of Cal.  
5 Bus. & Prof. Code §§ 17200, et seq.

6 69. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to, and do, seek  
7 such relief as may be necessary to restore to them the money and property which DEFENDANT has  
8 acquired, or of which PLAINTIFF and the other members of the CALIFORNIA CLASS have been  
9 deprived, by means of the above described unlawful and unfair business practices, including earned but  
10 unpaid wages for all time worked.

11 70. PLAINTIFF and the other members of the CALIFORNIA CLASS are further entitled to, and  
12 do, seek a declaration that the described business practices are unlawful, unfair and deceptive, and that  
13 injunctive relief should be issued restraining DEFENDANT from engaging in any unlawful and unfair  
14 business practices in the future.

15 71. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain, speedy and/or  
16 adequate remedy at law that will end the unlawful and unfair business practices of DEFENDANT.  
17 Further, the practices herein alleged presently continue to occur unabated. As a result of the unlawful  
18 and unfair business practices described herein, PLAINTIFF and the other members of the  
19 CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal and economic harm  
20 unless DEFENDANT is restrained from continuing to engage in these unlawful and unfair business  
21 practices.

## 22 **SECOND CAUSE OF ACTION**

23 For Failure To Pay Minimum Wages

24 [Cal. Lab. Code §§ 1194, 1197 and 1197.1]

25 (By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS  
26 and Against All Defendants)

27 72. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS, reallege and  
28 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

73. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS bring a claim  
for DEFENDANT's willful and intentional violations of the California Labor Code and the Industrial

1 Welfare Commission requirements for DEFENDANT's failure to accurately calculate and pay minimum  
2 wages to PLAINTIFF and CALIFORNIA CLASS Members.

3 74. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and public policy, an  
4 employer must timely pay its employees for all hours worked.

5 75. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the commission is  
6 the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed  
7 in unlawful.

8 76. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages, including  
9 minimum wage compensation and interest thereon, together with the costs of suit.

10 77. DEFENDANT maintained a wage practice of paying PLAINTIFF and the other members of the  
11 CALIFORNIA LABOR SUB-CLASS without regard to the correct amount of time they work. As set  
12 forth herein, DEFENDANT's policy and practice was to unlawfully and intentionally deny timely  
13 payment of wages due to PLAINTIFF and the other members of the CALIFORNIA LABOR  
14 SUB-CLASS.

15 78. DEFENDANT's unlawful wage and hour practices manifested, without limitation, applicable  
16 to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of implementing a policy and  
17 practice that denies accurate compensation to PLAINTIFF and the other members of the CALIFORNIA  
18 LABOR SUB-CLASS in regards to minimum wage pay.

19 79. In committing these violations of the California Labor Code, DEFENDANT inaccurately  
20 calculated the correct time worked and consequently underpaid the actual time worked by PLAINTIFF  
21 and other members of the CALIFORNIA LABOR SUB-CLASS. DEFENDANT acted in an illegal  
22 attempt to avoid the payment of all earned wages, and other benefits in violation of the California Labor  
23 Code, the Industrial Welfare Commission requirements and other applicable laws and regulations.

24 80. As a direct result of DEFENDANT's unlawful wage practices as alleged herein, PLAINTIFF and  
25 the other members of the CALIFORNIA LABOR SUB-CLASS did not receive the correct minimum  
26 wage compensation for their time worked for DEFENDANT.

27 81. During the CALIFORNIA LABOR SUB-CLASS PERIOD, DEFENDANT required, permitted  
28 or suffered PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members to work without paying

1 them for all the time they were under DEFENDANT's control. During the CALIFORNIA LABOR  
2 SUB-CLASS PERIOD, PLAINTIFF and the other members of the CALIFORNIA LABOR  
3 SUB-CLASS were paid less for time worked that they were entitled to, constituting a failure to pay all  
4 earned wages.

5 82. By virtue of DEFENDANT's unlawful failure to accurately pay all earned compensation to  
6 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS for the true time they  
7 worked, PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS have suffered  
8 and will continue to suffer an economic injury in amounts which are presently unknown to them and  
9 which will be ascertained according to proof at trial.

10 83. DEFENDANT knew or should have known that PLAINTIFF and the other members of the  
11 CALIFORNIA LABOR SUB-CLASS were under compensated for their time worked. DEFENDANT  
12 elected, either through intentional malfeasance or gross nonfeasance, to not pay employees for their  
13 labor as a matter of company policy, practice and procedure, and DEFENDANT perpetrated this scheme  
14 by refusing to pay PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS the  
15 correct minimum wages for their time worked.

16 84. In performing the acts and practices herein alleged in violation of California labor laws, and  
17 refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for all time worked  
18 and provide them with the requisite compensation, DEFENDANT acted and continues to act  
19 intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the  
20 CALIFORNIA LABOR SUB-CLASS with a conscious and utter disregard for their legal rights, or the  
21 consequences to them, and with the despicable intent of depriving them of their property and legal  
22 rights, and otherwise causing them injury in order to increase company profits at the expense of these  
23 employees.

24 85. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS therefore  
25 request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the  
26 assessment of any statutory penalties against DEFENDANT, in a sum as provided by the California  
27 Labor Code and/or other applicable statutes. To the extent minimum wage compensation is determined  
28 to be owed to the CALIFORNIA LABOR SUB-CLASS Members who have terminated their  
employment, DEFENDANT's conduct also violates Labor Code §§ 201 and/or 202, and therefore these  
individuals are also be entitled to waiting time penalties under Cal. Lab. Code § 203, which penalties

1 are sought herein on behalf of these CALIFORNIA LABOR SUB-CLASS Members. DEFENDANT's  
2 conduct as alleged herein was willful, intentional and not in good faith. Further, PLAINTIFF and other  
3 CALIFORNIA LABOR SUB-CLASS Members are entitled to seek and recover statutory costs.

4 **THIRD CAUSE OF ACTION**

5 For Failure To Pay Overtime Compensation

6 [Cal. Lab. Code § 510]

7 (By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)

8 86. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS, reallege and  
9 incorporate by this reference, as though full set forth herein, the prior paragraphs of this Complaint.

10 87. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS bring a claim  
11 for DEFENDANT's willful and intentional violations of the California Labor Code and the Industrial  
12 Welfare Commission requirements for DEFENDANT's failure to pay these employees for all overtime  
13 worked, including, work performed in excess of eight (8) hours in a workday, and/or twelve (12) hours  
14 in a workday, and/or forty (40) hours in any workweek.

15 88. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and public policy, an  
16 employer must timely pay its employees for all hours worked.

17 89. Cal. Lab. Code § 510 further provides that employees in California shall not be employed more  
18 than eight (8) hours per workday and more than forty (40) hours per workweek unless they receive  
19 additional compensation beyond their regular wages in amounts specified by law.

20 90. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages, including  
21 minimum wage and overtime compensation and interest thereon, together with the costs of suit. Cal.  
22 Lab. Code § 1198 further states that the employment of an employee for longer hours than those fixed  
23 by the Industrial Welfare Commission is unlawful.

24 91. During the CALIFORNIA LABOR SUB CLASS PERIOD, PLAINTIFF and CALIFORNIA  
25 LABOR SUB CLASS Members were required, permitted or suffered by DEFENDANT to work for  
26 DEFENDANT and were not paid for all the time they worked, including overtime work.

27 92. DEFENDANT's unlawful wage and hour practices manifested, without limitation, applicable  
28 to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of implementing a policy and  
practice that failed to accurately record overtime worked by PLAINTIFF and other CALIFORNIA

1 LABOR SUB-CLASS Members and denied accurate compensation to PLAINTIFF and the other  
2 members of the CALIFORNIA LABOR SUB-CLASS for overtime worked, including, the overtime  
3 work performed in excess of eight (8) hours in a workday, and/or twelve (12) hours in a workday,  
4 and/or forty (40) hours in any workweek.

5 93. In committing these violations of the California Labor Code, DEFENDANT inaccurately  
6 recorded overtime worked and consequently underpaid the overtime worked by PLAINTIFF and other  
7 CALIFORNIA LABOR-SUB CLASS Members. DEFENDANT acted in an illegal attempt to avoid  
8 the payment of all earned wages, and other benefits in violation of the California Labor Code, the  
9 Industrial Welfare Commission requirements and other applicable laws and regulations. As a direct  
10 result of DEFENDANT's unlawful wage practices as alleged herein, the PLAINTIFF and the other  
11 members of the CALIFORNIA LABOR SUB-CLASS did not receive full compensation for overtime  
12 worked.

13 94. Cal. Lab. Code § 515 sets out various categories of employees who are exempt from the  
14 overtime requirements of the law. None of these exemptions are applicable to the PLAINTIFF and the  
15 other members of the CALIFORNIA LABOR SUB-CLASS. Further, PLAINTIFF and the other  
16 members of the CALIFORNIA LABOR SUB-CLASS were not subject to a valid collective bargaining  
17 agreement that would preclude the causes of action contained herein this Complaint. Rather,  
18 PLAINTIFF brings this Action on behalf of herself and the CALIFORNIA LABOR SUB-CLASS based  
19 on DEFENDANT's violations of non-negotiable, non-waivable rights provided by the State of  
20 California.

21 95. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the other members  
22 of the CALIFORNIA LABOR SUB-CLASS have been paid less for overtime worked that they are  
23 entitled to, constituting a failure to pay all earned wages.

24 96. DEFENDANT failed to accurately pay the PLAINTIFF and the other members of the  
25 CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which was in excess  
26 of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 & 1198, even  
27 though PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS were required  
28 to work, and did in fact work, overtime as to which DEFENDANT failed to accurately record and pay  
as evidenced by DEFENDANT's business records and witnessed by employees.

1 97. By virtue of DEFENDANT's unlawful failure to accurately pay all earned compensation to  
2 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS for the true amount  
3 of time they worked, PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
4 have suffered and will continue to suffer an economic injury in amounts which are presently unknown  
5 to them and which will be ascertained according to proof at trial.

6 98. DEFENDANT knew or should have known that PLAINTIFF and the other members of the  
7 CALIFORNIA LABOR SUB-CLASS were under compensated for all overtime worked.  
8 DEFENDANT elected, either through intentional malfeasance or gross nonfeasance, to not pay  
9 employees for their labor as a matter of company policy, practice and procedure, and DEFENDANT  
10 perpetrated this scheme by refusing to pay PLAINTIFF and the other members of the CALIFORNIA  
11 LABOR SUB-CLASS for overtime worked.

12 99. In performing the acts and practices herein alleged in violation of California labor laws, and  
13 refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for all overtime  
14 worked and provide them with the requisite overtime compensation, DEFENDANT acted and continues  
15 to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the  
16 CALIFORNIA LABOR SUB-CLASS with a conscious of and utter disregard for their legal rights, or  
17 the consequences to them, and with the despicable intent of depriving them of their property and legal  
18 rights, and otherwise causing them injury in order to increase company profits at the expense of these  
19 employees.

20 100. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS therefore  
21 request recovery of all overtime wages, according to proof, interest, statutory costs, as well as the  
22 assessment of any statutory penalties against DEFENDANT, in a sum as provided by the California  
23 Labor Code and/or other applicable statutes. To the extent minimum and/or overtime compensation  
24 is determined to be owed to the CALIFORNIA LABOR SUB-CLASS Members who have terminated  
25 their employment, DEFENDANT's conduct also violates Labor Code §§ 201 and/or 202, and therefore  
26 these individuals are also be entitled to waiting time penalties under Cal. Lab. Code § 203, which  
27 penalties are sought herein on behalf of these CALIFORNIA LABOR SUB-CLASS Members.  
28 DEFENDANT's conduct as alleged herein was willful, intentional and not in good faith. Further,  
PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members are entitled to seek and recover  
statutory costs.

1 **FOURTH CAUSE OF ACTION**

2 For Failure to Provide Required Meal Periods

3 [Cal. Lab. Code §§ 226.7 & 512 ]

4 (By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)

5 101. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS, reallege and  
6 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

7 102. During the CALIFORNIA CLASS PERIOD, DEFENDANT from time to time failed to provide  
8 all the legally required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA LABOR  
9 SUB-CLASS Members as required by the applicable Wage Order and Labor Code. The nature of the  
10 work performed by PLAINTIFF and CALIFORNIA LABOR SUB-CLASS MEMBERS did not prevent  
11 these employees from being relieved of all of their duties for the legally required off-duty meal periods.  
12 As a result of their rigorous work schedules, PLAINTIFF and other CALIFORNIA LABOR  
13 SUB-CLASS Members were from time to time not fully relieved of duty by DEFENDANT for their  
14 meal periods. Additionally, DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA  
15 LABOR SUB-CLASS Members with legally required meal breaks prior to their fifth (5th) hour of work  
16 is evidenced by DEFENDANT's business records from time to time. Further, DEFENDANT failed to  
17 provide PLAINTIFF and CALIFORNIA CLASS Members with a second off-duty meal period in some  
18 workdays in which these employees were required by DEFENDANT to work ten (10) hours of work  
19 from time to time. As a result, PLAINTIFF and other members of the CALIFORNIA LABOR  
20 SUB-CLASS therefore forfeited meal breaks without additional compensation and in accordance with  
21 DEFENDANT's strict corporate policy and practice.

22 103. DEFENDANT further violates California Labor Code §§ 226.7 and the applicable IWC Wage  
23 Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members who  
24 were not provided a meal period, in accordance with the applicable Wage Order, one additional hour  
25 of compensation at each employee's regular rate of pay for each workday that a meal period was not  
26 provided.

27 104. As a proximate result of the aforementioned violations, PLAINTIFF and CALIFORNIA  
28 LABOR SUB-CLASS Members have been damaged in an amount according to proof at trial, and seek  
all wages earned and due, interest, penalties, expenses and costs of suit.

1 **FIFTH CAUSE OF ACTION**

2 For Failure to Provide Required Rest Periods

3 [Cal. Lab. Code §§ 226.7 & 512 ]

4 (By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)

5 105. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS, reallege and  
6 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

7 106. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were from time to time  
8 required to work in excess of four (4) hours without being provided ten (10) minute rest periods.  
9 Further, these employees from time to time were denied their first rest periods of at least ten (10)  
10 minutes for some shifts worked of at least two (2) to four (4) hours, a first and second rest period of at  
11 least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second  
12 and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from  
13 time to time. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were also not  
14 provided with one hour wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF  
15 and other CALIFORNIA LABOR SUB-CLASS Members were periodically denied their proper rest  
16 periods by DEFENDANT and DEFENDANT's managers.

17 107. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable IWC Wage  
18 Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members who  
19 were not provided a rest period, in accordance with the applicable Wage Order, one additional hour of  
20 compensation at each employee's regular rate of pay for each workday that rest period was not provided.

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

24 **SIXTH CAUSE OF ACTION**

25 For Failure to Provide Accurate Itemized Statements

26 [Cal. Lab. Code § 226]

27 (By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)

28 109. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS, reallege and  
incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

1 110. Cal. Labor Code § 226 provides that an employer must furnish employees with an "accurate  
2 itemized" statement in writing showing:

3 (1) gross wages earned,

4 (2) total hours worked by the employee, except for any employee whose compensation is  
5 solely based on a salary and who is exempt from payment of overtime under subdivision (a)  
6 of Section 515 or any applicable order of the Industrial Welfare Commission,

7 (3) the number of piece rate units earned and any applicable piece rate if the employee is  
8 paid on a piece-rate basis,

9 (4) all deductions, provided that all deductions made on written orders of the employee may  
10 be aggregated and shown as one item,

11 (5) net wages earned,

12 (6) the inclusive dates of the period for which the employee is paid,

13 (7) the name of the employee and his or her social security number, except that by January  
14 1, 2008, only the last four digits of his or her social security number or an employee  
15 identification number other than a social security number may be shown on the itemized  
16 statement,

17 (8) the name and address of the legal entity that is the employer, and

18 (9) all applicable hourly rates in effect during the pay period and the corresponding number  
19 of hours worked at each hourly rate by the employee.  
20

21 111. From time to time, DEFENDANT also failed to provide PLAINTIFF and the other members  
22 of the CALIFORNIA LABOR SUB-CLASS with complete and accurate wage statements which failed  
23 to show, among other things, the correct gross and net wages earned. Cal. Lab. Code § 226 provides  
24 that every employer shall furnish each of his or her employees with an accurate itemized wage statement  
25 in writing showing, among other things, gross wages earned and all applicable hourly rates in effect  
26 during the pay period and the corresponding amount of time worked at each hourly rate. PLAINTIFF  
27 and CALIFORNIA LABOR SUB-CLASS Members were paid on an hourly basis. As such, the wage  
28 statements should reflect all applicable hourly rates during the pay period and the total hours worked,  
and the applicable pay period in which the wages were earned pursuant to California Labor Code

1 Section 226(a). The wage statements DEFENDANT provided to PLAINTIFF and other CALIFORNIA  
2 LABOR SUB-CLASS Members failed to identify such information. More specifically, the wage  
3 statements failed to identify the accurate total hours worked each pay period. When the hours shown  
4 on the wage statements were added up, they did not equal the actual total hours worked during the pay  
5 period in violation of Cal. Lab. Code 226(a)(2). Aside, from the violations listed above in this  
6 paragraph, DEFENDANT failed to issue to PLAINTIFF an itemized wage statement that lists all the  
7 requirements under California Labor Code 226 et seq. As a result, DEFENDANT from time to time  
8 provided PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS with wage  
statements which violated Cal. Lab. Code § 226.

9 112. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code § 226, causing  
10 injury and damages to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS.  
11 These damages include, but are not limited to, costs expended calculating the correct wages for all  
12 missed meal and rest breaks and the amount of employment taxes which were not properly paid to state  
13 and federal tax authorities. These damages are difficult to estimate. Therefore, PLAINTIFF and the  
14 other members of the CALIFORNIA LABOR SUB-CLASS may elect to recover liquidated damages  
15 of fifty dollars (\$50.00) for the initial pay period in which the violation occurred, and one hundred  
16 dollars (\$100.00) for each violation in a subsequent pay period pursuant to Cal. Lab. Code § 226, in an  
17 amount according to proof at the time of trial (but in no event more than four thousand dollars  
18 (\$4,000.00) for PLAINTIFF and each respective member of the CALIFORNIA LABOR SUB-CLASS  
herein).

#### 19 **SEVENTH CAUSE OF ACTION**

20 For Failure to Reimburse Employees for Required Expenses

21 [Cal. Lab. Code § 2802]

22 (By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)

23 113. PLAINTIFF and the other CALIFORNIA LABOR SUB-CLASS members reallege and  
24 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

25 114. Cal. Lab. Code § 2802 provides, in relevant part, that:

26 An employer shall indemnify his or her employee for all necessary expenditures  
27 or losses incurred by the employee in direct consequence of the discharge of his  
28 or her duties, or of his or her obedience to the directions of the employer, even  
though unlawful, unless the employee, at the time of obeying the directions,  
believed them to be unlawful.

1 115. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802, by failing to  
2 indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for  
3 required expenses incurred in the discharge of their job duties for DEFENDANT's benefit.  
4 DEFENDANT failed to reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members  
5 for expenses which included, but were not limited to, costs related to using their personal cellular  
6 phones on behalf of and for the benefit of DEFENDANT. Specifically, PLAINTIFF and other  
7 CALIFORNIA LABOR SUB-CLASS Members were required by DEFENDANT to use their personal  
8 cellular phones and home offices in order to perform work related job tasks. DEFENDANT's policy  
9 and practice was to not reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members  
10 for expenses resulting from using their personal cellular phones and home offices for DEFENDANT  
11 within the course and scope of their employment for DEFENDANT. These expenses were necessary  
12 to complete their principal job duties. DEFENDANT is estopped by DEFENDANT's conduct to assert  
13 any waiver of this expectation. Although these expenses were necessary expenses incurred by  
14 PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members, DEFENDANT failed to  
15 indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for these  
16 expenses as an employer is required to do under the laws and regulations of California.

17 116. PLAINTIFF therefore demands reimbursement for expenditures or losses incurred by herself  
18 and the CALIFORNIA LABOR SUB-CLASS members in the discharge of their job duties for  
19 DEFENDANT, or their obedience to the directions of DEFENDANT, with interest at the statutory rate  
20 and costs under Cal. Lab. Code § 2802.

21 **EIGHTH CAUSE OF ACTION**

22 For Failure to Pay Wages When Due

23 [ Cal. Lab. Code §§ 201, 202, 203]

24 (By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS  
25 and Against All Defendants)

26 117. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS, reallege and  
27 incorporate by reference, as though fully set forth herein, the prior paragraphs of this Complaint.

28 118. Cal. Lab. Code § 200 provides, in relevant part, that:

As used in this article:(a) "Wages" includes all amounts for labor performed by  
employees of every description, whether the amount is fixed or ascertained by the  
standard of time, task, piece, Commission basis, or other method of calculation.(b)  
"Labor" includes labor, work, or service whether rendered or performed under

1 contract, subcontract, partnership, station plan, or other agreement if the labor to be  
2 paid for is performed personally by the person demanding payment.

3 119. Cal. Lab. Code § 201 provides, in relevant part, "that If an employer discharges an employee,  
4 the wages earned and unpaid at the time of discharge are due and payable immediately."

5 120. Cal. Lab. Code § 202 provides, in relevant part, that:

6 If an employee not having a written contract for a definite period quits his or her  
7 employment, his or her wages shall become due and payable not later than 72 hours  
8 thereafter, unless the employee has given 72 hours previous notice of his or her  
9 intention to quit, in which case the employee is entitled to his or her wages at the time  
of quitting. Notwithstanding any other provision of law, an employee who quits  
without providing a 72-hour notice shall be entitled to receive payment by mail if he  
or she so requests and designates a mailing address. The date of the mailing shall  
constitute the date of payment for purposes of the requirement to provide payment  
within 72 hours of the notice of quitting.

10 121. There was no definite term in PLAINTIFF's or any CALIFORNIA LABOR SUB-CLASS  
11 Members' employment contract.

12 122. Cal. Lab. Code § 203 provides, in relevant part, that:

13 If an employer willfully fails to pay, without abatement or reduction, in  
14 accordance with Sections 201, 201.5, 202, and 205.5, any wages of an employee  
15 who is discharged or who quits, the wages of the employee shall continue as a  
penalty from the due date thereof at the same rate until paid or until an action  
therefor is commenced; but the wages shall not continue for more than 30 days.

16 123. The employment of PLAINTIFF and many CALIFORNIA LABOR SUB-CLASS Members has  
17 terminated and DEFENDANT has not tendered payment of all wages owed as required by law.

18 124. Therefore, as provided by Cal Lab. Code § 203, on behalf of herself and the members of the  
19 CALIFORNIA LABOR SUB-CLASS whose employment has terminated and who have not been fully  
20 paid their wages due to them, PLAINTIFF demands thirty days of pay as penalty for not paying all  
21 wages due at time of termination for all employees who terminated employment during the  
22 CALIFORNIA LABOR SUB-CLASS PERIOD and demands an accounting and payment of all wages  
due, plus interest and statutory costs as allowed by law.

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1 128. Cal. Lab. Code § 204 provides that wages generally are due and payable twice during each  
2 calendar month and are to be paid no later than the payday for the next regular payroll period.  
3 Consistent with Cal. Lab. Code § 204, Cal. Lab. Code § 246 specifically requires that, upon use of  
4 accrued sick leave, vested sick pay wages are due and to be paid no later than the payday for the next  
5 regular payroll period after accrued sick leave is used as paid sick time. Similarly, Cal. Lab. Code § 201  
6 provides that if an employer discharges an employee, wages earned and unpaid at the time of discharge  
7 are due and payable immediately. Cal. Lab. Code § 202 provides that an employee is entitled to receive  
8 all unpaid wages no later than 72 hours after an employee quits his or her employment, unless the  
9 employee has given 72-hour notice of his or her intention to quit, in which case the employee is entitled  
10 to his or her wages at the time of quitting. The Labor Code penalizes untimely payments. For example,  
11 Cal. Lab. Code § 203 provides that if an employer willfully fails to pay wages owed in accordance with  
12 Cal. Lab. Code §§ 201-202, then the wages of the employee shall continue as a penalty from the due  
13 date, and at the same rate until paid, but the wages shall not continue for more than thirty (30) days.  
14 Likewise, Cal. Lab. Code § 210 provides penalties for violations of Cal. Lab. Code § 204 and untimely  
15 payments during employment. Under Cal. Lab. Code §§ 203, 210 and 218, employees may sue to  
16 recover applicable penalties.

17 129. As alleged herein and as a matter of policy and practice, DEFENDANT routinely underpays sick  
18 pay wages and thus did not timely pay PLAINTIFF and the other members of the CALIFORNIA  
19 LABOR-SUB-CLASS all owing and underpaid sick pay wages. As a result, DEFENDANT violates  
20 Cal. Lab. Code §§ 201-204, 210, 233, and 246, among other Labor Code provisions. PLAINTIFF is  
21 informed and believes that DEFENDANT was advised by skilled lawyers and knew, or should have  
22 known, of the mandates of the Labor Code as it relates to PLAINTIFF's allegations, especially since the  
23 California Supreme Court has explained that "[c]ourts have recognized that 'wages' also include those  
24 benefits to which an employee is entitled as a part of his or her compensation, including money, room,  
25 board, clothing, vacation pay, and sick pay." *Murphy v. Kenneth Cole Prods., Inc.*, 40 Cal. 4th 1094,  
26 1103 (2007)(emphasis added). Because DEFENDANT willfully fails to timely pay PLAINTIFF and the  
27 other members of the CALIFORNIA LABOR-SUB-CLASS all sick pay wages due, DEFENDANT is  
28 subject to applicable penalties.

129. Such a pattern, practice, and uniform administration of corporate policy is unlawful and entitles  
PLAINTIFF and the other members of the CALIFORNIA LABOR-SUB-CLASS to underpaid sick pay  
wages, including interest thereon, applicable penalties, attorney's fees, and costs of suit.

1  
2 **TENTH CAUSE OF ACTION**

3 [Disability Discrimination and Retaliation For the Exercise of Rights Guaranteed Under the FEHA,  
4 Participating in Protected Activities, and/or Opposing DEFENDANT's Failure to Provide Such Rights]

5 Violation of FEHA Government Section 12900, et. seq.

6 (By PLAINTIFF Against All Defendants)

7 131. PLAINTIFF realleges and incorporates by reference, as though fully set forth herein, the prior  
8 paragraphs of this Complaint.

9 132. Furthermore, PLAINTIFF went on protected leave for her worsening stress and anxiety caused  
10 by DEFENDANT's workplace condition in June of 2021. Furthermore, the continuous stress from work  
11 caused PLAINTIFF to feel afraid of going into work. In retaliation for taking the protected leave,  
12 DEFENDANT terminated PLAINTIFF's employment on February 4, 2022. DEFENDANT's decision  
13 and real motivation to terminate PLAINTIFF was in retaliation for PLAINTIFF for taking the protected  
14 leave for her worsening stress condition.

15 133. DEFENDANT's conduct, as alleged, violated FEHA, Government Code Section 12900, et seq.,  
16 and DEFENDANT committed unlawful employment practices, including the following bases for  
17 liability:

18 134. Taking adverse employment actions against PLAINTIFF, including discharging, barring,  
19 refusing to transfer, retain, hire, select, and/or employ, and/or otherwise discriminating against  
20 PLAINTIFF, in whole or in part on the basis of PLAINTIFF's disability in violation of Government  
21 Code Section 12940(a);

22 135. Harassing PLAINTIFF and/or creating a hostile work environment, in whole or in part on the  
23 basis of PLAINTIFF's disability, and/or having taken FMLA leave in violation of Government Code  
24 Section 12940(j);

25 136. Failing to take all reasonable steps to prevent discrimination and harassment based on disability  
26 in violation of Government Code section 12940(k);

27 137. Retaliating against PLAINTIFF for seeking to exercise rights guaranteed under FEHA,  
28 participating in protected activities, and/or opposing DEFENDANT's failure to provide such rights, in  
violation of Government Code Section 12940(h).

1 138. As a proximate result of DEFENDANT's willful, knowing, and intentional discrimination  
2 against PLAINTIFF, PLAINTIFF has sustained and continues to sustain substantial losses of earnings  
3 and other employment benefits.

4 139. As a proximate result of DEFENDANT's willful, knowing, and intentional discrimination  
5 against PLAINTIFF, PLAINTIFF has suffered and continues to suffer humiliation, emotional distress,  
6 and physical and mental pain and anguish, all to his damage in a sum according to proof.

7 140. PLAINTIFF has incurred and continues to incur legal expenses and attorneys' fees. Pursuant  
8 to Government Code Section 12965(b), PLAINTIFF is entitled to recover reasonable attorneys' fees and  
9 costs (including expert costs) in an amount according to proof.

10 141. DEFENDANT's misconduct was committed intentionally, in a malicious, oppressive manner,  
11 and fraudulent manner entitling PLAINTIFF to punitive damages against DEFENDANT.

12  
13 **ELEVENTH CAUSE OF ACTION**

14 For Failure to Engage in the Interactive Process

15 [Cal. Gov. Code § 12940(n)]

16 (By PLAINTIFF and Against All Defendants)

17 142. PLAINTIFF realleges and incorporates by reference, as though fully set forth herein, the prior  
18 paragraphs of this Complaint.

19 143. DEFENDANT was an employer who met all of the requisite requirements set forth under the  
20 California Fair Employment and Housing Act.

21 144. PLAINTIFF suffered from a mental disability as defined under Cal. Gov. Code § 12926(j).

22 145. PLAINTIFF suffered from a physical disability as defined under Cal. Gov. Code § 12926(m).

23 146. DEFENDANT was aware that PLAINTIFF suffered from a physical disability, as set forth  
24 herein.

25 147. PLAINTIFF went on protected leave for her worsening stress and anxiety caused by  
26 DEFENDANT's workplace condition in June of 2021. Furthermore, the continuous stress from work  
27 caused PLAINTIFF to feel afraid of going into work. In retaliation for taking the protected leave,  
28 DEFENDANT terminated PLAINTIFF's employment on February 4, 2022. DEFENDANT's decision

1 and real motivation to terminate PLAINTIFF was in retaliation for PLAINTIFF for taking the protected  
2 leave for her worsening stress condition.

3 148.. Moreover, PLAINTIFF was more than willing to participate in an interactive process to  
4 determine whether reasonable accommodations could be made without DEFENDANT suffering any  
5 business or financial hardships.

6 149. DEFENDANT failed to participate in a timely and/or good faith interactive process after  
7 PLAINTIFF requested reasonable accommodations.

8 150.. As a result of DEFENDANT refusing to participate in a good faith interactive process,  
9 PLAINTIFF was harmed in the form of emotional and physical pain and suffering.

10 151. DEFENDANT's failure to engage in a good faith interactive process was a substantial factor in  
11 causing PLAINTIFF's harm.

12 152. The actions alleged herein were taken by managing agents and/or officers of DEFENDANT  
13 and/or ratified by managing agents and/or officers of DEFENDANT. In so doing, said managing agents  
14 and/or officers of DEFENDANT acted with malice and oppression as those terms are used in California  
15 Code of Civil Procedure § 3294. As such, PLAINTIFF is entitled to an award of punitive damages.

16 153. PLAINTIFF is also entitled to recover reasonable attorney's fees and costs pursuant to Cal. Gov.  
17 Code § 12965(b).

18 **TWELFTH CAUSE OF ACTION**

19 For Failure to Provide Reasonable Accommodation

20 [Cal. Gov. Code § 12940(m)]

21 (By PLAINTIFF and Against All Defendants)

22 154. PLAINTIFF realleges and incorporates by reference, as though fully set forth herein, the prior  
23 paragraphs of this Complaint.

24 155. DEFENDANT was an employer who met all of the requirements set forth under the California  
25 Fair Employment and Housing Act.

26 156. PLAINTIFF suffered from a mental disability as defined under Cal. Gov. Code § 12926(j).

27 157. PLAINTIFF suffered from a physical disability as defined under Cal. Gov. Code § 12926(m).

1 158. DEFENDANT was aware that PLAINTIFF suffered from a physical disability as set forth  
2 herein.

3 159. Furthermore, PLAINTIFF went on protected leave for her worsening stress and anxiety caused  
4 by DEFENDANT's workplace condition in June of 2021. Furthermore, the continuous stress from work  
5 caused PLAINTIFF to feel afraid of going into work. In retaliation for taking the protected leave,  
6 DEFENDANT terminated PLAINTIFF's employment on February 4, 2022. DEFENDANT's decision  
7 and real motivation to terminate PLAINTIFF was in retaliation for PLAINTIFF for taking the protected  
8 leave for her worsening stress condition.

9 160. DEFENDANT failed to provide PLAINTIFF with reasonable accommodation for her mental  
10 and physical disabilities.

11 161. As a direct and proximate result of DEFENDANT refusing to provide PLAINTIFF with  
12 reasonable accommodation, PLAINTIFF was met with a series of adverse employment actions as set  
13 forth herein. As a further direct result of DEFENDANT's failure to provide PLAINTIFF with a  
14 reasonable accommodation, PLAINTIFF was harmed in the form of emotional and physical pain and  
15 suffering.

16 162. DEFENDANT's failure to provide reasonable accommodation was a substantial factor in causing  
17 PLAINTIFF's harm.

18 163. The actions alleged herein were taken by managing agents and/or officers of DEFENDANT  
19 and/or ratified by managing agents and/or officers of DEFENDANT. In so doing, said managing agents  
20 and/or officers of DEFENDANT acted with malice and oppression as those terms are used in California  
21 Code of Civil Procedure § 3294. As such, PLAINTIFF is entitled to an award of punitive damages.

22 164. PLAINTIFF is also entitled to recover reasonable attorney's fees and costs pursuant to Cal. Gov.  
23 Code § 12965(b).

24 **THIRTEENTH CAUSE OF ACTION**

25 Wrongful Termination In Violation of Public Policy

26 (By PLAINTIFF Against All Defendants)

27 165. PLAINTIFF realleges and incorporates by reference, as though fully set forth herein, the prior  
28 paragraphs of this Complaint.

1 166. Furthermore, PLAINTIFF went on protected leave for her worsening stress and anxiety caused  
2 by DEFENDANT's workplace condition in June of 2021. Furthermore, the continuous stress from work  
3 caused PLAINTIFF to feel afraid of going into work. In retaliation for taking the protected leave,  
4 DEFENDANT terminated PLAINTIFF's employment on February 4, 2022. DEFENDANT's decision  
5 and real motivation to terminate PLAINTIFF was in retaliation for PLAINTIFF for taking the protected  
6 leave for her worsening stress condition.

7 167. PLAINTIFF raised complaints of illegality while PLAINTIFF worked for DEFENDANT and  
8 was believed to be willing to raise complaints, and DEFENDANT retaliated against PLAINTIFF by  
9 taking adverse employment actions, including employment termination, against PLAINTIFF.

10 168. As a proximate result of DEFENDANT'S willful, knowing, and intentional conduct,  
11 PLAINTIFF has suffered and continues to suffer humiliation, emotional distress, and mental and  
12 physical pain and anguish, all to PLAINTIFF's damage in a sum according to proof.

13 169. As a result of DEFENDANT'S adverse employment actions against PLAINTIFF, PLAINTIFF  
14 has suffered general and special damages in sums according to proof.

15 170. DEFENDANT's misconduct was committed intentionally, in a malicious, oppressive manner,  
16 and fraudulent manner entitling PLAINTIFF to punitive damages against DEFENDANT.

17 **FOURTEENTH CAUSE OF ACTION**

18 For Violation of the Private Attorneys General Act

19 [Cal. Lab. Code §§ 2698, et seq.]

20 (By PLAINTIFF and Against All Defendants)

21 171. PLAINTIFF realleges and incorporates by this reference, as though fully set forth herein, the  
22 prior paragraphs of this Complaint.

23 172. PAGA is a mechanism by which the State of California itself can enforce state labor laws  
24 through the employee suing under the PAGA who do so as the proxy or agent of the state's labor law  
25 enforcement agencies. An action to recover civil penalties under PAGA is fundamentally a law  
26 enforcement action designed to protect the public and not to benefit private parties. The purpose of  
27 the PAGA is not to recover damages or restitution, but to create a means of "deputizing" citizens as  
28 private attorneys general to enforce the Labor Code. In enacting PAGA, the California Legislature  
specified that "it was ... in the public interest to allow aggrieved employees, acting as private attorneys

1 general to recover civil penalties for Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly,  
2 PAGA claims cannot be subject to arbitration.

3 173. PLAINTIFF, and such persons that may be added from time to time who satisfy the requirements  
4 and exhaust the administrative procedures under the Private Attorney General Act, brings this  
5 Representative Action on behalf of the State of California with respect to herself and AGGRIEVED  
6 EMPLOYEES (as defined above).

7 174. On January 10, 2023, PLAINTIFF gave written notice by electronic mail to the Labor and  
8 Workforce Development Agency (the "Agency") and by certified mail to the employer of the specific  
9 provisions of this code alleged to have been violated as required by Labor Code § 2699.3. See Exhibit  
10 #1, attached hereto and incorporated by this reference herein (PAGA Notice only without draft  
11 complaint). The statutory waiting period for PLAINTIFF to add these allegations to the Complaint has  
12 expired. As a result, pursuant to Section 2699.3, PLAINTIFF may now commence a representative civil  
13 action under PAGA pursuant to Section 2699 as the proxy of the State of California with respect to all  
14 AGGRIEVED EMPLOYEES as herein defined.

15 175. The policies, acts and practices heretofore described were and are an unlawful business act or  
16 practice because DEFENDANT (a) failed to provide PLAINTIFF and the AGGRIEVED EMPLOYEES  
17 accurate itemized wage statements, (b) failed to properly record and provide legally required meal and  
18 rest periods, (c) failed to pay minimum wages, (d) failed to pay overtime wages and sick pay wages, (e)  
19 failed to reimburse employees for required expenses, (f) failed to provide wages when due, and (g)  
20 failed to provide suitable seating, all in violation of the applicable Labor Code sections listed in Labor  
21 Code §§ 201, 202, 203, 204 et seq., 210, 221, 226(a), 226.7, 227.3, 246 et seq., 510, 512, 558(a)(1)(2),  
22 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision  
23 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), and  
24 the applicable Wage Order(s), and thereby gives rise to civil penalties as a result of such conduct.  
25 PLAINTIFF hereby seeks recovery of only civil penalties as prescribed by the Labor Code Private  
26 Attorney General Act of 2004 as the representative of the State of California for the illegal conduct  
27 perpetrated on PLAINTIFF and the AGGRIEVED EMPLOYEES.

28 176. All of the conduct and violations alleged herein occurred during the PAGA PERIOD. To the  
extent that any of the conduct and violations alleged herein did not affect PLAINTIFF during the PAGA

1 PERIOD, PLAINTIFF seeks penalties for those violations that affected the AGGRIEVED  
2 EMPLOYEES pursuant to *Carrington v. Starbucks Corp.* 30 Cal.App.5th 504 (2018).

3 **PRAYER FOR RELIEF**

4 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and severally, as  
5 follows:

6 1. On behalf of the CALIFORNIA CLASS:

7 A) That the Court certify the First Cause of Action asserted by the CALIFORNIA  
8 CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;

9 B) An order temporarily, preliminarily and permanently enjoining and restraining  
10 DEFENDANT from engaging in similar unlawful conduct as set forth herein;

11 C) An order requiring DEFENDANT to pay all wages and all sums unlawfully withheld  
12 from compensation due to PLAINTIFF and the other members of the CALIFORNIA  
13 CLASS; and,

14 D) Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund for  
15 restitution of the sums incidental to DEFENDANT's violations due to PLAINTIFF and to the  
16 other members of the CALIFORNIA CLASS.

17 2. On behalf of the CALIFORNIA LABOR SUB-CLASS:

18 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth and  
19 Ninth Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class  
20 action pursuant to Cal. Code of Civ. Proc. § 382;

21 B) Compensatory damages, according to proof at trial, including compensatory damages  
22 for minimum and overtime compensation due PLAINTIFF and the other members of the  
23 CALIFORNIA LABOR SUB-CLASS, during the applicable CALIFORNIA LABOR  
24 SUB-CLASS PERIOD plus interest thereon at the statutory rate;

25 C) The greater of all actual damages or fifty dollars (\$50) for the initial pay period in  
26 which a violation occurs and one hundred dollars (\$100) per each member of the  
27 CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay period, not  
28 exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for  
violation of Cal. Lab. Code § 226;

D) Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the  
applicable IWC Wage Order;

E) For liquidated damages pursuant to California Labor Code Sections 1194.2 and 1197;

F) The amount of the expenses PLAINTIFF and each member of the CALIFORNIA  
LABOR SUBCLASS incurred in the course of their job duties, plus interest, and costs of  
suit.; and,

G) The wages of all terminated employees in the CALIFORNIA LABOR SUB CLASS  
as a penalty from the due date thereof at the same rate until paid or until an action therefore  
is commenced, in accordance with Cal. Lab. Code § 203.

3. On behalf of PLAINTIFF for the Tenth, Eleventh, Twelfth and Thirteenth causes of action:

A) Compensatory damages, according to proof at trial, but in excess of \$25,000.

B) Special and General damages according to proof;

C) Statutory damages, penalties and attorney's fees;

1 D) For punitive damages in an amount necessary to make an example of and to punish  
2 DEFENDANT and deter DEFENDANT from engaging in future similar conduct;

3 E) For loss of earnings (both past and future); and,

4 F) For interest at the legal rate in an amount according to proof.

5 4. On behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES:

6 A) Recovery of civil penalties as prescribed by the Labor Code Private Attorneys  
7 General Act of 2004; and,

8 B) An award of attorneys' fees and cost of suit, as allowable under the law, including,  
9 but not limited to, pursuant to Labor Code §2699.

10 5. On all claims:

11 A) An award of interest, including prejudgment interest at the legal rate;

12 B) Such other and further relief as the Court deems just and equitable; and,

13 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the law,  
14 including, but not limited to, pursuant to Labor Code §221, §226, §1194, and/or §2802.

15 Dated: August 27, 2024

**BLUMENTHAL NORDREHAUG  
BHOWMIK DE BLOUW LLP**

16 By:  
17 Norman B. Blumenthal  
18 Kyle R. Nordrehaug  
19 Nicholas J. De Blouw

20 Attorneys for Plaintiff  
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**DEMAND FOR A JURY TRIAL**

PLAINTIFF demands a jury trial on issues triable to a jury.

Dated: August 27, 2024

**BLUMENTHAL NORDREHAUG  
BHOWMIK DE BLOUW LLP**

By:  
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Kyle R. Nordrehaug  
Nicholas J. De Blouw  
Attorneys for Plaintiff



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9 Attorneys for Defendant  
10 THE COCA-COLA COMPANY

11 UNITED STATES DISTRICT COURT  
12 CENTRAL DISTRICT OF CALIFORNIA  
13

14 NICOLE FRITCH, an individual, on  
15 behalf of herself and on behalf of all  
16 persons similarly situated,

17 Plaintiff,

18 v.

19 THE COCA-COLA COMPANY, a  
Corporation; and DOES 1 through 50,  
20 inclusive,

21 Defendants.  
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Case No. 8:23-cv-00576-JWH-E

**DECLARATION OF  
DAWN L. KOPRA**

Complaint Filed: February 1, 2022  
Trial Date: None Set

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1 TCCC's records as of August 3, 2024, the number of Workweeks<sup>3</sup> for the Class  
2 during the Class Period<sup>4</sup> is believed to be 107,411.

3 I declare under penalty of perjury under the laws of the United States of  
4 America and the State of California that the foregoing is true and correct.

5 Executed August 12, 2024, at League City, Texas!  
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9 DAWN L. KOPRA

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27 <sup>3</sup> Workweeks is defined using the same definition as in the Parties' longform settlement  
28 agreement.

<sup>4</sup> The Class Period means the period of time from February 1, 2019 through the earlier of  
preliminary approval or August 3, 2024.