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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**FOR THE COUNTY OF SISKIYOU**

CANDICE WADE, individually, on behalf of all  
others similarly situated, and on behalf of the  
State of California and other aggrieved persons,

*Plaintiff,*

v.

MALLORY SAFETY AND SUPPLY LLC, a  
Limited Liability Company; and DOES 1  
through 10, inclusive,

*Defendants.*

Case No.: 23CV00951

**CLASS & PAGA REPRESENTATIVE  
ACTION**

[Assigned to: Hon. John Freeland]

**DECLARATION OF JUSTIN F.  
MARQUEZ IN SUPPORT OF  
PLAINTIFF'S MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

[Filed concurrently with: Plaintiff's Notice of  
Motion and Motion for Preliminary Approval  
of Class Action Settlement, Memorandum of  
Points and Authorities; and [Proposed] Order]

**PRELIMINARY APPROVAL HEARING**

Date: February 29, 2024

Time: 9:30 a.m.

Courtroom: 2

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1. I am admitted, in good standing, to practice as an attorney in the State of California, the Ninth Circuit Court of Appeals, and the United States District Courts for the Central, Southern, Eastern, and Northern Districts of California. I am a Senior Partner at Wilshire Law Firm, PLC, counsel of record for Plaintiff Candice Wade (“Plaintiff”). I have personal knowledge of the facts set forth in this declaration and could and would competently testify to them under oath if called as a witness. This Declaration is submitted in support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement.

2. This is a wage and hour class and Private Attorneys General Act (“PAGA”) (Cal. Lab. Code §§ 2699, *et seq.*) representative action. Plaintiff and putative class members worked in California as hourly-paid or non-exempt employees for Defendant Mallory Safety and Supply LLC (“Defendant”) during the class period. Defendant is a wholesale distributor of safety products and supplies.

4. On January 30, 2023, Plaintiff filed a putative wage and hour class action complaint against Defendant for: (1) failure to pay minimum and straight time wages (Labor Code §§ 204, 1194, 1194.2, and 1197); (2) failure to pay overtime wages (Labor Code §§ 1194 and 1198); (3) failure to provide meal periods (Labor Code §§ 226.7 and 512); (4) failure to authorize and permit rest periods (Labor Code §§ 226.7 and 512); (5) failure to timely pay final wages at termination (Labor Code §§ 201-203); (6) failure to provide accurate itemized wage statements (Labor Code § 226); (7) failure to indemnify employees for expenditures (Labor Code § 2802; and (8) unfair

1 business practices (Business and Professions Code § 17200, *et seq.*). On February 13, 2023,  
2 Plaintiff sent a notice to Defendant and the California Labor & Workforce Development Agency  
3 (“LWDA”) alleging similar wage and hour violations pursuant to the PAGA (Cal. Lab. Code §§  
4 2699, *et seq.*). On April 24, 2023, Plaintiff filed a First Amended Class & Representative Action  
5 Complaint, which added a cause of action for civil penalties under PAGA.

#### 6 DISCOVERY AND INVESTIGATION

7 5. Following the filing of the Complaints, the Parties exchanged documents and  
8 information before mediating this action. Defendant produced a sample of time and pay records  
9 for class members. Defendant also provided documents of its wage and hour policies and practices  
10 during the class period, and information regarding the total number of current and former  
11 employees in its informal discovery responses.

12 6. After reviewing documents regarding Defendant’s wage and hour policies and  
13 practices, and analyzing Defendant’s timekeeping and payroll records, Class Counsel was able to  
14 evaluate the probability of class certification, success on the merits, and Defendant’s maximum  
15 monetary exposure for all claims. Class Counsel also investigated the applicable law regarding  
16 the claims and defenses asserted in the Litigation. Class Counsel reviewed these records and  
17 utilized an expert to prepare a damages analysis prior to mediation.

#### 18 SETTLEMENT NEGOTIATIONS

19 7. On August 1, 2023, the Parties participated in private mediation with experienced  
20 mediator, Jeffrey Krivis, Esq. The mediation was conducted via Zoom. The settlement  
21 negotiations were at arm’s length and, although conducted in a professional manner, were  
22 adversarial. The Parties went into the mediation willing to explore the potential for a settlement  
23 of the dispute, but each side was also prepared to litigate their position through trial and appeal if  
24 a settlement had not been reached.

25 8. After extensive negotiations and discussions regarding the strengths and  
26 weaknesses of Plaintiff’s claims and Defendant’s defenses, the Parties were able to reach a  
27 resolution, the material terms of which are encompassed within the Settlement Agreement.  
28 Attached as **Exhibit 1** is a true and correct copy of the Joint Stipulation of Settlement and Release

of Class and PAGA Action (“Settlement Agreement”).

9. Class Counsel submitted the proposed Settlement to the LWDA before filing the Motion for Preliminary Approval.

10. I requested several bids from experienced class action settlement administrators to handle the responsibilities of the Settlement Administrator under this Settlement. The Parties accepted the bid of APEX. APEX has multiple years of experience in the field of Class Action Administration, particularly in the wage and hour arena. In its bid, APEX agreed to cap its costs at \$8,500 if there are 250 class members. APEX’s bid also accounts for Notice in English and Spanish. A true and correct copy of the bid is attached hereto as **Exhibit 2**.

11. Plaintiff does not have any interest, financial or otherwise, in the proposed third-party administrator, APEX.

12. No one at Wilshire Law Firm, PLC (meaning the law firm itself and anyone employed at the law firm) has any interest, financial or otherwise, in the proposed third-party administrator, APEX.

13. Wilshire Law Firm, PLC has no fee-splitting agreement with any other counsel in this case.

THE PROPOSED SETTLEMENT IS FAIR AND REASONABLE

14. Class Counsel has conducted a thorough investigation into the facts of this case. Based on the foregoing discovery and their own independent investigation and evaluation, Class Counsel is of the opinion that the Settlement is fair, reasonable, and adequate and is in the best interests of the Settlement Class Members in light of all known facts and circumstances, the risk of significant delay, the defenses that could be asserted by Defendant both to certification and on the merits, trial risk, and appellate risk.

15. Based on an analysis of the facts and legal contentions in this case, documents and information from Defendant, I evaluated Defendant’s maximum exposure. I took into account the risk of not having the claims certified and the risk of not prevailing at trial, even if the claims are certified. After using the data Defendant provided, including class member timekeeping and payroll records, as well as class member demographics (i.e., the number of class members,

workweeks, and average total compensation of the class), with the assistance of a statistics expert, I created a damages model to evaluate the realistic range of potential recovery for the class. The damages model is based on the following benchmarks:

Total Class Members: 121

Terminated Class Members during 3-year statute of limitations: 79

Total Workweeks: 9,432

Total Shifts Worked by the Class: approximately 44,480

PAGA Pay Periods: 1,923

PAGA Eligible Employees: 91

Avg. Hourly Rate: \$20.23

16. Based on Plaintiff's discovery and investigation, Class Counsel reached the conclusion that Defendant: failed to pay class members for all hours worked (including overtime wages); required its employees to work "off-the-clock" prior to clocking in for the workday, during meal periods, and after clocking out for the workday; Defendant had a policy and practice of not providing its employees with California compliant meal and rest periods which it did not pay appropriate premiums for; and Defendant failed to reimburse its employees for business-related expenses. Defendant denied these claims.

17. Plaintiff alleges that Defendant failed to pay for all hours worked, including minimum, straight time, and overtime wages. For purposes of calculating Defendant's liability based on a best case scenario for Plaintiff and the Class, I estimate that Defendant's maximum potential exposure by assuming that all unpaid work time should have been paid at the overtime rate, not minimum or straight time wages, even though my expert found that only 50% of all shifts worked by class members were over 8 hours long, and I assumed that Defendant is liable for 30 minutes of unpaid worktime per week. This results in an estimate of \$143,107.02 (9,432 weeks \* \$20.23 hourly overtime rate \* 1.5 overtime rate \* 0.5 hours of unpaid work per week), but I discounted this figure by 80% to account for the difficulty of prevailing on a motion for class

1 certification and a trial on the merits, yielding a realistic damage estimate of \$28,621.40.<sup>1</sup>

2 18. With respect to the meal period claim, Plaintiff alleges that Defendant required her  
3 and similarly situated class members to either work in lieu of taking meal periods, or their meal  
4 periods were untimely or interrupted. My expert analyzed Defendant's timekeeping records and  
5 opined that approximately 42.7% of all meal breaks (19,164 violations) had violations of short,  
6 missed, or no meal periods. Potential liability for the meal period claim, which includes shifts 5-  
7 6 hours long, shifts over six hours long, shifts over ten hours long, and shifts over 12 hours long,  
8 is \$387,687.72 (19,164 \* \$20.23); however, I discounted this figure by 80% to account for the  
9 difficulty of certifying and proving meal period claims, as well as Defendant's contention that the  
10 claim lacks merit, yielding a realistic damage estimate of \$77,537.54.

11 19. With respect to the rest period claim, Plaintiff alleges that Defendant required her  
12 and similarly situated class members to work in lieu of taking rest periods, or their rest periods  
13 were missed or interrupted. Assuming a 10% violation rate for the class period based on Plaintiff's  
14 and other class members' experience working for Defendant, Defendant's potential liability for the  
15 rest period claim is \$89,983.04 (44,480 shifts \* 0.1 \* \$20.23); however, I discounted this figure by  
16 90% to account for the difficulty of certifying and proving rest period claims, particularly because  
17 rest periods do not have to be recorded, and to account for the possibility of class members  
18 voluntarily choosing to forego a rest period, yielding a realistic damage estimate of \$8,998.30.

19 20. Plaintiff alleges that Defendant failed to reimburse necessary business expenses.  
20 Defendant's employees (including Plaintiff) were frequently required to use their personal cell  
21 phones to communicate with their supervisors and managers about work-related duties and use  
22 their personal vehicles for Defendant's benefit. Further, Defendant required its employees to  
23 purchase specific equipment to satisfactorily perform and complete their job duties. For purposes  
24 of calculating Defendant's liability based on a best case scenario for Plaintiff and the Class, I  
25 estimated that Defendant was liable to each class member for \$200 in unreimbursed expenses, for

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26  
27 <sup>1</sup> An 80% discount for risk at certification and trial is reasonable because the Judicial Council of California  
28 found that only 21.4% of all class actions were certified either as part of a settlement *or* as part of a contested  
certification motion. (See Findings of the Study of California Class Action Litigation, 2000-2006, available at <http://www.courts.ca.gov/documents/class-action-lit-study.pdf>.)

1 a total amount of \$24,200 ( $\$200 * 121$ ); however, I discounted this figure by 80% to account for  
2 the difficulty of certifying and proving expense reimbursement claims, yielding a realistic damage  
3 estimate of \$4,840.00.

4 21. With respect to Plaintiff's derivative claims for statutory and civil penalties,  
5 Plaintiff estimated that Defendant's realistic potential liability is \$74,769.25. While Defendant's  
6 maximum potential liability for waiting time penalties is \$366,639.00 based on approximately 79  
7 terminated class members during the 3-year statute of limitations, \$188,753.50 for inaccurate wage  
8 statements based on approximately 91 class members who worked 1,923 pay periods within the 1-  
9 year statute of limitations, and \$192,300.00 for PAGA violations based on the Court assessing a  
10 \$100 penalty for initial violations for all 1,923 pay periods within the 1-year statute of limitations.  
11 I believe that it would be unrealistic to expect the Court to award the full \$747,692.50 in penalties  
12 given Defendant's defenses, the contested nature of Plaintiff's claims, and the discretionary nature  
13 of penalties. Considering that the underlying claims are realistically estimated to be \$119,997.24,  
14 such a disproportionate award would also raise due process concerns. Weighing these factors and  
15 applying a discount of 90% to account for the risk and uncertainty of prevailing at trial, I arrived  
16 at \$74,769.25 for statutory and civil penalties.

17 22. Using these estimated figures, Plaintiff predicted that the realistic maximum  
18 recovery for all claims, including penalties, would be \$194,766.49. This means that the  
19 \$150,000.00 settlement figure represents 77% of the realistic maximum recovery ( $\$150,000.00 /$   
20  $\$194,766.49 = 77\%$ ). Considering the risk and uncertainty of prevailing at class certification and  
21 at trial, this is an excellent result for the Class.<sup>2</sup> Indeed, because of the proposed Settlement, class  
22 members will receive timely, guaranteed relief and will avoid the risk of an unfavorable judgment.

23 23. While Plaintiff is confident in the merits of their claims, a legitimate controversy  
24 exists as to each cause of action. Plaintiff also recognizes that proving the amount of wages due  
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26 <sup>2</sup> See, e.g., *Wise v. Ulta Salon, Cosmetics & Fragrance, Inc.* (E.D. Cal. Aug. 21, 2019) 2019 WL 3943859 at  
27 \*8 (granting preliminary approval where the proposed allocation to settle class claims was between 9.53 percent of  
28 Plaintiffs' maximum recovery); *Bravo v. Gale Triangle, Inc.* (C.D. Cal. Feb 16, 2017) 2017 WL 708766 at \* 10  
(finding that "a settlement for fourteen percent recovery of Plaintiffs' maximum recovery is reasonable"); *In re*  
*Omnivision Techs., Inc.* (N.D. Cal. 2008) 559 F.Supp.2d 1036, 1042 (approving settlement amount that "is just over  
9% of the maximum potential recovery asserted by either party.").

1 to each Class Member would be an expensive, time-consuming, and uncertain proposition.

2       24. This Settlement avoids the risks and the accompanying expense of further litigation.  
3 Although the Parties had engaged in a significant amount of investigation, informal discovery and  
4 class-wide data analysis, the Parties had not yet completed formal written discovery. Plaintiff  
5 intended to depose corporate officers and managers of Defendant. Moreover, preparation for class  
6 certification and a trial remained for the Parties as well as the prospect of appeals in the wake of a  
7 disputed class certification ruling for Plaintiff and/or adverse summary judgment ruling. Had the  
8 Court certified any claims, Defendant could move to decertify the claims. As a result, the Parties  
9 would incur considerably more attorneys' fees and costs through trial.

10       25. The Net Settlement Amount available for Class Member settlement payments is  
11 estimated to be \$46,500.00, for a class of 121 persons.<sup>3</sup> As a result, each Settlement Class Member  
12 is eligible to receive an average net benefit of approximately \$384.29.

13       26. The proposed Settlement of \$150,000.00, therefore, represents a substantial  
14 recovery when compared to Plaintiff's reasonably forecasted recovery. When considering the risks  
15 of litigation, the uncertainties involved in achieving class certification, the burdens of proof  
16 necessary to establish liability, the probability of appeal of a favorable judgment, it is clear that the  
17 settlement amount of \$150,000.00 is within the "ballpark" of reasonableness, and preliminary  
18 settlement approval is appropriate.

19               ENHANCEMENT AWARD FOR PLAINTIFF IS REASONABLE

20       27. Class Counsel represent that Plaintiff devoted a great deal of time and work assisting  
21 counsel in the case, communicated with counsel very frequently for litigation and to prepare for  
22 mediation, and was frequently in contact with Class Counsel during the mediation. Plaintiff's  
23 requested enhancement award is reasonable particularly in light of the substantial benefits Plaintiff  
24 generated for all class members.

25       28. Throughout this Litigation, Plaintiff, who is a former employee of Defendant, has  
26 \_\_\_\_\_

27       <sup>3</sup> The Net Settlement Amount is: \$150,000.00 minus \$50,000.00 for Class Counsel's attorneys' fees, minus  
28 \$25,000.00 for Class Counsel's litigation expenses, minus \$8,500.00 in administration costs, minus \$10,000.00 for  
the PAGA payment, and minus \$10,000.00 for the class representative service award to Plaintiff.

1 cooperated immensely with my office and have taken many actions to protect the interests of the  
2 class. Plaintiff provided valuable information regarding off-the-clock, meal period, and rest period  
3 claims. Plaintiff also informed my office of developments and information relevant to this action,  
4 participated in decisions concerning this action, and made herself available to answer questions  
5 during the mediation. Before we filed this case, Plaintiff provided my office with documents  
6 regarding the claims alleged in this action. The information and documentation provided by  
7 Plaintiff was instrumental in establishing the alleged wage and hour violations alleged in this  
8 action, and the recovery provided for in the Settlement Agreement would have been impossible to  
9 obtain without Plaintiff's participation.

10 29. At the same time, Plaintiff faced many risks in adding herself as the class  
11 representative in this matter. Plaintiff faced actual risks with her future employment, as putting  
12 herself on public record in an employment lawsuit could also very well affect her likelihood for  
13 future employment. Furthermore, as part of this Settlement, Plaintiff is executing a general release  
14 of all claims against Defendant.

15 30. In turn, class members will now have the opportunity to participate in a settlement,  
16 reimbursing them for alleged wage violations they may have never known about on their own or  
17 been willing to pursue on their own. If these class members would have each tried to pursue their  
18 legal remedies on their own, that would have resulted in each having to expend a significant amount  
19 of their own monetary resources and time, which were obviated by Plaintiff putting herself on the  
20 line on behalf of these other class members.

21 31. In the final analysis, this class action would not have been possible without the aid  
22 of Plaintiff, who put her own time and effort into this Litigation, sacrificed the value of her own  
23 individual claims, and placed herself at risk for the sake of the class members. The requested  
24 enhancement award for Plaintiff for her service as the class representative and for her general  
25 release of all individual claims is a relatively small amount of money when the time and effort put  
26 into the Litigation are considered and in comparison to enhancements granted in other class actions.  
27 The requested incentive award is therefore reasonable to compensate Plaintiff for her active  
28 participation in this lawsuit. Indeed, in *Karl Adams, III, et al. v. MarketStar Corporation, et al.*,

No. 2:14-cv-02509-TLN-DB, a wage and hour class action alleging that class members were misclassified as exempt outside salespersons, I was co-lead Class Counsel and helped negotiate a \$2.5 million class action settlement for 339 class members, and the court approved a \$25,000.00 class representative incentive award for each named Plaintiff.

THE REQUEST FOR ATTORNEYS' FEES AND COSTS IS REASONABLE

32. The Settlement provides for attorneys' fees payable to Class Counsel in an amount up to one-third (1/3) of the Settlement Amount, for a maximum fees award of \$50,000.00, plus actual costs and expenses not to exceed \$25,000.00. The proposed award of attorneys' fees to Class Counsel in this case can be justified under either method – lodestar or percentage recovery. Class Counsel, however, intend to base the proposed award of fees, costs and expenses on the percentage method as many of the entries in the time records will have to be redacted to preserve attorney-client and attorney work product privileges.

33. I am informed and believe that the fee and costs provision is reasonable. The fee percentage requested is less than that charged by my office for most employment cases. My office invested significant time and resources into the case, with payment deferred to the end of the case, and then, of course, contingent on the outcome.

34. It is further estimated that my office will need to expend at least another 50 to 100 hours to monitor the process leading up to the final approval and payments made to the class. My office also bears the risk of taking whatever actions are necessary if Defendant fails to pay.

35. The risk to my office has been very significant, particularly if we would not be successful in pursuing this class action. In that case, we would have been left with no compensation for all the time taken in litigating this case. Indeed, I have taken on a number of class action cases that have resulted in thousands of attorney hours being expended and ultimately having certification denied or the defendant company going bankrupt. The contingent risk in these types of cases is very real and they do occur regularly. Furthermore, we were precluded from focusing on, or taking on, other cases which could have resulted in a larger, and less risky, monetary gain.

36. Because most individuals cannot afford to pay for representation in litigation on an hourly basis, Wilshire Law Firm, PLC represents virtually all of its employment law clients on a

1 contingency fee basis. Pursuant to this arrangement, we are not compensated for our time unless  
2 we prevail at trial or successfully settle our clients' cases. Because Wilshire Law Firm, PLC is  
3 taking the risk that we will not be reimbursed for our time unless our client settles or wins his or  
4 her case, we cannot afford to represent an individual employee on a contingency basis if, at the  
5 end of our representation, all we are to receive is our regular hourly rate for services. It is essential  
6 that we recover more than our regular hourly rate when we win if we are to remain in practice so  
7 as to be able to continue representing other individuals in civil rights employment disputes.

#### 8 MY EXPERIENCE AND QUALIFICATIONS

9 37. Wilshire Law Firm, PLC was selected by Best Lawyers and U.S. News & World  
10 Report as one of the nation's Best Law Firms in 2023 and is comprised of over 60 attorneys and  
11 over 500 employees. Wilshire Law Firm, PLC is actively and continuously practicing in  
12 employment litigation, representing employees in both individual and class actions in both state  
13 and federal courts throughout California.

14 38. Wilshire Law Firm, PLC is qualified to handle this Litigation because its attorneys  
15 are experienced in litigating Labor Code violations in both individual, class action, and  
16 representative action cases. Wilshire Law Firm, PLC has handled, and is currently handling,  
17 numerous wage and hour class action lawsuits, as well as class actions involving consumer rights  
18 and data privacy litigation.

19 39. I graduated from the University of California, Los Angeles's College Honors  
20 Program in 2004 with Bachelor of Arts degrees in History and Japanese, magna cum laude and Phi  
21 Beta Kappa. As an undergraduate, I also received a scholarship to study abroad for one year at  
22 Tokyo University in Tokyo, Japan. I received my Juris Doctor from Notre Dame Law School in  
23 2008.

24 40. My practice is focused on advocating for the rights of consumers and employees in  
25 class action litigation and appellate litigation. I am currently the primary attorney in charge of  
26 litigating several class action cases in state and federal courts across the United States.

27 41. I have received numerous awards for my legal work. From 2017 to 2020, Super  
28 Lawyers selected me as a "Southern California Rising Star," and in 2022 and 2023, I was selected

1 as a “Southern California Super Lawyer.” I was selected as one of the “Best Lawyers in America”  
2 in 2023 and 2024. In 2016 and 2017, the National Trial Lawyers selected me as a “Top 40 Under  
3 40” attorney. I am also rated 10.0 (“Superb”) by Avvo.com.

4 42. I am on the California Employment Lawyers Association (“CELA”)’s Wage and  
5 Hour Committee and Mentor Committee, and I was selected to speak at CELA’s 2019 Advanced  
6 Wage & Hour Seminar on the topic of manageability of class actions. Since 2013, I have actively  
7 mentored young attorneys through CELA’s mentorship program.

8 43. I am also a past member of the Consumer Attorneys of California (“CAOC”). In  
9 2020, I was selected for a position on CAOC’s Board of Directors. I am also a past member of  
10 CAOC’s Diversity Committee, and I helped assist the CAOC in defeating bills that harm  
11 employees. Indeed, I recently helped assist Jacqueline Serna, Esq., Legislative Counsel for CAOC,  
12 in defeating AB 443, which proposed legislation that sought to limit the enforceability of California  
13 Labor Code § 226.

14 44. As the attorney responsible for day-to-day management of this matter at the  
15 Wilshire Law Firm, PLC, I have over thirteen years of experience with litigating wage and hour  
16 class actions. Over the last thirteen years, I have managed and assisted with the litigation and  
17 settlement of several wage and hour class actions. In those class actions, I performed similar tasks  
18 as those performed in the course of prosecuting this action. My litigation experience includes:

- 19 a. I served as lead or co-lead in negotiating class action settlements worth over \$10  
20 million in gross recovery to class members for each year since 2020, including over  
21 \$37.5 million in 2022 and over \$70 million in 2023.
- 22 b. I was part of the team of attorneys that prevailed in *Moore v. Centrelake Medical*  
23 *Group, Inc.* (2022) 83 Cal.App.5th 515, the first California appellate decision in a  
24 data breach class action holding that consumer plaintiffs adequately alleged injury  
25 in fact under the benefit of the bargain theory and monitoring-costs theory.
- 26 c. In 2022, Top Verdict recognized Wilshire Law Firm and myself for having one case  
27 in the Top 20 Labor & Employment Settlements (including number 19 for the \$1.6  
28 million settlement in *Moreno v. Pretium Packaging, L.L.C.*) and four additional

- 1 cases in the Top 50 Labor & Employment Settlements (numbers 27, 30, 33, and 37).
- 2 d. To my knowledge, I am the only attorney to appear on each of the following Top
- 3 Verdict lists for 2018 in California: Top 20 Civil Rights Violation Verdicts, Top 20
- 4 Labor & Employment Settlements, and Top 50 Class Action Settlements.
- 5 e. As lead counsel, on April 29, 2021, I prevailed against CVS Pharmacy, Inc. by
- 6 winning class certification on behalf of hundreds of thousands of consumers for
- 7 misleading advertising claims in *Joseph Mier v. CVS Pharmacy, Inc.*, U.S. Dist. Ct.
- 8 C.D. Cal. no. SA CV 20-1979-DOC-(ADSx).
- 9 f. As lead counsel, I prevailed against Bank of America by: winning class certification
- 10 on behalf of thousands of employees for California Labor Code violations; defeating
- 11 appellate review of the court’s order certifying the class; defeating summary
- 12 judgment; and defeating a motion to dismiss. (*Frausto v. Bank of America, N.A.*
- 13 (N.D. Cal. 2019) 334 F.R.D. 192, 2020 WL 1290302 (9th Cir. Feb. 27, 2020), 2019
- 14 WL 5626640 (N.D. Cal. Oct. 31, 2019), 2018 W.L. 3659251 (N.D. Cal. Aug. 2,
- 15 2018).). The decision certifying the class in *Frausto* is also discussed in Class
- 16 Certification Under Fed. R. Civ. P. 23 in Action by Information Technology or Call
- 17 Center Employees for Violation of State Law Wage and Hour Rules, 35 A.L.R. Fed.
- 18 3d Art. 8.
- 19 g. I was the primary author of the class certification and expert briefs in *ABM*
- 20 *Industries Overtime Cases* (2017) 19 Cal.App.5th 277, a wage and hour class action
- 21 for over 40,000 class members for off-the-clock, meal period, split shift, and
- 22 reimbursement claims. *ABM Industries Overtime Cases* is the first published
- 23 California appellate authority to hold that an employer’s “auto-deduct policy for
- 24 meal breaks in light of the recordkeeping requirements for California employers is
- 25 also an issue amenable to classwide resolution.” (*Id.* at p. 310.)<sup>4</sup> Notably, the Court

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27 <sup>4</sup> As a California district court observed before the *ABM Industries Overtime* decision, “[t]he case law

28 regarding certification of auto-deduct classes is mixed.” (*Wilson v. TE Connectivity Networks, Inc.* (N.D. Cal. Feb. 9, 2017) No. 14-CV-04872-EDL, 2017 WL 1758048, \*7.)

of Appeal also held that expert analysis of timekeeping records can also support the predominance requirement for class certification. (*Id.* at pp. 310-11.) In 2021, the case settled for \$140 million, making it one of the largest ever wage and hour class action settlements for hourly-paid employees in California.

- h. I briefed, argued, and won *Yocupicio v. PAE Group, LLC* (9th Cir. 2015) 795 F.3d 1057. The Ninth Circuit ruled in my client’s favor and held that non-class claims under PAGA cannot be used to calculate the amount in controversy under the Class Action Fairness Act (“CAFA”). This case is cited in several leading treatises such as Wright & Miller’s Federal Practice & Procedure, and Newberg on Class Actions. In October 2016, the U.S. Supreme Court denied review of a case that primarily concerned *Yocupicio*. That effort was led by Theodore J. Boutrous, who brought the cert petition, with amicus support from a brief authored by Andrew J. Pincus.<sup>5</sup> Considering that leading Supreme Court practitioners from the class action defense bar were very motivated in undermining the *Yocupicio* case, but failed, this demonstrates the national importance of the *Yocupicio* decision.
- i. On December 13, 2018, the United States District Court granted final approval of the \$2,500,000 class action settlement in *Mark Brulee, et al. v. DAL Global Services, LLC* (C.D. Cal. Dec. 13, 2018) No. CV 17-6433 JVS(JCGx), 2018 WL 6616659 in which I served as lead counsel. In doing so, the Court found: “Class Counsel’s declarations show that the attorneys are experienced and successful litigators.” (*Id.* at p. \*10.)
- j. *Gasio v. Target Corp.* (C.D. Cal. Sep. 12, 2014) 2014 U.S. Dist. LEXIS 129852, a reported decision permitting class-wide discovery even though the employer has a lawful policy because “[t]he fact that a company has a policy of not violating the law does not mean that the employees follow it, which is the issue here.” The court also ordered defendant to pay for the cost of *Belaire-West* notice.

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<sup>5</sup> <http://www.chamberlitigation.com/cases/abm-industries-inc-v-castro>.

- 1 k. In 2013, I represented a whistleblower that reported that his former employer was  
2 defrauding the State of California with the help of bribes to public employees. The  
3 case, a false claims (qui tam) action, resulted in the arrest and criminal prosecution  
4 of State of California employees by the California Attorney General's Office.
- 5 l. In 2013, I was part of a team of attorneys that obtained conditional certification for  
6 over 2,000,000 class members in a federal labor law case for misclassification of  
7 independent contractors that did crowdsourced work on the Internet, *Otey v.*  
8 *CrowdFlower, Inc.*, N.D. Cal. Case No. 12-cv-05524-JST (MEJ), resulting in the  
9 following pro-plaintiff reported decisions:
- 10 i. 2013 U.S. Dist. LEXIS 151846 (N.D. Cal. Oct. 22, 2013) (holding that an  
11 unaccepted Rule 68 offer doesn't moot plaintiff's claims, and granting  
12 plaintiff's motion to strike defendant's affirmative defenses based on  
13 *Twombly/Iqbal*).
- 14 ii. 2013 U.S. Dist. LEXIS 122007 (N.D. Cal. Aug. 27, 2013) (order granting  
15 conditional collective certification).
- 16 iii. 2013 U.S. Dist. LEXIS 95687 (N.D. Cal. July 8, 2013) (affirming the  
17 magistrate judge's discovery ruling which held that "evidence of other  
18 sources of income is irrelevant to the question of whether a plaintiff is an  
19 employee within the meaning of the FLSA").
- 20 iv. 2013 U.S. Dist. LEXIS 91771 (N.D. Cal. June 20, 2013) (granting broad  
21 discovery because "an FLSA plaintiff is entitled to discovery from locations  
22 where he never worked if he can provide some evidence to indicate  
23 company-wide violations").
- 24 m. From 2012 to 2013, I was part of a team of attorneys that obtained class certification  
25 for over 60,000 class members for off-the-clock claims, *Linares v. Securitas*  
26 *Security Services USA, Inc.*, Los Angeles Superior Court, Case No. BC416555. We  
27 also successfully opposed subsequent appeals to the California Court of Appeal and  
28 California Supreme Court.

1           45. Benjamin H. Haber is a sixth-year Associate Attorney at Wilshire Law Firm. His  
2 current hourly rate is \$650. He graduated from the University of California, Los Angeles, with a  
3 Bachelor of Arts in Political Science, and received his Juris Doctor from the University of  
4 California, Hastings College of the Law in 2016. During law school, he was a member of the  
5 executive board for the Hastings Law Journal and student mediator at the San Francisco Superior  
6 Court, Small Claims Division. He was admitted to practice law in the State of California in 2017.  
7 Since graduating from law school, he has focused his legal work primarily on wage and hour  
8 litigation and has helped obtain dozens of settlements on behalf of tens of thousands of workers in  
9 California.

10           46. Arrash T. Fattahi is a third-year Associate Attorney at Wilshire Law Firm, PLC. He  
11 is admitted to practice law in the State of California and the Central, Southern, Eastern, and  
12 Northern Districts of California. Arrash graduated from the University of California, Los Angeles,  
13 with a Bachelor of Arts in Political Science, *summa cum laude*. He received his Juris Doctor from  
14 The George Washington University Law School. During law school, he was a member of the  
15 student editorial board for the *Federal Circuit Bar Journal*. Since January 2021, his practice has  
16 mainly been focused on wage and hour class action litigation. His current contingent billing rate  
17 for this case is \$550 per hour.

18           47. My current contingent billing rate of \$1,500.00 per hour is consistent with my actual  
19 billing rate for paid legal industry consulting services, my practice area, lead appellate experience  
20 in the Ninth Circuit Court of Appeals, numerous awards received, legal market and accepted hourly  
21 rates:

- 22           a. I have been paid for legal industry consulting services at \$1,500 per hour by Gerson  
23 Lehrman Group (GLG), a company that provides financial information and advises  
24 investors and consultants with business clients seeking expert advice. GLG is one  
25 of the largest companies that provides expert consulting services. GLG's clients  
26 include corporations, hedge funds, private equity firms, and consulting firms. I have  
27 worked with GLG on numerous occasions at a rate of \$1,500 per hour, including on  
28 three recent occasions in October and November of 2023.

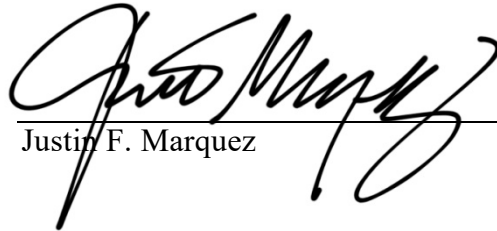
- 1           b. On May 6, 2022, the Hon. Jay A. Garcia-Gregory of the United States District Court  
2           in Puerto Rico approved my \$850 hourly rate when he granted final approval of the  
3           class action settlement in *Serrano v. Inmediata Corp.*, No. 3:19-cv-01811-JAG, Dkt.  
4           57 (U.S. Dist. Ct. P.R. May 6, 2022).
- 5           c. On September 9, 2021, the Hon. Peter Wilson of the Orange County Superior Court  
6           approved my \$800 hourly rate when he granted final approval of the class action  
7           settlement in *Ricardo Campos Hernandez v. Adams Iron Co., Inc.*, No. 30-2019-  
8           01066522-CU-OE-CXC.
- 9           d. On August 6, 2021, the Hon. Stanley Blumenfeld, Jr. of the United States District  
10          Court granted final approval of the \$1,600,000 class action settlement in *Carlos*  
11          *Moreno v. Pretium Packaging, Inc.* (C.D. Cal. Aug. 6, 2021) No. 8:19-cv-02500-  
12          SB-DFM, 2021 WL 3673845 in which I served as lead counsel. In doing so, the  
13          Court approved my then \$750 hourly rate after finding it was “reasonable, given the  
14          qualifications of the attorneys who worked on this matter.” (*Id.* at p. \*3.)
- 15          e. On January 19, 2021, the Hon. Elihu M. Berle of the Los Angeles County Superior  
16          Court approved my \$750 hourly rate when he granted final approval of the class  
17          action settlement in *Faye Zhang v. Richemont North America, Inc.*, Case No.  
18          19STCV32396.
- 19          48. The reasonableness of my firm’s hourly rates is also supported by several surveys  
20          of legal rates, including the following:
- 21               a. The 2022 Real Rate Report survey compiled by Wolters Kluwer, which presents  
22               the real market rates of Los Angeles area attorneys who practice litigation. For  
23               that category, the third quartile 2022 rate was \$1,045 per hour for partners and  
24               \$855 for associates. Likewise, page 32 of the Report describes the rates charged  
25               by 183 Los Angeles partners with “21 or more years of experience” and “Fewer  
26               than 21 years.” For those categories, the third quartile Los Angeles partner rate in  
27               2022 were \$1,133 per hour for 21 or more years and \$1,075 for attorneys with  
28

fewer than 21 years. A true and correct copy of portions of the 2022 Real Rate Report is attached hereto as **Exhibit 3**.

- b. In an article entitled “Big Law Rates Topping \$2,000 Leave Value ‘In Eye of Beholder,’” written by Roy Strom and published by Bloomberg Law on June 9, 2022, the author describes how Big Law firms have crossed the \$2,000-per hour rate. The article also notes that law firm rates have been increasing by just under 3% per year. A true and correct copy of this article is attached hereto as **Exhibit 4**.

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

Executed on February 5, 2024, at Los Angeles, California.

  
Justin F. Marquez

# Exhibit 1

CDF LABOR LAW LLP  
Amy S. Williams, State Bar No. 228853  
awilliams@cdflaborlaw.com  
Robyn E. Frick, State Bar No. 246927  
rfrick@cdflaborlaw.com  
18300 Von Karman Avenue, Suite 800  
Irvine, CA 92612  
Telephone: (949) 622-1661

Attorneys for Defendant  
MALLORY SAFETY AND SUPPLY LLC

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF SISKIYOU**

CANDICE WADE, individually, on behalf of  
all others similarly situated, and on behalf of  
the State of California and other aggrieved  
persons,

Plaintiff,

vs.

MALLORY SAFETY AND SUPPLY LLC, a  
Limited Liability Company; and DOES 1  
through 10, inclusive,

Defendants.

) Case No. 23CV00951

)  
) **JOINT STIPULATION OF SETTLEMENT**  
) **AND RELEASE OF CLASS AND PAGA**  
) **ACTION**

) Action Filed: January 30, 2023

)  
)  
)  
)  
)

1 This Joint Stipulation of Settlement and Release of Class and PAGA Action (“Agreement”)  
2 is made and entered into between Plaintiff Candice Wade (“Plaintiff”), individually and on behalf of  
3 the proposed Settlement Class, the State of California, the Labor and Workforce Development  
4 Agency, and allegedly aggrieved employees, (defined below), and Defendant Mallory Safety and  
5 Supply LLC (“Defendant”). This Agreement is subject to approval of the Court, pursuant to the  
6 California Rules of Court (“CRC”), Rule 3.769(c), (d) and (e), and California Labor Code § 2698 *et*  
7 *seq.* and made for the sole purpose of attempting to consummate settlement of the Action (as defined  
8 below) on a class-wide and representative basis subject to the following terms and conditions. As  
9 detailed below, if the Court does not enter an order granting final approval of the Class and PAGA  
10 Settlement (as defined below) and enter judgment, or the conditions precedent are not met for any  
11 reason, this Agreement is void and of no force or effect whatsoever.

12 **1. DEFINITIONS**

13 As used in this Agreement, the following terms shall have the meanings specified below. To  
14 the extent terms or phrases used in this Agreement are not specifically defined below, but are defined  
15 elsewhere in this Agreement, they are incorporated by reference into this definition section.

16 1.1 **Action.** “Action” shall mean the lawsuit titled *Candice Wade v. Mallory Safety and*  
17 *Supply LLC*, Case No. 23CV00951, pending in the Superior Court of California, County of Siskiyou,  
18 which includes the notice letter sent to the Labor and Workforce Development Agency (“LWDA”).

19 1.2 **Administration Expenses.** “Administration Expenses” shall mean the amount that  
20 will be paid to the Settlement Administrator for the administration of this Settlement in an amount  
21 not to exceed \$8,500.00.

22 1.3 **Claims.** “Claims” shall mean the claims asserted and causes of action alleged in the  
23 Action, or that could have been alleged or otherwise raised based on the factual allegations set forth  
24 in the operative pleadings in the Action, including claims for (1) Failure to Pay Minimum and  
25 Straight Time Wages; (2) Failure to Pay Overtime Wages; (3) Failure to Provide Meal Periods; (4)  
26 Failure to Authorize and Permit Rest Periods; (5) Failure to Timely Pay Final Wages at Termination;

(6) Failure to Provide Accurate Itemized Wage Statements; (7) Failure to Indemnify Employees for Expenditures; (8) Unfair Business Practices; and (9) Civil Penalties Under PAGA. (Cal. Lab. Code § 2699 *et seq.*) (“PAGA”).

1.4 **Class Counsel.** “Class Counsel” shall mean Justin F. Marquez, Benjamin H. Haber and Arrash T. Fattahi of Wilshire Law Firm, 3055 Wilshire Blvd., 12<sup>th</sup> Floor, Los Angeles, CA 90010.

1.5 **Class Counsel’s Attorneys’ Fees and Expenses.** “Class Counsel’s Attorneys’ Fees and Expenses” shall mean Class Counsel’s attorneys’ fees and expenses to be requested and subject to approval by the Court at the time of the Final Approval and Fairness Hearing (as defined below).

1.6 **Class List and Data.** “Class List and Data” shall mean the information for each Settlement Class Member which Defendant shall compile from its business records and provide to the Administrator for purposes of providing notice of the Settlement to the Settlement Class. The Class List and Data shall be in a readable, ready to use, Microsoft Excel spreadsheet, which will provide the following information for each Settlement Class Member: (a) full name; (b) last-known mailing address; (c) telephone numbers; (d) Social Security Number; and (e) dates of employment.

1.7 **Class Period.** “Class Period” shall mean the period from January 30, 2019 through October 1, 2023.

1.8 **Class Representative.** “Class Representative” shall mean Plaintiff.

1.9 **Court.** “Court” shall mean the Superior Court of California, County of Siskiyou.

1.10 **Defendant.** “Defendant” shall mean Mallory Safety and Supply LLC.

1.11 **Defense Counsel.** “Defense Counsel” shall mean Amy S. Williams of CDF Labor Law LLP, 18300 Von Karman Avenue, Suite 800, Irvine, California 92612.

1.12 **Effective Date.** “Effective Date” shall be the later of the time when: (a) the date of final affirmance of the Judgment on an appeal of the Judgment, the expiration of the time for, or the denial of, a petition to review the Judgment, or if review is granted, the date of final affirmance of the Judgment following review pursuant to that grant; (b) the date of final dismissal of any appeal

1 from the Judgment or the final dismissal of any proceeding to review the Judgment, provided that  
2 the Judgment is affirmed and/or not reversed in any part; (c) the final resolution (or withdrawal) of  
3 any filed appeal in a way that affirms the Final Approval Order and Judgment in a form substantially  
4 identical to the form of the Final Approval Order entered by the Court, and the time to petition for  
5 review with respect to any appellate decision affirming the Final Approval Order has expired; or (d)  
6 if no appeal is filed, the sixty-first (61st) day after the Court enters final approval of the settlement  
7 and the Judgment approving this Agreement.

8       1.13     **Employee's Taxes and Required Withholding.** "Employee's Taxes and Required  
9 Withholding" shall mean the Participating Settlement Class Member's share of any and all applicable  
10 federal, state, or local payroll taxes, including those collected under authority of the Federal  
11 Insurance Contributions Act ("FICA"), FUTA and/or SUTA on the portion of the Participating  
12 Settlement Class Member's Individual Settlement Payment that constitutes wages.

13       1.14     **Employer's Taxes.** "Employer's Taxes" shall mean and refer to Defendant's share  
14 of corporate, federal, state, and/or local payroll taxes that is owed on the portion of the Participating  
15 Settlement Class Member's Individual Settlement Payment that constitutes wages. The Employer's  
16 Taxes shall be separately paid by Defendant in addition to the Gross Settlement Amount.

17       1.15     **Final Approval and Fairness Hearing.** "Final Approval and Fairness Hearing"  
18 shall mean the final hearing held to consider the Class reaction to notice of the Settlement, and to  
19 ascertain the fairness, reasonableness, and adequacy of the Class Settlement. At this hearing, the  
20 Court will consider Class Counsel's application for the Class Counsel's Attorneys' Fees and  
21 Expenses, the Enhancement Payment to Plaintiff, the Administration Expenses, and approval of the  
22 PAGA Payment.

23       1.16     **Final Approval Date.** "Final Approval Date" shall mean the date upon which the  
24 Court enters an order granting final approval of the Class Action Settlement and enters Judgment.

25       1.17     **Gross Settlement Amount.** "Gross Settlement Amount" means the agreed upon  
26 settlement amount totaling One Hundred Fifty Thousand Dollars (\$150,000.00), to be paid by

Defendant in full settlement of the Released Claims asserted in this case, which includes the Administration Expenses to the Settlement Administrator, Employee's Taxes and Required Withholdings, Class Counsel's Attorneys' Fees and Expenses, the Enhancement Payment to Plaintiff, PAGA Payment to the LWDA and PAGA Members. The Gross Settlement Amount is non-reversionary, meaning no amount will revert to Defendant. In no event shall Defendant be required to pay more than the Gross Settlement Amount (excluding the employer's share of payroll taxes on the "wages" portion of the settlement for Participating Settlement Class Members). The Parties agree that Code of Civil Procedure section 384 does not apply to this Settlement and any uncashed checks will be sent to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code sections 1500, *et seq.*, for the benefit of those Participating Settlement Class Members who did not cash their checks until such time that they claim their property.

1.18 **Individual Settlement Payment.** “Individual Settlement Payment” means the proportionate share of the Net Settlement Amount to be distributed to each Participating Class Member based on the number of his or her Weeks Worked during the Class Period and the number of his or her Pay Periods Worked during the PAGA Period in relation to the aggregate number of Weeks Worked by all Participating Settlement Class Members, and Pay Periods by all PAGA Members, respectively, less any Employee’s Taxes and Required Withholdings.

1.19 **Net Settlement Amount.** “Net Settlement Amount” or “NSA” shall mean the Gross Settlement Amount, minus the Court-approved amounts awarded for the Class Counsel’s Attorneys’ Fees and Expenses, Enhancement Payment to Plaintiff, Administration Expenses, and PAGA Payment.

1.20 **Notice Packet.** “Notice Packet” means the Notice of Class Action Settlement advising Class Members of the Settlement and their options under the Settlement. Attached hereto as **Exhibit A** is a true and correct copy of the Notice Packet.

1.21 **Opt-Out.** “Opt-Out(s)” shall mean a Class Member’s timely and valid request for exclusion from the Settlement Class portion of the Settlement in accordance with the terms of this

1 Agreement and as set forth in the Notice Packet. If a Settlement Class Member validly and timely  
2 opts out of the Class portion of the Settlement, to the extent the Settlement Class Member is eligible  
3 as a PAGA Member, they will still receive a portion of the PAGA penalty payment allocated to the  
4 PAGA Members based on the number of Pay Periods employed during the PAGA Period and will  
5 release the claims alleged under PAGA.

6 1.22 **PAGA.** PAGA refers to the Labor Code Private Attorneys General Act of 2004,  
7 Labor Code sections 2698, *et seq.*

8 1.23 **PAGA Member(s):** “PAGA Member(s)” means any current or formerly hourly-paid  
9 employee of Defendant in California during the PAGA Period.

10 1.24 **PAGA Payment:** “PAGA Payment” shall mean allocation of Ten Thousand Dollars  
11 (\$10,000.00) to be paid from the Gross Settlement Amount, designated by the Parties as PAGA civil  
12 penalties, seventy-five percent (75%) of which (\$7,500.00) shall be remitted to the LWDA for its  
13 statutorily set portion of the PAGA penalties (“LWDA Payment”) and the remaining twenty-five  
14 percent (25%) of which (\$2,500.00) shall be distributed to the PAGA Members on a proportionate  
15 basis based on the number of Pay Periods employed during the PAGA Period.

16 1.25 **PAGA Period.** “PAGA Period” means the period from February 13, 2022 to  
17 October 1, 2023.

18 1.26 **PAGA Released Claims.** “PAGA Released Claims” shall mean all claims, theories,  
19 and causes of action alleged or that could have been alleged or otherwise raised based on the factual  
20 allegations set forth in Plaintiff’s letter to the LWDA that was sent on February 13, 2023. This  
21 includes claims under Labor Code sections 201-204, 210, 226, 226.3, 226.7, 510, 1174(d), 1174.5,  
22 1194, 1197, 1197.1, 1198, 2802, 2699 (f)(2), and the IWC Wage Orders for: (a) all claims for failure  
23 to pay for all hours worked, including minimum, straight time and overtime wages; (b) all claims for  
24 failure to provide meal periods and/or premiums; (c) all claims for failure to authorize and permit  
25 rest periods and/or pay premiums; (d) all claims for failure to pay all earned wages twice per month;  
26 (e) all claims for failure to maintain accurate records of hours worked and meal periods; (f) all claims

for failure to timely pay all wages at termination; (g) all claims for failure to furnish accurate itemized wage statements; and (h) all claims for failure to indemnify for necessary expenditures. The PAGA Released Claims will bind the PAGA Members even if they timely and validly opt out of the Settlement Class.

1.27 Participating Settlement Class Member(s). “Participating Settlement Class Members” shall mean Settlement Class Members who do not timely and validly opt-out of the Settlement Class in the manner set forth in this Agreement and described in the Notice Packet.

1.28 Parties. “Parties” shall mean Plaintiff (as defined below) and Defendant.

1.29 Pay Periods. “Pay Periods” means the number of pay periods a PAGA Member was employed during the PAGA Period.

1.30 Plaintiff. “Plaintiff” shall mean Plaintiff Candice Wade.

1.31 Preliminary Approval Date. “Preliminary Approval Date” shall mean the date upon which the Court enters an order preliminarily approving this Agreement, conditionally certifying the Class, approving the Notice Packet, appointing Plaintiff as the Class Representative, Plaintiff’s Counsel as Class Counsel, and APEX as the Settlement Administrator, and setting a Final Approval Hearing date.

1.32 Released Claims. “Released Claims” shall mean all claims, rights, demands, liabilities, damages, penalties, attorneys’ fees, costs, and causes of action of every nature and description, arising from any and all claims which were asserted in the Action or reasonably could have been asserted based on the facts alleged in the Action, and arising or occurring during the Class Period of this settlement, including statutory, constitutional or common law claims for wages, damages, unpaid costs, liquidated damages, penalties, interest, attorneys’ fees, litigation costs, restitution, equitable relief, or other relief based on the following categories of allegations as set forth in the operative complaints: (a) all claims for unpaid wages, including overtime wages, minimum wages and straight time wages; (b) all claims for failure to provide meal periods; (c) all claims for failure to authorize and permit rest periods; (d) all claims for failure to timely pay final wages; (e) all

claims for the failure to provide accurate wages statements; (f) all claims for failure to indemnify business expenses; (g) all claims for Unfair Business Practices under California’s Business and Professions Code section 17200, *et seq.*; and (h) all claims for any and all penalties pursuant to the Private Attorneys General Act (Labor Code § 2699, *et seq.*).

1.33 **Released Parties.** “Released Parties” shall mean Defendant and its officers, directors, managers, owners, executives, partners, employees, shareholders, agents, attorneys, and any other successors, assigns, or legal representatives and any of Defendant’s former and present parents, subsidiaries, successors, and affiliates, and their officers, directors, managers, owners, executives, partners, employees, shareholders, agents, attorneys, and any other successors, assigns, or legal representatives.

1.34 **Response Deadline.** “Response Deadline” shall mean forty-five (45) calendar days following the date on which the Settlement Administrator first mails the Notice Packet to all Settlement Class Members. Settlement Class Members who receive a remailed Notice Packet fifteen (15) days or less before the Response Deadline shall have fifteen (15) days from the date the Notice Packet is remailed to postmark an Opt-Out request, object to the Agreement, or dispute the information on which their Individual Settlement Payment is calculated.

1.35 **Settlement.** “Settlement” shall mean the settlement between Parties, which is memorialized in this Agreement, including any attached exhibits, and subject to Court approval.

1.36 **Settlement Administrator.** “Settlement Administrator” shall mean APEX, the third-party settlement administrator selected by the Parties and to be approved by the Court, which the Parties have agreed will be responsible for administration of the Settlement and related matters. The qualifications and experience of the Settlement Administrator will be provided pursuant to a declaration submitted by the Settlement Administrator that will be filed concurrently with Plaintiff’s motion for preliminary approval. The Administration Expenses are estimated to not exceed \$8,500.00.

1.37 **Settlement Class.** “Settlement Class” shall mean all current and former hourly-paid

employees of Defendant within the State of California at any time during the Class Period.

1.38 **Settlement Class Member.** “Settlement Class Member” means a member of the Settlement Class. If the Class Member is incompetent or deceased, the individual’s legal guardian, executor, heir, or successor-in-interest, may submit the proper documentation to the Administrator to claim such Settlement Class Member’s Individual Settlement Payment.

1.39 **Pay Periods Worked.** “Pay Periods Worked” means any pay period during the Class Period in which a Settlement Class Member worked at least one day in that pay period.

1.40 **Enhancement Payment.** Plaintiff’s Counsel will request, and Defendant will not oppose, an Enhancement Payment of Ten Thousand Dollars (\$10,000.00) to Plaintiff, to be paid out of the Gross Settlement Amount.

## **2. FACTUAL AND PROCEDURAL BACKGROUND OF ACTION**

2.1 On January 30, 2023, Plaintiff filed the Action entitled *Candice Wade v. Mallory Safety and Supply LLC*, Case No. 23CV00951, in the Superior Court of California, County of Siskiyou, on behalf of herself and all others similarly situated, alleging claims including (1) failure to Pay Minimum and Straight Time Wages; (2) failure to Pay Overtime Wages; (3) Failure to Provide Meal Periods; (4) Failure to Authorize and Permit Rest Periods; (5) Failure to Timely Pay Final Wages at Termination; (6) Failure to Provide Accurate Itemized Wage Statements; (7) Failure to Indemnify Employees for Expenditures; and (8) Unfair Business Practices. On or about April 21, 2023, Plaintiff Filed a First Amended Class & Representative Action Complaint, which is the operative Complaint, which adds a Ninth Cause of Action for Civil Penalties Under PAGA (Cal. Lab. Code § 2699 *et seq.*) (“Complaint”).

2.2 On February 13, 2023, Candice Wade submitted a letter to the LWDA alleging violations of the PAGA, alleging similar violations to those alleged in the Action (the “LWDA Letter”).

2.3 The Parties agreed to explore the possibility of a mediation. Upon agreement to attend mediation and to prepare for a meaningful and informed session, Class Counsel requested, and

1 Defense Counsel produced, time and payroll records, relevant policies, and information regarding  
2 the class and the potentially aggrieved employees.

3       2.4       With sufficient discovery conducted to evaluate the viability of the claims and  
4 theories alleged, and Defendant's potential liability on class wide and PAGA bases and its defenses,  
5 on August 1, 2023, the Parties participated in an all-day mediation with Jeff Krivis, Esq., an  
6 experienced and respected mediator of wage and hour class and PAGA actions. During mediation  
7 the Parties agreed to settle the Action.

8       2.5       The Parties and their respective counsel believe this Agreement reflects a fair,  
9 adequate, and reasonable settlement of the Action and have arrived at this Agreement because of  
10 arm's-length negotiations, facilitated by an experienced and neutral mediator, considering all  
11 relevant factors, present and potential.

12 **3.       ALLEGATIONS OF THE CLASS REPRESENTATIVE AND BENEFITS OF CLASS**  
13 **SETTLEMENT**

14       3.1       The investigation and extensive exchange of information in this matter, as well as  
15 discussions between counsel have been adequate to give and Class Counsel an understanding of the  
16 merits of the Parties' respective positions and to evaluate the worth of the claims of the Settlement  
17 Class. The information and data exchanged by the Parties prior to and during mediation and  
18 settlement negotiations are sufficient to reliably assess the merits of the Parties' respective positions  
19 and to compromise the issues on a fair and equitable basis.

20       3.2       The Parties recognize and acknowledge the expense and delay of continued lengthy  
21 proceedings necessary to prosecute the Action against Defendant through trial and through appeals.  
22 Class Counsel have considered the uncertain outcome of the litigation, the risk of continued  
23 litigation in complex actions such as this, as well as difficulties and delays inherent in such litigation,  
24 the potential difficulty of obtaining certification of the Action, as well as trying the claims of the  
25 Settlement Class. Class Counsel believe that the Settlement set forth in this Agreement confers  
26 substantial benefits upon Plaintiff and the Settlement Class Members and that an independent review  
27  
28

of this Agreement by the Court in the approval process will confirm this conclusion. Based on their own independent investigation and evaluation, Class Counsel have determined that the Settlement set forth in the Agreement is in the best interests of Plaintiff and the Settlement Class Members.

**4. NO ADMISSION OF ANY LIABILITY AND CONDITIONAL CERTIFICATION.**

4.1 This Agreement represents a compromise and settlement of highly disputed claims. This Agreement does not constitute, is not intended to constitute, and will not be deemed to constitute, an admission of liability by Defendant as to the merits, validity, or accuracy of any of the allegations or claims made against Defendant in the Action or the appropriateness of class or conditional certification. Defendant denies each and all of Plaintiff's allegations in their entirety and alleges that Plaintiff and all other Settlement Class Members were paid all wages owed, including straight time, minimum and overtime wages, were properly paid all for hours worked, received proper rest and meal breaks, received accurate itemized wage statements, were timely paid all wages due, timely received all pay due at termination, were reimbursed for all necessary business expenses, and Defendant did not engage in unfair business practices.

4.2 Nothing in this Agreement nor any action taken or made in implementation thereof, nor any statements, discussions, or communications, nor any materials prepared, exchanged, issued, or used during the course of the negotiations leading to the Agreement, is intended by the Parties to, nor will any of the foregoing constitute, be introduced, be used, or be admissible in any way in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding as evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule, or executive order, or any obligation or duty at law or in equity. The Agreement may be used in any proceeding in the Court for the interpretation, implementation, or enforcement of the Agreement or any orders or judgments of the Court entered in connection therewith.

4.3 The Parties agree that Plaintiff's motion for preliminary approval of the Settlement seeking certification of a class action and Defendant's agreement thereto is for purposes of the Settlement only. Solely for the purpose of this Agreement, including effectuating its terms, the

Parties stipulate to conditional certification of the Settlement Class. If, for any reason, the Settlement is not approved, the stipulation for certification will have no force or effect. The Parties agree that certification for purposes of the Settlement is in no way an admission that class certification or conditional certification of a collective action is proper under the standard applied to contested certification motions and that this Agreement will not be admissible in this or any other proceeding as evidence that: (a) a class or representative action should be certified as Plaintiff proposed; or (b) Defendant is liable to Plaintiff or the Settlement Class Members as Plaintiff alleged. Further, neither this Agreement nor the Court's actions regarding this Agreement will be admissible in any court or other tribunal regarding the propriety of class certification for purposes other than the settlement of this Action. If this Agreement is not approved by the Court or any appellate court, is terminated, or otherwise fails to be enforceable, Defendant will not be deemed to have waived, limited, or affected in any way any of its objections or defenses in the Action, including, but not limited to, its ability to move to compel arbitration, raise defenses in opposition to certification, contest the merits of the claims and theories alleged, etc.

## **5. CLASS SETTLEMENT CONSIDERATION**

5.1 **Gross Settlement and Net Settlement Amounts and Distribution.** Subject to terms and conditions of this Agreement, and subject to Court approval, the claims of all Settlement Class Members are settled for a Gross Settlement Amount of One Hundred Fifty Thousand Dollars (\$150,000.00), no portion of which will revert to Defendant under any circumstances. The Gross Settlement Amount and other actions and forbearances taken by Defendant shall constitute adequate consideration for the Settlement and will be made in full and final settlement of: (a) the Released Claims, (b) Class Counsel's Attorneys' Fees and Expenses, (c) Enhancement Payment to Plaintiff; (d) Administration Expenses, (e) PAGA Payment, and (f) the Individual Settlement Payments to Participating Settlement Class Members, and any other obligation of Defendant under this Agreement (other than the Employer's Taxes).

5.2 **Payments to Participating Settlement Class Members.** Each Participating

1 Settlement Class Member shall be eligible to receive an Individual Settlement Payment based on  
2 their tenure, *i.e.*, the number of Pay Periods Worked during the Class Period, in relation to the number  
3 of Pay Periods Worked by all Participating Class Members. The Individual Settlement Payment will  
4 be subject to the Employee Taxes and Required Withholdings. Plaintiff and Participating Settlement  
5 Class Members who receive an Individual Settlement Payment pursuant to this Agreement shall be  
6 solely responsible for any and all other individual tax obligations associated the payment.

7       5.3     Allocation of Individual Settlement Payment. The Parties agreement that the  
8 Individual Settlement Payment shall be allocated as follows: (a) twenty percent (20%) to wages and  
9 reported on an IRS W-2 basis; (b) thirty percent (30%) to interest to be reported on an IRS form  
10 1099; and (c) fifty percent (50%) to penalties to be reported on an IRS form 1099. PAGA Members'  
11 portion of the PAGA Payment will be allocated one hundred percent (100%) penalties to be reported  
12 on an IRS form 1099. Defendant agrees to pay the Employer's Taxes on that portion of Individual  
13 Settlement Payment allocated to W-2 wages, which will be computed and paid by the Administrator,  
14 but funded separately and in addition to the Gross Settlement Amount.

15       5.4     No Effect on Employee Benefits. Neither the Settlement nor any amounts paid  
16 under the Settlement will modify any previously credited hours, days, or weeks or service under any  
17 employee benefit plan, policy or bonus program sponsored by Defendant (or its affiliates). Such  
18 amounts will not form the basis for additional contributions to, benefit under, or any other monetary  
19 entitlement under Defendant's sponsored benefit plans, policies, or bonus programs, if any. The  
20 payments made under the terms of this Settlement shall not be applied retroactively, currently, or on  
21 a going forward basis, as salary, earnings, wages, or any other form of compensation for the purposes  
22 of any of Defendant's benefit plans, policies or bonus programs, if any. Defendant retains the right  
23 to modify the language of its benefits plans, policies and bonus programs to effect this intent and to  
24 make clear that any amounts paid pursuant to this Agreement are not for "weeks worked," "weeks  
25 paid," "weeks of service," or any similar measuring term as defined by applicable plans, policies and  
26 bonus programs for purpose of eligibility, vesting, benefit accrual, or any other purpose, and that

1 additional contributions or benefits are not required by this Agreement. Defendant does not consider  
2 the Individual Settlement Payments “compensation” for purposes of determining eligibility for, or  
3 benefit accrual within, any benefits plan, policy, or bonus program, or any other plan or program  
4 sponsored by Defendant (or its affiliates), if any.

5       5.5       **Class Counsel Attorneys’ Fees and Expenses.** As part of the motion for final  
6 approval of the Settlement, Class Counsel may submit an application for an award of Class Counsel’s  
7 Attorneys’ Fees and Expenses with the fee portion not to exceed one-third (1/3) of the Gross  
8 Settlement Amount, or Fifty Thousand Dollars (\$50,000.00), and the award of actual documented  
9 costs or expenses not to exceed Twenty Five Thousand Dollars (\$25,000). Defendant agrees not to  
10 object to any such fee, cost, or expense application up to those amounts. As a condition of this  
11 Settlement, Class Counsel has agreed to pursue fees only in the manner reflected by this Section.  
12 Any Class Counsel Attorneys’ Fee and Expenses awarded by the Court shall be paid from the Gross  
13 Settlement Amount. If the Class Counsel voluntarily reduces the request for Class Counsel’s  
14 Attorneys’ Fees and Expenses or the Court’s award is less than set forth above, the difference shall  
15 remain with the Net Settlement Amount.

16       The Class Counsel’s Attorneys’ Fees and Expenses approved by the Court shall encompass:  
17 (a) all work performed and costs and expenses incurred by, or at the direction of, any attorney  
18 purporting to represent the Settlement Class through the date of this Agreement; (b) all work to be  
19 performed and costs to be incurred in connection with approval by the Court of the Settlement set  
20 forth in this Agreement; (c) all work to be performed and costs and expenses, if any, incurred in  
21 connection with administering the Class Settlement through the Effective Date; and (d) may be based  
22 on the Catalyst Theory and/or Common Fund Doctrine.

23       5.6       **Enhancement Payment to Plaintiff.** Plaintiff’s Counsel will request, and  
24 Defendant will not oppose, an Enhancement Payment of Ten Thousand Dollars (\$10,000.00) to  
25 Plaintiff, to be paid out of the Gross Settlement Amount.

26       5.7       **Payment of Class Counsel’s Attorneys’ Fees and Expenses and Enhancement**

1 **Payment.** Class Counsel's Attorneys' Fees and Expenses and Plaintiff' Enhancement Payment, as  
2 awarded by the Court, shall be paid by the Settlement Administrator from the Gross Settlement  
3 Amount within thirty (30) calendar days of the Effective Date.

4 **6. ADMINISTRATION COSTS AND EXPENSES**

5 6.1 **The Settlement Administrator's Costs and Expenses.** All costs and expenses due  
6 to the Settlement Administrator in connection with its administration of the Settlement described in  
7 the Agreement, including, but not limited to: (a) translating, formatting, and mailing the Notice  
8 Packet by first class U.S. Mail; (b) performing a National Change of Address Database ("NCOA")  
9 search to update Settlement Class Members' addresses prior to the initial mailing of the Notice  
10 Packets; (c) performing skip-traces to locate and update Settlement Class Members' address on the  
11 return of undelivered Notice Packets; (d) establishing a toll-free number and post office box for the  
12 receipt of Class Member communications; (e) processing Opt-Out requests (and sending those to  
13 counsel for Defendant), objections, and disputes; (f) calculating and distributing Individual  
14 Settlement Payments to Participating Settlement Class Members and the portion of the PAGA  
15 Payment to PAGA Members; (g) tax reporting; (h) providing the Parties' counsel weekly status  
16 reports and declarations as needed and requested by the Parties or by the Court; (i) creating and  
17 maintaining a static website to provide Settlement Class Members notice of any change to the date  
18 or location of the hearings and notice of final judgment; and (j) performing other tasks as reflected  
19 within this Agreement. The Settlement Administrator will send any Opt-Out forms received to  
20 Defense Counsel. The Administration Expenses shall be paid by the Settlement Administrator to the  
21 Settlement Administrator from the Gross Settlement Amount within thirty (30) calendar days of the  
22 Effective Date.

23 **7. NOTICE TO CLASS MEMBERS**

24 7.1 **Notice to Class Members.** Within twenty (20) calendar days of Preliminary  
25 Approval of the Settlement, Defendant shall electronically transmit the Class List and Data to the  
26 Settlement Administrator. This information will not be shared with and/or provided to Class Counsel  
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28

1 in any way. This confidentiality provision is in the best interest of the Settlement Class because it  
2 will reduce the likelihood of Settlement Class Members' personal information being leaked, thereby  
3 exposing them to identity theft. This confidentiality provision will not impede Class Counsel's ability  
4 to discharge their fiduciary duties.

5 Within ten (10) calendar days of receipt of the Class List and Data from Defendant and after  
6 the Settlement Administrator performs an NCOA search to update Settlement Class Members'  
7 addresses, the Settlement Administrator will mail by first-class U.S. Mail the Notice Packet. The  
8 exterior of the mailing envelope shall include the words below the Administrator's address, the  
9 following:

10 **IMPORTANT LEGAL DOCUMENT:**  
11 **You may get money from a Class Action**  
12 **Settlement; your prompt reply to correct a**  
13 **outdated address may be required.**

14 The Notice Packet will inform Settlement Class Members of the nature of the Action, the  
15 allegations made, the claims being settled, and releases to be given, the employment information on  
16 which their Individual Settlement Payment will be calculated, of the estimated amount of their  
17 Individual Settlement Payment, and of their right to request exclusion, to object, and to dispute the  
18 information on which their payments will be paid and the deadline for doing any of these acts. The  
19 Notice Packet will also inform Settlement Class Members of the date, time, and place set for the  
20 Final Approval and Fairness Hearing and will advise them that they may appear at the Final Approval  
21 and Fairness Hearing without first submitting a written objection.

22 7.2 **Returned Notice Packet.** If a Notice Packet is returned to the Settlement  
23 Administrator with a forwarding address affixed to the front, the Settlement Administrator will  
24 resend the Notice Packet to the forwarding address affixed thereto. If a Notice Packet is returned  
25 because of an incorrect mailing address, without a forwarding address affixed, the Settlement  
26 Administrator will promptly, and not longer than three (3) days of receipt of the returned Notice  
27 Packet, search for a more current address by way of skip-trace using the Settlement Class Member's  
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1 Social Security Number, and remail the Notice Packet to the Settlement Class Member if an updated  
2 address is located. The Settlement Administrator will be responsible for taking reasonable steps,  
3 consistent with its agreed-upon job parameters, Court orders, and fee, as agreed to with the Parties  
4 to trace the mailing address of any Settlement Class Member for whom a Notice Packet is returned  
5 by the U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum: (a)  
6 the tracking of all undelivered mail; (b) performing address searches for all mail returned without a  
7 forwarding address; and (c) promptly remailing to Settlement Class Members for whom new  
8 addresses are found. If the Notice Packet is remailed, the Administrator will note for its own records  
9 and notify to Counsel for the Parties of the date of each such re-mailing as part of a weekly status  
10 report provided to the Parties. Settlement Class Members who receive a remailed Notice Packet  
11 fifteen (15) days or less before the Response Deadline shall have fifteen (15) days from the date the  
12 Notice Packet is remailed to postmark an Opt-Out request, object to the Agreement, or dispute the  
13 information on which their Individual Settlement Payment is calculated.

14       7.3       **Disputing Information.** Settlement Class Members may dispute the information on  
15 which their Individual Settlement Payment are calculated by returning a written statement to the  
16 Settlement Administrator postmarked by the Response Deadline in the manner described in the  
17 Notice Packet. The Settlement Class Member must provide information, documents, or other  
18 evidence supporting his or her position.

19       Upon the timely receipt of a dispute, the Settlement Administrator will notify Defense  
20 Counsel in writing (email constitutes a writing for this purpose) of the dispute. Defendant's records  
21 will be presumed determinative, absent information, documents, or other evidence to rebut  
22 Defendant's records, but the Settlement Administrator will evaluate the information submitted by the  
23 Class Member and decide as to the validity of such evidence.

24       7.4       **Opt-Out Requests.** The Notice Packet will provide that Settlement Class Members  
25 who wish to exclude themselves from the Settlement Class and Settlement must mail to the  
26 Settlement Administrator a written request for exclusion postmarked by the Response Deadline (and  
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pursuant to the terms of the Response Deadline). The date of mailing on the envelope shall be deemed the exclusive means for determining if a request for exclusion was timely received.

(i) To be valid, a request for exclusion must be timely and must comply with the instructions detailed in the Notice Packet, including providing: (1) the name and address of the Settlement Class Member; (2) a statement expressing that the Settlement Class Member elects to be excluded from the Settlement; (3) the last four (4) digits of their Social Security Number [for identity verification purposes only]; and (4) a signature by the Settlement Class Member. If a question is raised about the authenticity of a signed request for exclusion, the Settlement Administrator will have the right to demand additional proof of the Settlement Class Member's identity.

(ii) A Settlement Class Member who submits a valid and timely Opt-Out request will not participate in or be bound by the Released Claims and the Judgment. However, should this individual be a PAGA Member, they will still receive a portion of the PAGA Payment allocated to the PAGA Members (*i.e.*, 25% of the \$10,000.00, which is \$2,500.00) and will still be bound by the PAGA Released Claims. The Settlement Administrator will determine the individual PAGA payment by comparing the number of Pay Periods the PAGA Member was employed during the PAGA Period to the total number of Pay Periods all PAGA Members were employed during the PAGA Period. In this instance, any Class Member who submits a valid and timely Opt-Out request and who is also a PAGA Member will only be bound by the PAGA Released Claims.

(iii) A Settlement Class Member who does not complete and mail a timely Opt-Out request in the manner and by the Response Deadline will become a Participating Settlement Class Member, will receive an Individual Settlement Payment, and will be bound by all terms and conditions of the Settlement, including the Released Claims, if the Settlement is approved by the Court, and by the Judgment, regardless of whether they have objected to the Settlement.

7.5 **Objections to Settlement.** The Notice Packet will provide instructions and the manner for submitting written objections to the Settlement and will indicate that only Participating Settlement Class Members may object to the Settlement. If a Settlement Class Member returns both

a written objection and an Opt-Out request, the Opt-Out request will be invalidated, and the written objection will be accepted.

Written objections must be postmarked and returned to the Settlement Administrator no later than the Response Deadline. The date of mailing on the envelope shall be deemed the exclusive means for determining if the written objection was timely. Written objections must be signed by the Settlement Class Member, state the last four (4) digits of their Social Security Number [for identity verification purposes only] and should set forth: (a) the full name and address of the objecting Settlement Class Member; (b) the grounds for each objection made; and (c) whether the Settlement Class Member intends to appear at the Final Approval Hearing. Either or both Parties may file a response to any objection before the Final Approval Hearing. Any attorney who will represent an individual objecting to this Settlement who has not filed a written objection must file a notice of appearance with the Court and serve Class Counsel and Defense Counsel with this notice by the Response Deadline. Any Settlement Class Member who fails to submit a timely written objection or to present an objection at the Final Approval Hearing shall be deemed to have waived any objections and shall be foreclosed from making any objection to the Settlement whether by appeal or otherwise. Settlement Class Members are not required to submit written objections to be heard at the Final Approval Hearing.

7.6 **Report.** No later than five (5) business days after the deadline for submission of Opt-Out / Objection requests, the Administrator will provide Class Counsel and Defense Counsel with a complete and accurate count of Participating Settlement Class Members and Opt-Outs in a signed declaration.

## 8. FUNDING AND DISTRIBUTION

8.1 **Funding of the Gross Settlement Amount and the Employer's Taxes.** The Settlement Administrator will calculate the Employer's Taxes and inform Defendant of the total amount of the Employer's Taxes due. The Administrator shall also provide Defendant with its bank wire instructions to establish the Qualified Settlement Fund ("OSF").

1 Within seven calendar (7) days of the Effective Date, Defendant shall transmit the Gross  
2 Settlement Amount of One Hundred Fifty Thousand Dollars (\$150,000.00) and the Employer's  
3 Taxes to the Settlement Administrator to pay: (a) the Class Counsel's Attorneys' Fees and Expenses,  
4 as approved by the Court; (b) the Enhancement Payment; (c) the Administrative Expenses, as  
5 approved by the Court; (d) the PAGA Payment, as approved by the Court; and (e) the remaining Net  
6 Settlement Amount to be distributed entirely to Participating Class Members on a proportionate basis.  
7 To the extent Participating Settlement Class Members worked during the PAGA Period, they will  
8 receive a proportionate share of the PAGA Payment available to PAGA Members (\$2,500.00).  
9 Defendant shall not be obligated to pay more than One Hundred Fifty Thousand Dollars  
10 (\$150,000.00) plus the Employer's Taxes in connection with this Settlement (except as set forth  
11 immediately below).

12 Defendant estimates that there are approximately 121 Class Members and 9,432 work weeks,  
13 and 91 PAGA Group Members and 1,923 pay periods. If it is determined that the number of work  
14 weeks from January 30, 2019 to October 1, 2023 increases by more than 10%, or 944, then the Gross  
15 Settlement Amount shall be increased proportionally by the workweeks worked in excess of 10,376  
16 multiplied by the workweek value. The workweek value shall be calculated by dividing the Gross  
17 Settlement Amount by the estimated 9,432 workweeks. The workweek value is \$15.90  
18 (\$150,000/9,432 workweeks). Thus, for example, should there be 10,500 workweeks in the Class  
19 Period, then the Gross Settlement Amount shall be increased by \$1,971.60 [(10,500 workweeks-  
20 10,376 workweeks] x [\$15.90/workweek]).

21 8.2 **Distribution of the Gross Settlement Amount.** Within thirty (30) calendar days of  
22 the Effective Date, the Administrator will calculate and pay to Participating Settlement Class  
23 Members their Individual Settlement Payments via first-class regular U.S. Mail. Within thirty (30)  
24 calendar days of the Effective Date, the Administrator will pay to Class Counsel the Court-awarded  
25 Class Counsel's Attorneys' Fees and Expenses and Plaintiff's Enhancement Payment; to the PAGA  
26 Members and LWDA the Court-approved PAGA Payment; and to the Administrator the Court-

awarded Administration Expenses.

8.3 **Calculation of the Individual Settlement Payments.** Participating Class Members will receive a pro-rated share of the NSA based on the total number of weeks worked as a Settlement Class Member any time during the Class Period, in relation to the aggregate number of weeks worked by all Participating Settlement Class Members, based on the following formula:

$$\text{Individual Settlement Payment} = \text{NSA} \times (\text{Individual's Number of Weeks Worked} \div \text{Aggregate Weeks Worked by all Participating Settlement Class Members During the Class Period})$$

The estimated amount of the Settlement Class Member's Individual Settlement Payment will be calculated by the Settlement Administrator and inserted in the Settlement Class Member's individual Notice Packet, together with their aggregate number of Pay Periods Worked during the Class Period and the number of pay periods employed during the PAGA Period.

If a Settlement Class Member is also a PAGA Member, they will also receive a proportionate share of Two Thousand, Five Hundred Dollars (\$2,500.00) (25% of the PAGA Payment), in addition to the Individual Settlement Payment, based on the following formula:

$$\text{Individual PAGA payment} = \$2,500 \times (\text{Individual's Number of Pay Periods Worked} \div \text{Aggregate Pay Periods Worked by all PAGA Members During the PAGA Period})$$

Defendant shall have no responsibility for deciding the accuracy of the Individual Settlement Payments or any other payments made pursuant to this Agreement. Furthermore, as the Settlement Administrator shall calculate the Employer's Taxes and Required Withholdings, and reporting such amounts to the appropriate governmental authorities, Defendant shall have no responsibility for the determination or payment of Employee's Taxes and Required Withholdings. The Notice Packet will inform Settlement Class Members that they will be solely responsible for any and all tax obligation associated with their respective Individual Settlement Payments.

8.4 **Time for Payment of Taxes and Required Withholding and Individual Settlement Payments.** The Settlement Administrator shall make every effort to pay the Employee's Taxes and the Required Withholding associated with each Participating Settlement Class Member's

Individual Settlement Payment as required by law upon the mailing of the Participating Settlement Class Member's Individual Settlement Payments. If the Settlement Administrator is not able to do so within the time period set forth above, it shall so inform Class Counsel and Defense Counsel and provide an approximate date by which Employee's Taxes and Required Withholding shall be paid.

8.5 Non-Cashed Settlement Checks. Participating Settlement Class Member shall have one hundred eighty days (180) to cash their checks. Any funds associated with uncashed checks after one hundred eighty (180) days will be sent to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code sections 1500, *et seq.*, for the benefit of those Settlement Class Members whose checks were voided.

8.6 Time for Payment of PAGA Payment to the LWDA. The Settlement Administrator shall distribute to the LWDA the PAGA Payment approved by the Court no later than thirty (30) calendar days after the Effective Date.

## 9. NULLIFICATION OF THIS AGREEMENT

9.1 Non-Approval of the Agreement. If (a) the Court should for any reason fail to approve this Agreement in the form agreed to by the Parties, or (b) the Court should for any reason fail to enter a judgment on this Action, or (c) the approval of the Settlement and judgment is reversed, modified or declared or rendered void, then the Settlement and conditional class certification shall be considered null and void, and neither the Settlement, conditional class certification, nor any of the related negotiations or proceedings shall be of any force or effect, and all Parties to the Settlement shall stand in the same position, without prejudice, as if the Settlement has been neither entered into nor filed with the Court. Notwithstanding the foregoing, the Parties may attempt in good faith to cure any perceived defects in the Agreement to facilitate approval. If the Court awards less than the requested amounts for Administration Expenses, Class Counsel's Attorneys' Fees and Expenses, Plaintiff's Enhancement Payment, or PAGA Payment, the difference shall become part of the Net Settlement Amount.

9.2 Parties' Right to Void Class Settlement. If ten percent (10%) or more of the

Settlement Class Members opt out, Defendant may, at its election, rescind the Settlement and all actions taken in its furtherance of it will be thereby null and void. Defendant must exercise this right of rescission, in writing, to Class Counsel, within twenty-one (21) calendar days after the Administrator notifies the Parties of the total number of opt-outs. If the option to rescind is exercised, Defendant shall be responsible for all costs of the administration accrued to that point.

Defendant also has the right to withdraw from the Settlement if the Court: (1) does not approve the material terms set forth in this Agreement after efforts to satisfy the Court's concerns are made by the Parties; (2) does not conditionally certify the Settlement Class; (3) does not conditionally certify a class releasing the Released Claims; or (4) does not grant final approval of the Settlement or enter Judgment. If this occurs, the Parties will be restored to their positions as of the date prior to the Agreement being fully executed, and they shall be equally responsible for all costs of Administration accrued to that point.

9.3 **Invalidation.** Invalidation of any material portion of the Settlement shall invalidate the Settlement in its entirety, unless the Parties shall subsequently agree in writing that the remaining provisions of the Settlement are to remain in full force and effect.

9.4 **Stay Upon Appeal.** In the event of a timely appeal from the approval of the Class Settlement and Judgment, the Judgment shall be stayed, and Defendant shall not be obligated to fund the Gross Settlement Amount or take any other actions required by this Agreement until all appeal rights have been exhausted by operation of law.

## **10. MOTION FOR COURT APPROVAL**

10.1 **Preliminary Approval.** Class Counsel will submit this Agreement to the Court along with a Motion for Order Granting Preliminary Approval of the Settlement. Each Party shall cooperate to present the Settlement to the Court for preliminary approval in a timely fashion. Prior to the filing of the Preliminary Approval Motion, Class Counsel will provide the Preliminary Approval Motion to Defendant for review and comment.

10.2 **Final Approval.** Following the close of the Response Deadline, and upon a date set

1 by the Court as set forth in the Order Granting Preliminary Approval, Plaintiff shall move the Court  
2 for the entry of the final order certifying the Class for settlement purposes only and approving the  
3 Settlement as being fair, reasonable and adequate to the Participating Settlement Class Members  
4 within the meaning of California Rules of Court, Rule 3.769(c), (d) and (e) and for the entry of a  
5 final judgment of the Action consistent with the terms of the Class Settlement and California Rule of  
6 Court 3.769(h). Class Counsel and/or Defense Counsel shall submit to the Court such pleadings  
7 and/or evidence as may be required for the Court's consideration in ruling on the motion.

8 **11. RELEASES AND WAIVERS**

9 11.1 **Release of Claims by Plaintiff and the Participating Class Members.**

10 Upon the funding of the Gross Settlement Amount, each Settlement Class Member who has  
11 not submitted a timely request to Opt-Out and Plaintiff will be bound by the Judgment entered and  
12 will release the Released Parties, and each of them, of and from any and all Released Claims for the  
13 Class Period. It is the desire of the Parties and the Settlement Class Members to fully, finally, and  
14 forever settle, compromise, and discharge the Released Claims during the Class Period. Each  
15 Settlement Class Member, except those who timely Opt-Out, will be bound to the release of Released  
16 Claims as a result of the Class Settlement and to the terms of the final judgment and the satisfaction  
17 of such judgment.

18 Settlement Class Members who do not opt out will be deemed to have acknowledged and  
19 agreed that their claims for wages and/or penalties in the Action are disputed, and that their Individual  
20 Settlement Payment constitutes payment of all sums allegedly due to them. Class Members will be  
21 deemed to have acknowledged and agreed that Labor Code Section 206.5 is not applicable to the  
22 Individual Settlement Payment. That section provides in pertinent part as follows:

23 **“An employer shall not require the execution of a release of a**  
24 **claim or right on account of wages due, or to become due, or**  
25 **made as an advance on wages to be earned, unless payment of**  
26 **those wages has been made.”**

1           11.2     Release by the LWDA, Plaintiff, and PAGA Members. Upon the funding of the  
2 Gross Settlement Amount, the LWDA, the State of California, Plaintiff, and the PAGA Members  
3 shall be deemed to have released the Released Parties, and each of them, of and from any and all  
4 PAGA Released Claims during the PAGA Period.

5           11.3     Release of Claims by Plaintiff. Plaintiff, on behalf of herself and her heirs,  
6 executors, administrators, and representatives, shall and does forever release, discharge and agrees  
7 to hold harmless the Released Parties from any and all charges, complaints, claims, liabilities,  
8 obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights,  
9 demands, costs, losses, debt and expenses (including attorneys' fees and costs), known or unknown,  
10 at law or in equity, which they may now have or may have after the signing of this Stipulation, arising  
11 out of or in any way connected with their employment with or assignment at Defendant including,  
12 the Released Claims, claims that were asserted or could have been asserted in the Complaint, Action,  
13 and any and all transactions, occurrences, or matters between the Parties. Without limiting the  
14 generality of the foregoing, this release shall include, but not be limited to, any and all claims under  
15 the (a) Americans with Disabilities Act, as amended; (b) Title VII of the Civil Rights Act of 1964,  
16 as amended; (c) the Civil Rights Act of 1991; (d) 42 U.S.C. § 1981, as amended; (e) the Age  
17 Discrimination in Employment Act, as amended; (f) the Fair Standards Act, as amended; (g) the  
18 Equal Pay Act; (h) the Employee Retirement Income Security Act, as amended; (i) the Consolidated  
19 Omnibus Budget Reconciliation Act; (j) the Rehabilitation Act of 1973; (k) the Family and Medical  
20 Leave Act; (l) the Civil Rights Act of 1966; (m) the California Fair Employment and Housing Act;  
21 (n) the California Constitution; (o) the California Labor Code; (p) the California Government Code;  
22 (q) the California Civil Code; and (r) any and all other federal, state and local statutes, ordinances,  
23 regulations, rules and other laws, and any and all claims based on constitutional, statutory, common  
24 law or regulatory grounds as well as any other claims based on the theories of wrongful or  
25 constructive discharge, breach of contract or implied contract, fraud, misrepresentation, promissory  
26 estoppel or intentional and/or negligent infliction of emotional distress, or damages under any other

1 federal, state or local statutes, ordinances, regulations, rules or laws. This release is for any and all  
2 relief, no matter how denominated, including, but not limited to, overtime, wages, back pay, front  
3 pay, vacation pay, bonuses, compensatory damages, tortious damages, liquidated damages, punitive  
4 damages, damages for pain and suffering, and attorneys' fees and costs, and Plaintiffs hereby forever  
5 release, discharge and agree to hold harmless Defendant and the Released Parties from any and all  
6 claims for attorneys' fees and costs arising out of the matters released in this Stipulation.

7 Plaintiff acknowledges that she is aware and familiar with the provisions of section 1542 of  
8 the Civil Code, or any other similar provision under federal or state law, which provides:

9 **A general release does not extend to claims which the creditor or**  
10 **releasing party does not know or suspect to exist in his or her**  
11 **favor at the time of executing the release and that, if known by**  
12 **him or her, would have materially affected his or her settlement**  
13 **with the debtor or released party.**

14 Plaintiff, being aware of section 1542, hereby expressly waives and relinquishes all rights  
15 and benefits she may have under section 1542 as well as any other statutes or common law principles  
16 of a similar effect. Plaintiff may hereafter discover facts in addition to or different from those which  
17 she now knows or believes to be true with respect to the subject matter of all the claims referenced  
18 herein, but stipulates and agrees that, upon the funding of the Gross Settlement Amount, Plaintiff  
19 shall and hereby does fully, and forever settle and release any and all claims against the Released  
20 Parties, known or unknown, suspected or unsuspected, contingent or non-contingent, that were  
21 asserted or could have been asserted upon any theory of law or equity without regard to the  
22 subsequent discovery existence of such different or additional facts.

## 23 **12. DUTIES OF THE PARTIES**

24 12.1 **Mutual Full Cooperation.** The Parties agree to cooperate fully with one another to  
25 accomplish and implement the terms of this Agreement. Such cooperation shall include, but not be  
26 limited to, execution of such other documents and the taking of such other actions as may reasonably

1 be necessary to fulfill the terms of this Settlement. The Parties shall use their best efforts, including  
2 all effects contemplated by this Agreement and any other efforts that may become necessary by Court  
3 order or otherwise, to effectuate the terms of this Agreement. As soon as practicable after execution  
4 of this Agreement, Class Counsel, with the cooperation of Defendant and Defense Counsel, shall  
5 take all necessary and reasonable steps to secure the Court's final approval of this Agreement.

6 12.2 **Duty to Support and Defend the Settlement.** The Parties agree to abide by all the  
7 terms of the Settlement in good faith and to support the Class Settlement fully and to use their best  
8 efforts to defend this Settlement from any legal challenge, whether by appeal or collateral attack.

9 **13. MISCELLANEOUS PROVISIONS**

10 13.1 **Different Facts.** The Parties hereto, and each of them, acknowledge that, except for  
11 matters expressly represented herein, the facts in relation to the dispute and all claims released by the  
12 terms of this Agreement may turn out to be other than or different from the facts now known by each  
13 party and/or its counsel, or believed by such Party or counsel to be true, and each Party therefore  
14 expressly assumes the risk of the existence of different or presently unknown facts, and agrees that  
15 this Agreement shall be in all respects effective and binding despite such difference.

16 13.2 **No Prior Assignments.** The Parties represent, covenant, and warrant that they have  
17 not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or  
18 encumber to any person or entity any portion of any liability, claim, demand, action, cause of action,  
19 or right herein released and discharged except as set forth herein.

20 13.3 **Non-Admission.** Nothing in this Agreement shall be construed as or deemed to be  
21 an admission by any Party of any liability, culpability, negligence, or wrongdoing toward any other  
22 Party, or any other person, and the Parties specifically disclaim any culpability, negligence, or  
23 wrongdoing toward each other or any other person. Each of the Parties has entered into this  
24 Agreement with the intention to avoid further disputes and litigation with the attendant  
25 inconvenience, expenses, and contingencies. Nothing herein shall constitute any admissions by  
26 Defendant of wrongdoing or liability, or of the truth of any factual allegations in the Action. Nothing

1 herein shall constitute any admission by Defendant regarding the merits of the Claims in this Action,  
2 including but not limited to claims for unpaid wages under California and/or federal law. Nothing  
3 herein shall constitute an admission by Defendant that the Action was properly brought as a class or  
4 representative action other than for settlement purposes. To the contrary, Defendant has denied and  
5 continues to deny each and every material factual allegation and all Claims. To this end, the  
6 Settlement of the Action, the negotiation and execution of this Agreement, and all acts performed or  
7 documents executed pursuant to or in furtherance of this Agreement or the Settlement are not, shall  
8 not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability  
9 on the part of Defendant or of the truth of any of the factual allegations in the Complaint in the  
10 Action; and are not, shall not be deemed to be, and may not be used as, an admission or evidence of  
11 any fault or omission on the part of Defendant in any civil, criminal or administrative proceeding in  
12 any court, administrative agency or other tribunal.

13       13.4     **Media or Press.** Plaintiff and Defendant, and their respective counsel, agree to limit  
14 public comment on this Class Settlement, the Action, and claims in the Action, stating that the matter  
15 has been resolved to the satisfaction of the Parties. Neither Plaintiff or Defendant shall initiate public  
16 comment and/or discuss with or present to the media or press.

17       13.5     **Non-Retaliation.** Defendant understands and acknowledges that it has a legal  
18 obligation not to retaliate against any Settlement Class Member who elects to participate in the  
19 Settlement or elects to Opt-Out of the Class. Defendant will refer any inquiries regarding this  
20 Settlement to the Administrator or to Class Counsel and will not discourage, directly or indirectly,  
21 Class Members from opting out or objecting to the Settlement. The Parties and their respective  
22 counsel also agree not to encourage any Settlement Class Members to object to or opt out of the  
23 settlement.

24       13.6     **Construction.** The Parties hereto agree that the terms and conditions of this  
25 Agreement are the result of lengthy, intensive, arms-length non-collusive negotiations between the  
26 Parties and that this Agreement is not to be construed in favor of or against any party by reason of  
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1 the extent to which any Party or their counsel participated in the drafting of this Agreement. If any  
2 of the dates in the Agreement fall on a weekend, bank or court holiday, the time to act shall be  
3 extended to the next business day.

4 13.7 **Governing Law.** This Agreement is intended to and shall be governed by the laws  
5 of the State of California, without regard to conflict of law principles, in all respects, including  
6 execution, interpretation, performance, and enforcement.

7 13.8 **Notices.** Except for the mailing of the Notice Packet to Settlement Class Members  
8 by the Administrator, any and all notices or other communications required or permitted under this  
9 Agreement shall be in writing and shall be sufficiently given if delivered in person to the Party or  
10 their counsel by U.S. certified mail, postage pre-paid, e-mail, facsimile, or overnight delivery  
11 addressed to the address of the Party appearing in this Agreement.

12 13.9 **Captions and Interpretations.** Section titles or captions contained herein are  
13 inserted as a matter of convenience and for reference only and in no way define, limit, extend, or  
14 describe the scope of this Agreement or any provision thereof.

15 13.10 **Modification.** This Agreement may not be changed, altered, or modified, except in  
16 writing signed by the Parties and approved by the Court. This Agreement may not be discharged  
17 except by performance in accordance with its terms or by a writing signed by the Parties.

18 13.11 **Integration Clause.** This Agreement contains the entire agreement between the  
19 Parties relating to the Settlement of the Action and the transactions contemplated thereby, and all  
20 prior or contemporaneous agreements, understandings, representations, and statements, whether oral  
21 or written, and whether by a party or such party's legal counsel, are hereby superseded. No rights  
22 under this Agreement may be waived except in writing as provided above.

23 13.12 **Successors and Assigns.** This Agreement shall be binding upon and inure to the  
24 benefit of the Parties and Settlement Class Members (excluding only persons who timely opt-out)  
25 and their respective present and former heirs, trustees, executors, administrators, representatives,  
26 officers, directors, shareholders, agents, employees, insurers, attorneys, accountants, auditors,

advisors, consultants, pension and welfare benefit plans, fiduciaries, parent companies, subsidiaries, affiliates, related companies, joint ventures, predecessors, successors, and assigns.

13.13 Corporate Signatories. Any person executing this Agreement or any such related document on behalf of a corporate signatory or on behalf of a partnership hereby warrants and promises, for the benefit of all Parties hereto, that such person has been duly authorized by such corporation or partnership to execute this Agreement or any such related document.

13.14 Execution in Counterparts. This Agreement shall become effective upon its execution by all the undersigned. The Parties may execute this Agreement in counterparts, and execution of counterparts shall have the same force and effect as if all Parties had signed the same instrument.

13.15 Attorneys' Fees, Costs and Expenses. Except as otherwise specifically provided for herein, each Party shall bear their, her or its own attorneys' fees, costs, and expenses, taxable or otherwise, incurred by them in or arising out of the Action and shall not seek reimbursement thereof from any other Party to this Agreement.

IN WITNESS WHEREOF, the Parties and their counsel have executed this Agreement on the date below their signatures of their representatives. The date of the Agreement shall be the date of the latest signature.

[SIGNATURES CONTINUE NEXT PAGE]

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November 6, 2023

CDF LABOR LAW LLP



By: \_\_\_\_\_  
Amy S. Williams, Counsel for Defendant  
MALLORY SAFETY AND SUPPLY LLC

November 6, 2023

By: Tim Loy  
Tim Loy, on behalf of Defendant MALLORY  
SAFETY AND SUPPLY LLC

November \_\_\_, 2023

WILSHIRE LAW FIRM

By: \_\_\_\_\_  
Justin F. Marquez  
Benjamin H. Haber  
Arrash T. Fattahi  
Counsel for Plaintiff CANDICE WADE

November \_\_\_, 2023

By: \_\_\_\_\_  
Candice Wade, Plaintiff

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November \_\_, 2023

CDF LABOR LAW LLP

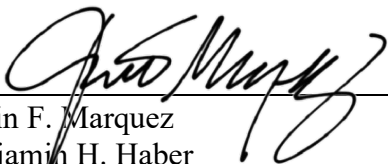
By: \_\_\_\_\_  
Amy S. Williams, Counsel for Defendant  
MALLORY SAFETY AND SUPPLY LLC

November \_\_, 2023

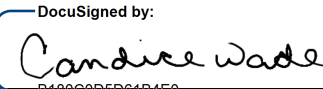
By: \_\_\_\_\_  
Tim Loy, on behalf of Defendant MALLORY  
SAFETY AND SUPPLY LLC

November 6, 2023

WILSHIRE LAW FIRM

By:  \_\_\_\_\_  
Justin F. Marquez  
Benjamin H. Haber  
Arrash T. Fattahi  
Counsel for Plaintiff CANDICE WADE

November <sup>6.00</sup> \_\_, 2023

DocuSigned by:  
 \_\_\_\_\_  
By: \_\_\_\_\_  
Candice Wade, Plaintiff

# Exhibit A

*Candice Wade v. Mallory Safety and Supply LLC*  
Siskiyou County Superior Court, Case No. 23CV00951  
NOTICE OF PROPOSED CLASS ACTION SETTLEMENT (“Notice”)

**I. WHY IT IS IMPORTANT TO READ THIS NOTICE**

**PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED BY THE  
LEGAL PROCEEDINGS IN THIS ACTION. YOU MAY BE ENTITLED TO  
MONETARY COMPENSATION FROM THIS SETTLEMENT.**

**YOU ARE NOT BEING SUED**

You are being sent this Notice because records indicate that you were an hourly-paid employee of Mallory Safety and Supply LLC (“Mallory” and/or “Defendant”) in California at any time from January 30, 2019 through October 1, 2023. This Notice relates to a proposed settlement (“**Settlement**”) of a class and Private Attorneys General Act (“PAGA”) action brought against Defendant. If you are a Class Member, this Notice contains important information about your right to a payment from the Settlement or to be excluded from the class portion of the Settlement according to the procedures described below. If you are a PAGA Member, this Notice contains important information about your right to a payment from the PAGA portion of the Settlement.

Pursuant to the Order Granting Preliminary Approval of Class Action Settlement, the Superior Court for the State of California, County of Siskiyou, the Honorable John Freeland, presiding, entered on [preliminary approval date order], you are hereby notified as follows:

A proposed Settlement has been reached between the parties in the lawsuit titled *Candice Wade v. Mallory Safety and Supply LLC*, Siskiyou Superior Court, Case No. 23CV00951. The Settlement is on behalf of all persons employed by Mallory Safety and Supply LLC in the State of California as an hourly-paid employee (the “**Class**” or “**Class Members**”) at any time between January 30, 2019 through October 1, 2023 (the “**Class Period**”). You have received this Notice because Defendant’s records indicate that you are a Class Member and/or PAGA Member, and therefore entitled to a payment from the settlement. The PAGA period runs from February 13, 2022 through October 1, 2023 (the “**PAGA Period**”).

In addition to conditionally approving the Settlement, the Court also conditionally approved Plaintiff Candice Wade (“**Plaintiff**” or “**Named Plaintiff**”) to serve as a class representative, and Justin F. Marquez, Benjamin H. Haber and Arrash T. Fattahi of Wilshire Law Firm, to serve as Class Counsel.

The Court will decide whether to provide final approval of the Settlement at a court hearing scheduled for \_\_\_\_\_, 2024 at \_\_\_\_\_, before the Honorable John Freeland in Courtroom 2 of the Superior Court of California, County of Siskiyou, which is located at 411 Fourth Street, Yreka, California 96097 (the “**Final Approval Hearing**”). At the Final Approval Hearing, the Court will determine whether the Settlement should be finally approved as fair, reasonable, and adequate. At the Final Approval Hearing, the Court will also determine Class Counsel’s request for attorneys’ fees, litigation expenses, administrative costs, penalties under Labor Code §§ 2698, *et seq.* and the class representative incentive award. The Final Approval Hearing may be continued by the Court without further notice to the Class. It is not necessary for you to appear at this Final Approval Hearing, but you are welcome to do so.

**II. WHAT THIS LITIGATION IS ABOUT**

On January 30, 2023, Plaintiff filed the Action entitled *Candice Wade v. Mallory Safety and Supply LLC*, Case No. 23CV00951, in the Superior Court of California, County of Siskiyou, on behalf of herself and all others similarly situated. The operative complaint in this Action alleges claims including (1) Failure to Pay Minimum and Straight Time Wages; (2) Failure to Pay Overtime Wages; (3) Failure to Provide Meal

Periods; (4) Failure to Authorize and Permit Rest Periods; (5) Failure to Timely Pay Final Wages at Termination; (6) Failure to Provide Accurate Itemized Wage Statements; (7) Failure to Indemnify Employees for Expenditures; and (8) Unfair Business Practices. On February 13, 2023, Plaintiff submitted a letter to the California Labor and Workforce Development Agency (“LWDA”) alleging violations of the PAGA based on similar violations to those alleged in the above-mentioned lawsuit (the “LWDA Letter”). On or about April 24, 2023, Plaintiff filed a First Amended Class & Representative Action Complaint, which is the operative Complaint, which adds a Ninth Cause of Action for Civil Penalties Under PAGA. The settlement covers the lawsuit and the LWDA letter (collectively, the “Action”).

Defendant has denied, and continues to deny, the allegations in the Action. Defendant contends that it has acted in compliance with the law at all times. There has been no finding of any wrongdoing or liability by Defendant. Defendant does not admit to any wrongdoing or liability. Defendant also does not admit that the Action can or should proceed as a class and/or PAGA action. There has been no trial in this case. Instead, both sides recognize the risks, expenses, and disruption associated with continued litigation and they have therefore chosen to resolve their differences by entering into a settlement. By doing so, the parties can avoid the cost of a trial, yet Class and PAGA Members, if the court grants final approval of the Settlement, are still entitled to receive payments. The parties entered into this settlement after arms-length negotiations while using the services of an experienced and neutral mediator. The Plaintiff and Class Counsel believe that the proposed settlement is fair and reasonable and is in the best interest of the Class and PAGA Members.

Plaintiff and Defendant (where appropriate, Plaintiff and Defendant will be collectively referred to as the “Parties”) have now reached the Settlement on behalf of the Class. Accordingly, the Parties have entered into a Joint Stipulation of Settlement and Release of Class and PAGA Action (the “Settlement Agreement”), which the Court preliminarily approved on [Insert date of preliminary approval order].

The Parties and their respective counsel recognize the inherent risk and expense of continued proceedings necessary to continue this Action. The Parties and their counsel have also taken into account the extensive settlement negotiations that have been conducted. Based on the foregoing, the Parties believe the Settlement confers substantial benefits to all Class Members, is a fair, adequate, and reasonable settlement, and is in the best interests of all Class Members. The Court finds only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at the final hearing.

### III. SUMMARY OF THE SETTLEMENT TERMS

The Parties have agreed to settle the Action in exchange for the Class Settlement amount of no more than One Hundred Fifty Thousand Dollars (\$150,000.00) (“Gross Settlement Amount”). The Gross Settlement Amount includes: (a) the Individual Settlement Payments to the Class Participants and PAGA Members; (b) the attorneys’ fees award to Class Counsel in an amount not to exceed Fifty Thousand Dollars (\$50,000.00); (c) reimbursement of documented costs incurred by Class Counsel, not to exceed Twenty Five Thousand Dollars (\$25,000.00); (d) the Incentive Award to the Named Plaintiff, in an amount not to exceed Ten Thousand Dollars (\$10,000.00); (e) Administrative Expenses to APEX Class Action Administration (the “Settlement Administrator”), in an amount no greater than Eight Thousand Five Hundred Dollars (\$8,500.00); and (f) payment to the LWDA, in the amount of \$7,500 as the LWDA’s share of the settlement of the PAGA penalties.

The balance that remains after the foregoing deductions for the Incentive Award to the Named Plaintiff, attorneys’ fees and costs to Class Counsel, payment to the LWDA, and the Administrative Expenses (the “Net Settlement Amount”) will be paid to Class Participants and PAGA Members as Individual Settlement Payments according to the formula set forth below.

1 The Settlement Administrator will make Individual Settlement Payments to each Class Member who does  
2 not opt out of the Settlement (**"Class Participant"**). All PAGA Members will receive their share of the  
3 PAGA portion of the settlement regardless of whether they choose to opt out of the class settlement. The  
4 Net Settlement Amount shall be divided between all Class Participants and PAGA Members based on the  
number of pay periods for which they were employed by Defendant as hourly-paid employees in California  
during the Class and PAGA Periods.

5 Each Class Participants' Individual Settlement Payment will be calculated as follows:

- 6 • Dividing his or her "Pay Periods" by the "Total Pay Periods," and multiplying the resulting amount  
by the Net Settlement Amount.
- 7 • "Pay Periods" means the total number of pay periods that the Class Participant or PAGA Member  
8 worked for Defendant, as an hourly-paid employee within the State of California during the Class  
and PAGA Periods.
- 9 • "Total Pay Periods" means the total amount of all Class Participants' individual Pay Periods,  
combined.

10 Based on the Settlement Administrator's review of Defendant's records, the Settlement Administrator  
11 intends to credit YOU the following number of Pay Periods:

12 **Class Member Name: NAME Workweeks During the Class Period: #**

13 IRS Forms W-2 and/or 1099 will be distributed to Class Participants and PAGA Members and the  
14 appropriate taxing authorities reflecting the payments that Class Participants and PAGA Members receive  
under the Settlement. Class Participants and PAGA Members should consult their tax advisors concerning  
15 the tax consequences of the payments they receive under the Settlement. For purposes of this Settlement,  
each Individual Settlement Payment: (1) for Class Participants will be allocated as 20% to wages, 30% to  
16 interest and 50% to penalties and, (2) for PAGA Members will be allocated 100% to penalties. The wage  
portion of each Class Participant's Individual Settlement Payment will be subject to applicable payroll taxes  
and withholdings.

17 Checks made payable to Class Participants and PAGA Members shall remain negotiable for one hundred  
18 eighty (180) days. To the extent that this Notice and/or the Individual Settlement Payment checks are  
undeliverable, or the Individual Settlement Payment checks are uncashed 180 days after the date listed on  
19 the check, the amount of those checks will be sent to the California Controller's Unclaimed Property Fund,  
with the identity of the Class Participant or PAGA Member to whom the funds belong.

20 Any Class Participant who disagrees with the data used to calculate his or her claim as reflected in this  
21 Notice shall be allowed to indicate and explain such disagreement by submitting a written statement  
explaining your dispute to the Settlement Administrator. All Pay Period Dispute Forms and written disputes  
22 must be postmarked, emailed or faxed to the Settlement Administrator no later than forty-five (45) days after  
the date the Notice is first mailed (the **"Dispute Deadline Date"**). The Settlement Administrator shall  
23 resolve the disagreement with the Class Participant using the employee records provided by Defendant and  
the Class Participant, in consultation with Class Counsel and Defense Counsel. Any disputes not otherwise  
24 resolved by the Settlement Administrator and Class Counsel and Defense Counsel concerning  
administration of the Settlement shall be resolved by the Court, under the laws of the State of California.  
25 The date of the postmark on the envelope or the date of emails or fax confirmations sent to the Settlement  
26 Administrator shall be the exclusive means used to determine whether a Class Participant has "timely"  
disputed the calculation or application of the formula for determining Individual Settlement Payments.

1  
2 **IV. YOUR OPTIONS UNDER THE SETTLEMENT**

3 **Option 1 — Do Nothing: if you WANT to receive an Individual Settlement Payment**

4 Participation in this Settlement does not require the submission of a claim form. Accordingly, if the Court  
5 grants final approval of the Settlement at the Final Approval Hearing, and you have not affirmatively opted-  
6 out of the class portion of the Settlement by preparing and returning an opt-out request described in Option 2  
7 below, you will be mailed a check for your Individual Settlement Payment, minus applicable withholdings,  
by the Settlement Administrator. You will be bound by the Released Claims and all other terms of the  
Settlement unless you follow Option 2 below. Defendant will not retaliate against any employee because he  
or she chooses to participate in this Settlement.

8 **Option 2 — Opt Out of the Settlement: if you opt-out of the Settlement, you will NOT receive an  
Individual Settlement Payment for the Class Portion of the Settlement.**

9  
10 If you do not wish to participate in the Settlement, you may exclude yourself from participating in the class  
11 portion of the settlement by submitting a written request to the Settlement Administrator expressly and  
12 clearly indicating that you have received this Notice, have decided not to participate in the Settlement, and  
13 desire to be excluded or that you “opt-out” from the Settlement. If you do not submit a timely written  
request to opt-out, then you will be bound by the release of claims as set forth in Section V below  
14 (“Released Claims”) and all other terms of the Settlement. Your written request (the “Opt-Out Statement”)  
15 must state (or contain words substantially similar to) the following:

16 “I have received the Notice of Class Action Settlement of the Action titled *Candice Wade*  
*v. Mallory Safety and Supply LLC*, Siskiyou County Superior Court, Case  
No. 23CV00951. I wish to opt out of the Settlement. I understand that by requesting to be  
excluded from the Settlement Class, I will not receive any payment from the Settlement  
approved by the Court in the Action.”

17 The written Opt-Out Statement also must set forth your full name (including the name you used while  
18 employed with Defendant, if different), address, last four digits of your Social Security Number, and  
19 telephone number. You must sign, date, and either email, mail or fax the Opt-Out Statement to the  
Settlement Administrator by First Class U.S. Mail to the address, fax number or email address below:

20 *Candice Wade v. Mallory Safety and Supply LLC* Class Action Settlement  
APEX Class Action Administration

21 [street address/P.O. Box]

22 [City, State, Zip Code]

23 [phone number]

[fax number]

[email address]

24 **If you wish to exclude yourself from this proposed Settlement, you must submit a written Opt-Out  
Statement to the Settlement Administrator no later than [Response Deadline].**

25 If you submit an Opt-Out Statement that is not postmarked, emailed or faxed by [Response Deadline],  
26 subject to the Court’s final determination, it may be rejected and you will be included in the Settlement  
27 Class and bound by the Released Claims and all other terms of the Settlement, and you will receive the  
28 appropriate Individual Settlement Payment. Similarly, should you receive and cash a check for your  
Individual Settlement Payment and elect to opt-out of the Settlement, your attempt to opt-out may be  
deemed void and you will be included in the Settlement Class and bound by the Released Claims and all

1 other terms of the Settlement. Similarly, if you submit both an Opt-Out Statement and an objection, your  
2 Opt-Out Statement will be deemed void. Even if a Settlement Class Member opts out of the Settlement, the  
3 Settlement Class Member shall still receive a share of the PAGA payment and release that claim (if you  
4 worked any pay periods during the PAGA period). There is no mechanism to opt out of the PAGA portion  
5 of this settlement.

#### 6 ***Option 3 — Make an Objection With the Court and Remain a Member of the Settlement Class***

7 A Participating Class Member, who has not opted out and believes that the Settlement should not be finally  
8 approved by the Court for any reason, may object to the class portion of the proposed Settlement. To object  
9 to the Settlement, you must remain a member of the Class, and if the Court approves the Settlement, you  
10 will be bound by the terms of the Settlement.

11 If you wish to object to the Settlement, then you may do so by submitting a written objection to the  
12 Settlement Administrator. If you wish to submit a written objection to the Settlement, then you must submit  
13 your written statement to the Settlement Administrator by either mail, fax or email. A written objection must  
14 include your name, address, telephone number, last four digits of your Social Security number, and must  
15 state with particularity the factual and legal basis on which any objections are asserted.

16 **All written objections must be submitted to the Settlement Administrator by either mail, email, or fax  
17 not later than [Response Deadline]. The date of the postmark on the mailing envelope, or the date of  
18 the fax or email transmission to the Settlement Administrator shall be the exclusive means used to  
19 determine whether a written objection was timely submitted.**

20 The Court will hear from any class member who attends the final approving hearing and asks to speak.

### 21 **V. THE BINDING EFFECT OF THE SETTLEMENT**

22 1.1 Upon the Court's final approval of the settlement, and except as to such rights or  
23 claims as may be created by the settlement, Plaintiff, Class Members, and PAGA Members who have not  
24 effectively opted-out of the settlement as described below, release all claims, rights, demands, liabilities,  
25 damages, attorneys' fees, costs, and causes of action of every nature and description, arising from any and  
26 all claims which were asserted in the Action or reasonably could have been asserted based on the facts  
27 alleged in the Action, and arising during the Class Period of this settlement, including statutory,  
28 constitutional or common law claims for wages, damages, unpaid costs, liquidated damages, penalties,  
interest, attorneys' fees, litigation costs, restitution, equitable relief, or other relief based on the following  
categories of allegations as set forth in the operative complaint: (a) all claims for unpaid wages, including  
overtime wages, minimum wages and straight time wages; (b) all claims for failure to provide meal periods;  
(c) all claims for failure to authorize and permit rest periods; (d) all claims for failure to timely pay final  
wages; (e) all claims for the failure to provide accurate wages statements; (f) all claims for failure to  
indemnify business expenses; (g) all claims for Unfair Business Practices under California's Business and  
Professions Code section 17200, *et seq.*; and (h) all claims for any and all penalties pursuant to PAGA based  
on the preceding claims (collectively, "**Released Claims**"). The PAGA Release means all claims, theories,  
and causes of action alleged or that could have been alleged or otherwise raised based on the factual  
allegations set forth in Plaintiff's letter to the LWDA that was sent on February 13, 2023. This includes  
claims under Labor Code sections 201-204, 210, 226, 226.3, 226.7, 510, 1174(d), 1174.5, 1194, 1197,  
1197.1, 1198, 2802, 2699 (f)(2), and the IWC Wage Orders for: (a) all claims for failure to pay for all hours  
worked, including minimum, straight time and overtime wages; (b) all claims for failure to provide meal  
periods and/or premiums (c) all claims for failure to authorize and permit rest periods and/or pay premiums;  
(d) all claims for failure to pay all earned wages twice per month; (e) all claims for failure to maintain  
accurate records of hours worked and meal periods; (f) all claims for failure to timely pay all wages at

1 termination; (g) all claims for failure to furnish accurate itemized wage statements; and (h) all claims for  
2 failure to indemnify for necessary expenditures.

3 If the Settlement is not finally approved by the Court, or if any of its conditions are not satisfied, the  
4 Settlement will be voided, no money will be paid, and the Action will revert to litigation. However, if that  
5 happens, there is no assurance that: (a) any decision at trial would be in favor of any Class Members; (b) a  
6 favorable trial decision, if any, would be as favorable to any Class Members as the Settlement; or (c) any  
7 favorable trial decision would be upheld if an appeal was filed. The Court has expressed no opinion  
8 regarding the merits of the claims asserted in the Action.

## 9 VI. ADDITIONAL INFORMATION

10 This Notice is only a summary of the Action and the Settlement. For a more detailed statement of the  
11 matters involved in the Action and the Settlement, you may refer to the pleadings, the Settlement  
12 Agreement, and other papers filed in the Action, which may be inspected at the Records public window of  
13 the Siskiyou Superior Court, 411 Fourth Street, Yreka, California 96097, during regular business hours of  
14 each court day.

15 To the extent there are any conflicts between this Notice and the terms of Settlement Agreement, the terms  
16 of the Settlement Agreement will govern.

### 17 DO NOT CALL OR CONTACT THE CLERK OF THE COURT OR THE JUDGE FOR 18 INFORMATION ABOUT THE SETTLEMENT.

19 If you have any questions about the Settlement, you may contact the Settlement Administrator at the  
20 following addressee or numbers:

21 APEX Class Action Administration  
22 [street address/P.O. Box]  
23 [City, State, Zip]  
24 [Phone Number]  
25 [Fax Number]  
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27  
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# Exhibit 2



**Quotation Request:**  
Justin Marquez  
Wilshire Law Firm, PLC  
justin@wilshirelawfirm.com  
800.522.7274

**Case Name:** Wade v. Mallory Safet and Supply, LLC  
**Date:** Tuesday, August 29, 2023  
**RFP Number:** 72740034

**Prepared By:**  
Sean Hartranft  
Apex Class Action LLC  
Sean@apexclassaction.com  
949.878.3676

| Settlement Specifications        |     |
|----------------------------------|-----|
| Estimated Class Size:            | 250 |
| Certified Language Translation:  | Yes |
| Static Settlement Website        | Yes |
| Percentage of Undeliverable Mail | 20% |

| Professional Services                                                                                               | Fee Calculation | Rate(s)    | Quantity | Estimated Cost |
|---------------------------------------------------------------------------------------------------------------------|-----------------|------------|----------|----------------|
| Data Analytics and Standardization                                                                                  |                 |            |          |                |
| Import and Standardize Data*                                                                                        | Per Hour        | \$125.00   | 2        | \$250.00       |
| Data Analyst                                                                                                        | Per Hour        | \$150.00   | 2        | \$300.00       |
| *Data provided must be in a workable format. Apex can standardized provided data at an additional cost of \$150/hr. |                 |            |          |                |
| Sub Total:                                                                                                          |                 |            |          | \$550.00       |
| Mailing of Class Notice                                                                                             |                 |            |          |                |
| Form Set Up                                                                                                         | Per Hour        | \$120.00   | 1        | \$120.00       |
| Print & Mail Class Notice                                                                                           | Per Piece       | \$1.50     | 250      | \$375.00       |
| USPS First Class Postage                                                                                            | Per Piece       | \$0.66     | 250      | \$165.00       |
| Remail Undeliverable Mail (Skip-Trace)                                                                              | Per Piece       | \$2.00     | 50       | \$100.00       |
| Receive and Process Undeliverable Mail                                                                              | Per Hour        | \$75.00    | 0.5      | \$37.50        |
| Process Class Member Correspondence via mail, e-mail & fax                                                          | Per Piece       | \$75.00    | 1        | \$75.00        |
| NCOA Address Update (USPS)                                                                                          | Static Rate     | \$62.50    | 1        | \$62.50        |
| Certified Language Translation: Spanish                                                                             | Static Rate     | \$1,200.00 | 1        | \$1,200.00     |
| Sub Total:                                                                                                          |                 |            |          | \$2,135.00     |
| Project Management                                                                                                  |                 |            |          |                |
| Project Management                                                                                                  | Per Hour        | \$150.00   | 2        | \$300.00       |
| Project Coordinator                                                                                                 | Per Hour        | \$90.00    | 2        | \$180.00       |
| Data Analyst and Reporting                                                                                          | Per Hour        | \$140.00   | 1        | \$140.00       |
| Sub Total:                                                                                                          |                 |            |          | \$620.00       |



| Professional Services | Fee Calculation | Rate(s) | Quantity | Estimated Cost |
|-----------------------|-----------------|---------|----------|----------------|
|-----------------------|-----------------|---------|----------|----------------|

| Toll-Free Contact Center, Website & Reporting |             |          |            |          |
|-----------------------------------------------|-------------|----------|------------|----------|
| Bilingual Toll-Free Contact Center            | Static Rate | \$65.00  | 1          | \$65.00  |
| Settlement Website: Static Apex URL           | Static Rate | \$500.00 | 1          | \$500.00 |
| Settlement Status Reports                     | Static Rate | \$750.00 | 1          | Waived   |
|                                               |             |          |            |          |
|                                               |             |          | Sub Total: | \$565.00 |

| Distribution & Settlement Fund Management                   |             |            |            |            |
|-------------------------------------------------------------|-------------|------------|------------|------------|
| Settlement Calculations (Preliminary and Final)             | Per Hour    | \$120.00   | 3          | \$360.00   |
| Account Management and Reconciliation                       | Per Hour    | \$140.00   | 3          | \$420.00   |
| Print & Mail Distribution Settlement Check (W-2/1099)       | Per Piece   | \$1.50     | 250        | \$375.00   |
| USPS First Class Postage                                    | Per Piece   | \$0.66     | 250        | \$165.00   |
| Remail Distribution to Updated Address (Skip Trace)         | Per Piece   | \$2.00     | 25         | \$50.00    |
| Individual Income Tax Preparation & Reporting               | Per Hour    | \$100.00   | 8          | \$800.00   |
| QSF Income Tax Reporting (per calendar year)                | Per Year    | \$1,250.00 | 1          | \$1,250.00 |
| Unclaimed Funds: State Controller's Unclaimed Property Fund | Static Rate | \$500.00   | 1          | \$500.00   |
|                                                             |             |            |            |            |
|                                                             |             |            | Sub Total: | \$3,920.00 |

| Post Distribution Reconciliation  |          |          |            |          |
|-----------------------------------|----------|----------|------------|----------|
| Bank Account Reconciliation       | Per Hour | \$135.00 | 2          | \$270.00 |
| Project Management Reconciliation | Per Hour | \$100.00 | 2          | \$200.00 |
| Declarations                      | Per Hour | \$120.00 | 2          | \$240.00 |
|                                   |          |          |            |          |
|                                   |          |          | Sub Total: | \$710.00 |

|                                     |  |  |            |  |
|-------------------------------------|--|--|------------|--|
| TOTAL ESTIMATED ADMINITRATION COST: |  |  | \$8,500.00 |  |
|-------------------------------------|--|--|------------|--|

Thank you for your business!



## Terms & Conditions

The following Terms and Conditions govern the provision of all services to be provided by Apex Class Action and its affiliates ("Apex") to the Client. These terms and conditions are binding and shall apply to all services provided by Apex in relation to any related services or products.

1. **Services:** Apex commits to providing the Client with the administrative services detailed in the attached Proposal (the "Services").

2. **Payment Terms:** As compensation for the legal services to be provided, the Client agrees to pay Apex all fees detailed in the Proposal. The fees quoted in the Proposal (and any subsequent proposals for additional services) are estimates based on the information provided to Apex by the Client. Apex makes no representation that the estimated fees in the Proposal or any subsequent proposals for additional services shall equal the actual fees charged by Apex to the Client, which fees (including individual line items) may be greater or less than estimated. If additional services are requested on an hourly basis and are not specifically detailed in the Proposal, Apex will prepare estimates for such services subject to approval by the Client. In the performance of such additional services, Apex will charge standard hourly fees which shall apply.

3. **Incurred Expenses:** In relation to the provision of services outlined in this agreement, the Client agrees to reimburse Apex for all reasonable out-of-pocket expenses incurred. Such expenses may include, but are not limited to, costs associated with postage, media production or publication, banking fees, brokerage fees, messenger and delivery service expenses, travel expenses, filing fees, office supplies, meals, staff overtime expenses, and other related costs and expenses. If not otherwise specified in writing, fees for print notice and certain expenses, such as media publication and postage, must be paid immediately upon invoicing and, in certain cases, at least ten (10) days prior to the date on which such expenses will be incurred.

4. **Invoicing:** Apex shall present invoices for its fees and expenses on a monthly basis, except as provided in Section 3. The Client agrees to pay each invoice within 30 days of receipt. In case of non-payment within 90 days of the billing date, an additional service charge of 1.5% per month may apply. Apex reserves the right to increase its prices, charges, and rates annually, subject to reasonable adjustments. If any price increases exceed 10%, Apex shall give thirty (30) days' notice to the Client. In the event of any unpaid invoices beyond 120 days of the due date, Apex reserves the right to withhold services and reports until payment is received, subject to notice to the Client. It is important to note that Apex's failure to provide services and reports in such instances shall not constitute a default under this agreement.

5. **Case Duration:** The duration of these Terms and Conditions, except for the data storage obligations stated in Section 13, shall be in effect until 30 days following the completion of the Services as described in the Proposal. The parties may extend these Terms and Conditions in writing for a mutually agreed-upon period beyond this initial 30-day period.

6. **Termination of Services:** Either party may terminate the Services by providing thirty (30) days written notice to the other party. Alternatively, termination may occur immediately upon written notice for Cause, as defined below. Cause means (i) Apex's gross negligence or willful misconduct that causes serious and material harm to the Client; (ii) the Client's failure to pay Apex invoices for more than one hundred twenty (120) days from the date of the invoice; or (iii) the accrual of invoices or unpaid services where Apex reasonably believes it will not be paid. Termination of the Services shall not relieve the Client of its obligation to pay Apex for services rendered prior to the termination.

7. **Independent Contractor:** As an independent contractor, Apex will provide services under the terms of this agreement. It is agreed that neither Apex nor any of its employees will be considered an employee of the Client. Consequently, Apex and its employees will not be eligible for any benefits provided by the Client to its employees. The Client will not make any tax deductions from the payments due to Apex for state or federal tax purposes. Apex will be solely responsible for paying all taxes and other payments due on payments received from the Client under this agreement.

8. **Apex warrants that the Services outlined in the Proposal will be performed in accordance with the standards generally adhered to by professionals providing similar services. It is acknowledged that the Services may entail the likelihood of some human and machine errors, omissions, delays, and losses that may result in damage. However, Apex shall not be held liable for such errors, omissions, delays, or losses unless they are caused by its gross negligence or willful misconduct. In the event of any breach of this warranty by Apex, the Client's sole remedy will be limited to Apex's rerunning, at its expense, any inaccurate output provided that such inaccuracies occurred solely as a result of Apex's gross negligence or willful misconduct under this agreement.**

9. **Limitation of Liability:** The Client acknowledges that Apex shall not be held liable for any consequential, special, or incidental damages incurred by the Client in relation to the performance of Services, whether the claim is based on breach of warranty, contract, tort (including negligence), strict liability, or any other grounds. Under no circumstances shall Apex's liability to the Client, for any Losses (including court costs and reasonable attorney's fees), arising out of or in connection with these Terms and Conditions, exceed the total amount charged or chargeable to the Client for the specific service(s) that caused the Losses.

10. **Indemnification:** The Client agrees to indemnify and hold harmless Apex from any losses, suits, actions, judgments, fines, costs, liabilities, or claims arising from any action or proceeding relating to the Services provided by Apex, regardless of whether or not it results in liability (collectively referred to as "Indemnified Claims"). However, this indemnification provision shall not apply to the extent that such Indemnified Claims are caused by Apex's willful misconduct, gross negligence, or breach of these Terms and Conditions. This provision shall survive termination of the Services.

11. **Confidentiality:** Apex will uphold strict confidentiality between Apex and the Client and applies to all non-public records, documents, systems, procedures, processes, software, and other information received by either party in connection with the performance of services under these terms. Both Apex and the Client agree to keep confidential all such non-public information, including any material marked or identified as confidential or proprietary. Any such confidential information shall not be disclosed, provided, disseminated, or otherwise made available to any third party, except as required to fulfill the parties' obligations under these terms. The parties acknowledge that in the event of any request to disclose any confidential information in connection with a legal or administrative proceeding, or otherwise to comply with a legal requirement, prompt notice of such request must be given to the other party to enable that party to seek an appropriate protective order or other remedy or to waive compliance with the relevant provisions of these terms. If the Client seeks a protective order or another remedy, Apex, at the Client's expense, will cooperate with and assist the Client in such efforts. If the Client fails to obtain a protective order or waives compliance with the relevant provisions of these terms, Apex will disclose only that portion of the confidential information that it determines it is required to disclose. This confidentiality provision shall survive termination of the services provided. Both parties acknowledge and agree that any breach of these terms may cause irreparable harm to the non-breaching party and that injunctive relief may be necessary to prevent any actual or threatened breach. The terms set forth between the parties supersede all prior negotiations, understandings, and agreements between the parties concerning confidentiality. These terms may only be amended in writing and signed by both parties.

12. **Ownership of the programs, system data, and materials provided by Apex to the Client during the course of providing services herein shall solely belong to Apex. It is acknowledged that fees and expenses paid by the Client do not confer any rights in such property. It is also understood that the said property is made available to the Client solely for the purpose of using it during and in connection with the services provided by Apex.**

13. **Upon the completion of the administration and unless retention instructions are ordered by the court, Apex will notify the client that it will destroy and/or return all confidential information and property within 90 days upon the client's written request. Alternatively, the material may be stored for one year at a monthly fee of \$1.50 per storage box for paper documents and \$0.01 per image for electronic copies over a period of three years, which compensates Apex for its electronic and hard-copy storage costs. Apex will not be liable for any damages, liability, or expenses incurred in connection with any delay in delivery of, or damage to disks, magnetic tapes, or any input data provided by the client or its representatives unless Apex has agreed in writing to assume such responsibility.**

14. **COMPLETE AGREEMENT.** These Terms and Conditions, along with the attached Proposal, represent the complete agreement and understanding between the parties and override any prior agreements (whether written or oral) between Apex and the Client regarding the subject matter. Any modification to these Terms and Conditions may only be made in writing and must be signed by both Apex and the Client. The headings in this document are included for convenience only and do not alter or restrict any provisions in these Terms and Conditions. They may not be used in the interpretation of these Terms and Conditions.

15. **This provision outlines the requirements for providing notice or other communication under this agreement. All such communications must be in writing and can be delivered either by personal delivery or through U.S. Mail with prepaid postage or overnight courier. Once delivered personally or sent through the mail, the notice will be considered given after five (5) days from the deposit date in the U.S. Mail. Alternatively, if sent through an overnight courier, the notice will be considered given one business day after delivery to the such courier. It's important to note that the notice must be provided to a responsible officer or principal of the Client or Apex, depending on the case.**

16. **Force Majeure:** In the event of any failure or delay in performance due to circumstances beyond Apex's control, including but not limited to strikes, lockouts, fires, floods, acts of God or public enemy, riots, civil disorders, insurrections, war or war conditions, or interference by civil or military authorities, Apex shall not be held liable for any resulting loss or damage. The time for performance under this agreement shall be extended for a period equal to the duration of the disabling cause and a reasonable time thereafter. This provision shall constitute a force majeure clause and shall be construed accordingly.

17. **The applicable state and federal laws shall govern the interpretation and enforcement of these Terms and Conditions. No choice of law or conflict of laws provisions shall affect this governing law provision.**

18. **Severability:** This applies to all clauses and covenants contained within these Terms and Conditions. In the event that any clause or covenant is deemed invalid, illegal, or unenforceable, the remaining provisions shall remain valid and enforceable to the fullest extent permissible by law. The validity, legality, and enforceability of the remaining provisions shall in no way be affected or impaired by the invalidity, illegality, or unenforceability of any provision deemed so.

19. **Nonwaiver:** This applies to these Terms and Conditions. This means that any failure by one party to enforce a provision of these terms on one or more occasions shall not be construed as a waiver of that provision. In other words, any failure to enforce a provision does not give up the right to enforce it in the future. All provisions of these Terms and Conditions remain in full force and effect, regardless of any prior failure to enforce them.

# Exhibit 3



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*ELM Solutions*

# 2022 Real Rate Report<sup>®</sup>

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The industry's leading  
analysis of law firm rates,  
trends, and practices

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# Table of Contents - 2022 Real Rate Report

## **A Letter to Our Readers • 4**

## **Report Use Considerations • 5**

## **Section I: High-Level Data Cuts • 8**

- Partners, Associates, and Paralegals
- Partners, Associates, and Paralegals by Practice Area and Matter Type
- Partners and Associates by City
- Partners and Associates by City and Matter Type
- Partners by City and Years of Experience
- Associates by City and Years of Experience
- Partners and Associates by Firm Size and Matter Type

## **Section II: Industry Analysis • 63**

- Partners, Associates, and Paralegals by Industry Group
- Partners and Associates by Industry Group and Matter Type
- Basic Materials and Utilities
- Consumer Goods
- Consumer Services
- Financials (Excluding Insurance)
- Health Care
- Industrials
- Technology and Telecommunications

## **Section III: Practice Area Analysis • 84**

- Bankruptcy and Collections
- Commercial
- Corporate: Mergers, Acquisitions, and Divestitures
- Corporate: Regulatory and Compliance
- Corporate: Other
- Employment and Labor
- Environmental
- Finance and Securities
- General Liability (Litigation Only)
- Insurance Defense (Litigation Only)
- Intellectual Property: Patents
- Intellectual Property: Trademarks
- Intellectual Property: Other
- Real Estate

## **Section IV: In-Depth Analysis for Select US Cities • 172**

- Boston, MA
- Chicago, IL
- Los Angeles, CA
- New York, NY
- Philadelphia, PA
- San Francisco, CA
- Washington, DC

## **Section V: International Analysis • 191**

## **Section VI: Matter Staffing Analysis • 221**

## **Appendix: Data Methodology • 226**

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# Report Use Considerations

## 2022 Real Rate Report

- Examines law firm rates over time
- Identifies rates by location, experience, firm size, areas of expertise, industry, and timekeeper role (i.e., partner, associate, and paralegal)
- Itemizes variables that drive rates up or down

All the analyses included in the report derive from the actual rates charged by law firm professionals as recorded on invoices submitted and approved for payment.

Examining real, approved rate information, along with the ranges of those rates and their changes over time, highlights the role these variables play in driving aggregate legal cost and income. The analyses can energize questions for both corporate clients and law firm principals.

Clients might ask whether they are paying the right amount for different types of legal services, while law firm principals might ask whether they are charging the right amount for legal services and whether to modify their pricing approach.

### Some key factors<sup>1</sup> that drive rates<sup>2</sup>:

**Attorney location** - Lawyers in urban and major metropolitan areas tend to charge more when compared with lawyers in rural areas or small towns.

**Litigation complexity** - The cost of representation will be higher if the case is particularly complex or time-consuming; for example, if there are a large number of documents to review, many witnesses to depose, and numerous procedural steps, the case is likely to cost more (regardless of other factors like the lawyer's level of experience).

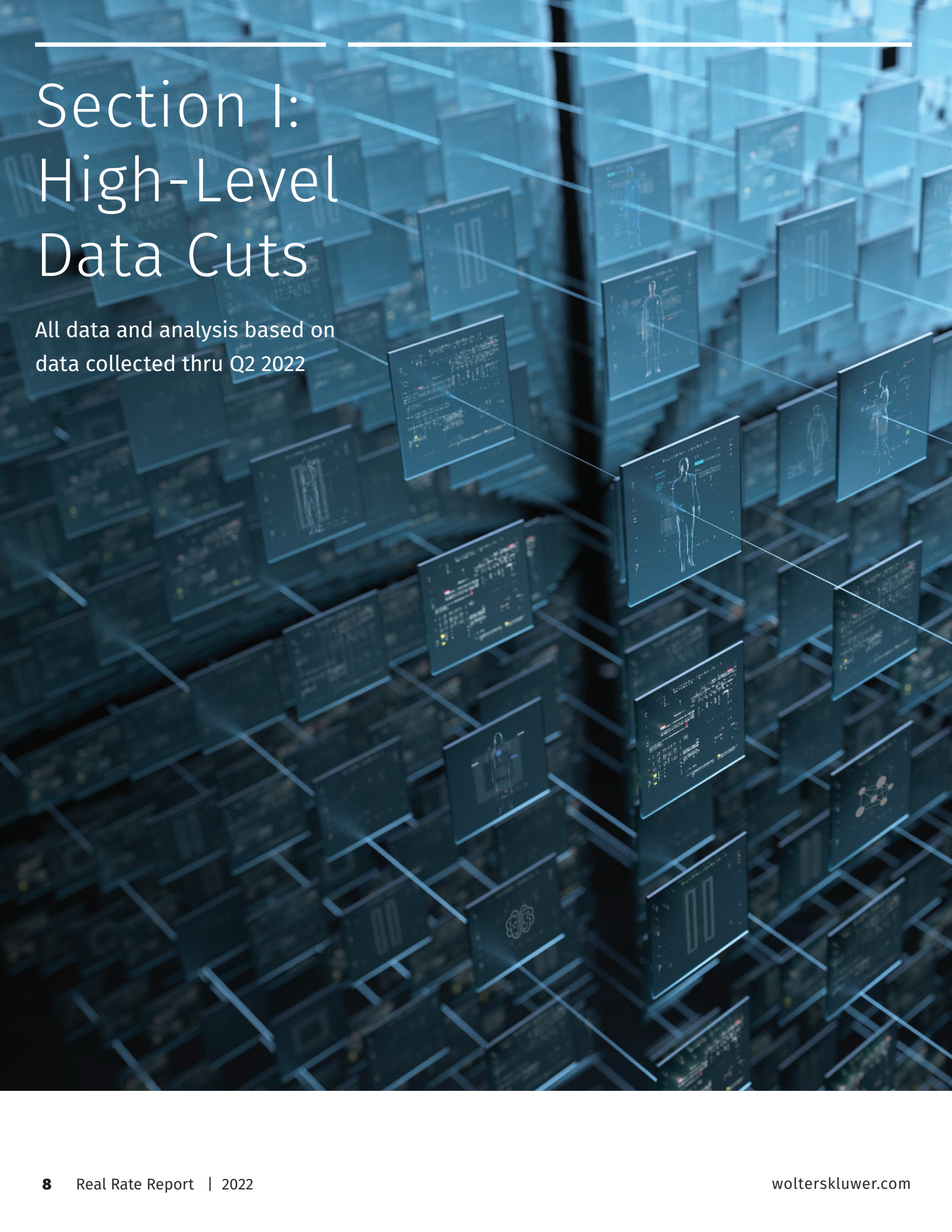
**Years of experience and reputation** - A more experienced, higher-profile lawyer is often going to charge more, but absorbing this higher cost at the outset may make more sense than hiring a less expensive lawyer who will likely take time and billable hours to come up to speed on unfamiliar legal and procedural issues.

**Overhead** - The costs associated with the firm's support network (paralegals, clerks, and assistants), document preparation, consultants, research, and other expenses.

**Firm size** - The rates can increase if the firm is large and has various timekeeper roles at the firm. For example, the cost to work with an associate or partner at a larger firm will be higher compared to a firm that has one to two associates and a paralegal.

<sup>1</sup> David Goguen, J.D., University of San Francisco School of Law (2020) Guide to Legal Services Billing Retrieved from: <https://www.lawyers.com/legal-info/research/guide-to-legal-services-billing-rates.html>

<sup>2</sup> Source: 2018 RRR. Factor order validated in multiple analyses since 2010



# Section I: High-Level Data Cuts

All data and analysis based on  
data collected thru Q2 2022

## Section I: High-Level Data Cuts

### Cities

By Matter Type

#### 2022 - Real Rates for Associate and Partner

#### Trend Analysis - Mean

| City           | Matter Type    | Role      | n   | First Quartile | Median | Third Quartile | 2022  | 2021  | 2020  |
|----------------|----------------|-----------|-----|----------------|--------|----------------|-------|-------|-------|
| Jackson MS     | Litigation     | Associate | 56  | \$55           | \$225  | \$250          | \$178 | \$203 | \$175 |
|                | Non-Litigation | Partner   | 24  | \$315          | \$420  | \$485          | \$418 | \$394 | \$375 |
|                |                | Associate | 25  | \$55           | \$126  | \$255          | \$155 | \$125 | \$259 |
| Kansas City MO | Litigation     | Partner   | 74  | \$413          | \$450  | \$556          | \$472 | \$450 | \$450 |
|                |                | Associate | 50  | \$252          | \$329  | \$385          | \$319 | \$316 | \$305 |
|                | Non-Litigation | Partner   | 101 | \$411          | \$487  | \$615          | \$519 | \$487 | \$464 |
|                |                | Associate | 73  | \$250          | \$320  | \$385          | \$322 | \$312 | \$285 |
| Las Vegas NV   | Non-Litigation | Partner   | 20  | \$350          | \$425  | \$525          | \$440 | \$422 | \$432 |
|                |                | Associate | 11  | \$238          | \$267  | \$368          | \$301 | \$297 | \$282 |
| Little Rock AR | Non-Litigation | Partner   | 11  | \$215          | \$215  | \$308          | \$264 | \$256 | \$298 |
| Los Angeles CA | Litigation     | Partner   | 322 | \$516          | \$725  | \$1,045        | \$799 | \$739 | \$702 |
|                |                | Associate | 408 | \$400          | \$615  | \$855          | \$642 | \$606 | \$564 |
|                | Non-Litigation | Partner   | 521 | \$596          | \$868  | \$1,201        | \$903 | \$902 | \$858 |
|                |                | Associate | 667 | \$441          | \$603  | \$845          | \$653 | \$712 | \$648 |
|                |                |           |     |                |        |                |       |       |       |

## Section I: High-Level Data Cuts

### Cities

By Matter Type

#### 2022 - Real Rates for Associate and Partner

#### Trend Analysis - Mean

| City             | Matter Type    | Role      | n     | First Quartile | Median  | Third Quartile | 2022    | 2021    | 2020    |
|------------------|----------------|-----------|-------|----------------|---------|----------------|---------|---------|---------|
| Minneapolis MN   | Non-Litigation | Associate | 83    | \$340          | \$421   | \$528          | \$425   | \$408   | \$384   |
| Nashville TN     | Litigation     | Partner   | 24    | \$275          | \$320   | \$456          | \$363   | \$378   | \$403   |
|                  | Non-Litigation | Partner   | 78    | \$412          | \$484   | \$576          | \$505   | \$481   | \$470   |
|                  |                | Associate | 59    | \$270          | \$330   | \$384          | \$340   | \$315   | \$285   |
| New Orleans LA   | Litigation     | Partner   | 47    | \$290          | \$332   | \$412          | \$343   | \$330   | \$340   |
|                  |                | Associate | 42    | \$231          | \$243   | \$340          | \$278   | \$290   | \$275   |
|                  | Non-Litigation | Partner   | 32    | \$295          | \$347   | \$405          | \$419   | \$380   | \$391   |
|                  |                | Associate | 21    | \$244          | \$250   | \$278          | \$273   | \$303   | \$258   |
| New York NY      | Litigation     | Partner   | 614   | \$475          | \$675   | \$1,088        | \$808   | \$784   | \$746   |
|                  |                | Associate | 631   | \$323          | \$460   | \$729          | \$545   | \$527   | \$509   |
|                  | Non-Litigation | Partner   | 1,376 | \$765          | \$1,235 | \$1,638        | \$1,189 | \$1,139 | \$1,090 |
|                  |                | Associate | 1,809 | \$550          | \$776   | \$1,050        | \$796   | \$766   | \$716   |
| Oklahoma City OK | Non-Litigation | Partner   | 14    | \$235          | \$338   | \$393          | \$337   | \$319   | \$311   |
| Omaha NE         | Litigation     | Partner   | 12    | \$293          | \$339   | \$353          | \$329   | \$338   | \$341   |

## Section I: High-Level Data Cuts

### Cities

By Matter Type

#### 2022 - Real Rates for Associate and Partner

#### Trend Analysis - Mean

| City              | Matter Type    | Role      | n   | First Quartile | Median | Third Quartile | 2022  | 2021  | 2020  |
|-------------------|----------------|-----------|-----|----------------|--------|----------------|-------|-------|-------|
| Rochester NY      | Non-Litigation | Partner   | 12  | \$270          | \$360  | \$488          | \$386 | \$341 | \$446 |
|                   |                | Associate | 13  | \$220          | \$310  | \$375          | \$314 | \$278 | \$287 |
| Sacramento CA     | Non-Litigation | Partner   | 11  | \$381          | \$437  | \$682          | \$534 | \$559 | \$516 |
| Salt Lake City UT | Litigation     | Partner   | 14  | \$246          | \$353  | \$468          | \$363 | \$333 | \$379 |
|                   | Non-Litigation | Partner   | 42  | \$297          | \$371  | \$447          | \$391 | \$363 | \$353 |
|                   |                | Associate | 22  | \$220          | \$240  | \$270          | \$248 | \$247 | \$228 |
| San Diego CA      | Litigation     | Associate | 23  | \$151          | \$225  | \$300          | \$255 | \$258 | \$264 |
|                   | Non-Litigation | Partner   | 89  | \$332          | \$540  | \$1,066        | \$699 | \$667 | \$649 |
|                   |                | Associate | 71  | \$250          | \$325  | \$424          | \$373 | \$378 | \$351 |
| San Francisco CA  | Litigation     | Partner   | 143 | \$423          | \$675  | \$995          | \$742 | \$711 | \$691 |
|                   |                | Associate | 98  | \$325          | \$430  | \$731          | \$525 | \$517 | \$470 |
|                   | Non-Litigation | Partner   | 221 | \$475          | \$750  | \$950          | \$758 | \$746 | \$741 |
|                   |                | Associate | 151 | \$338          | \$486  | \$702          | \$545 | \$563 | \$507 |
| San Jose CA       | Litigation     | Partner   | 33  | \$654          | \$921  | \$1,133        | \$916 | \$907 | \$864 |

## Section I: High-Level Data Cuts

### Cities

By Matter Type

#### 2022 - Real Rates for Associate and Partner

#### Trend Analysis - Mean

| City         | Matter Type    | Role      | n   | First Quartile | Median | Third Quartile | 2022  | 2021  | 2020  |
|--------------|----------------|-----------|-----|----------------|--------|----------------|-------|-------|-------|
| San Jose CA  | Litigation     | Associate | 22  | \$461          | \$580  | \$745          | \$608 | \$593 | \$498 |
|              | Non-Litigation | Partner   | 50  | \$660          | \$864  | \$1,303        | \$969 | \$985 | \$887 |
|              |                | Associate | 46  | \$380          | \$460  | \$775          | \$616 | \$639 | \$567 |
| Seattle WA   | Litigation     | Partner   | 76  | \$497          | \$655  | \$760          | \$635 | \$567 | \$510 |
|              |                | Associate | 61  | \$394          | \$468  | \$530          | \$447 | \$453 | \$395 |
|              | Non-Litigation | Partner   | 148 | \$410          | \$526  | \$760          | \$571 | \$547 | \$547 |
|              |                | Associate | 113 | \$310          | \$395  | \$502          | \$422 | \$401 | \$377 |
| St. Louis MO | Litigation     | Partner   | 46  | \$260          | \$350  | \$435          | \$376 | \$373 | \$388 |
|              |                | Associate | 17  | \$197          | \$225  | \$250          | \$228 | \$237 | \$232 |
|              | Non-Litigation | Partner   | 57  | \$352          | \$419  | \$540          | \$451 | \$446 | \$473 |
| Tampa FL     | Litigation     | Partner   | 31  | \$369          | \$508  | \$595          | \$490 | \$467 | \$452 |
|              |                | Associate | 15  | \$269          | \$298  | \$368          | \$316 | \$302 | \$306 |
| Trenton NJ   | Non-Litigation | Partner   | 21  | \$408          | \$600  | \$700          | \$569 | \$620 | \$581 |
|              |                | Associate | 12  | \$480          | \$495  | \$500          | \$448 | \$376 | \$387 |

## Section I: High-Level Data Cuts

## Cities

By Years of Experience

### 2022 - Real Rates for Associate

### Trend Analysis - Mean

| City           | Years of Experience     | n   | First Quartile | Median | Third Quartile | 2022  | 2021  | 2020  |
|----------------|-------------------------|-----|----------------|--------|----------------|-------|-------|-------|
| Kansas City MO | 3 to Fewer Than 7 Years | 15  | \$270          | \$325  | \$360          | \$318 | \$295 | \$283 |
|                | 7 or More Years         | 28  | \$292          | \$334  | \$391          | \$333 | \$312 | \$302 |
| Los Angeles CA | Fewer Than 3 Years      | 63  | \$429          | \$595  | \$654          | \$556 | \$524 | \$488 |
|                | 3 to Fewer Than 7 Years | 144 | \$486          | \$688  | \$838          | \$662 | \$626 | \$530 |
|                | 7 or More Years         | 171 | \$351          | \$550  | \$840          | \$600 | \$634 | \$586 |
| Miami FL       | 3 to Fewer Than 7 Years | 19  | \$300          | \$360  | \$457          | \$380 | \$331 | \$313 |
|                | 7 or More Years         | 36  | \$295          | \$450  | \$595          | \$460 | \$433 | \$385 |
| Minneapolis MN | Fewer Than 3 Years      | 11  | \$374          | \$405  | \$446          | \$408 |       | \$230 |
|                | 3 to Fewer Than 7 Years | 27  | \$340          | \$451  | \$510          | \$421 | \$358 | \$356 |
|                | 7 or More Years         | 27  | \$423          | \$468  | \$585          | \$478 | \$438 | \$392 |
| Nashville TN   | 7 or More Years         | 12  | \$219          | \$245  | \$345          | \$282 | \$266 | \$262 |
| New Orleans LA | 3 to Fewer Than 7 Years | 12  | \$232          | \$243  | \$265          | \$261 | \$242 | \$245 |
|                | 7 or More Years         | 18  | \$243          | \$312  | \$343          | \$306 | \$318 | \$294 |
| New York NY    | Fewer Than 3 Years      | 142 | \$443          | \$622  | \$775          | \$629 | \$600 | \$652 |

## Section I: High-Level Data Cuts

## Cities

By Years of Experience

### 2022 - Real Rates for Partner

### Trend Analysis - Mean

| City           | Years of Experience | n   | First Quartile | Median | Third Quartile | 2022  | 2021  | 2020  |
|----------------|---------------------|-----|----------------|--------|----------------|-------|-------|-------|
| Kansas City MO | Fewer Than 21 Years | 46  | \$400          | \$450  | \$537          | \$473 | \$411 | \$397 |
|                | 21 or More Years    | 68  | \$440          | \$553  | \$658          | \$539 | \$497 | \$491 |
| Las Vegas NV   | Fewer Than 21 Years | 12  | \$284          | \$381  | \$495          | \$389 | \$349 | \$343 |
|                | 21 or More Years    | 13  | \$350          | \$425  | \$515          | \$468 | \$456 | \$472 |
| Los Angeles CA | Fewer Than 21 Years | 183 | \$533          | \$801  | \$1,075        | \$804 | \$797 | \$682 |
|                | 21 or More Years    | 333 | \$550          | \$765  | \$1,133        | \$863 | \$842 | \$808 |
| Memphis TN     | Fewer Than 21 Years | 14  | \$288          | \$331  | \$380          | \$345 | \$317 | \$328 |
|                | 21 or More Years    | 15  | \$355          | \$415  | \$425          | \$394 | \$382 | \$375 |
| Miami FL       | Fewer Than 21 Years | 57  | \$370          | \$450  | \$598          | \$490 | \$498 | \$443 |
|                | 21 or More Years    | 104 | \$388          | \$581  | \$749          | \$584 | \$580 | \$536 |
| Milwaukee WI   | 21 or More Years    | 16  | \$302          | \$454  | \$613          | \$589 | \$515 | \$530 |
| Minneapolis MN | Fewer Than 21 Years | 36  | \$470          | \$530  | \$607          | \$532 | \$486 | \$499 |
|                | 21 or More Years    | 84  | \$507          | \$675  | \$796          | \$656 | \$620 | \$589 |
| Nashville TN   | Fewer Than 21 Years | 28  | \$375          | \$405  | \$535          | \$449 | \$405 | \$397 |



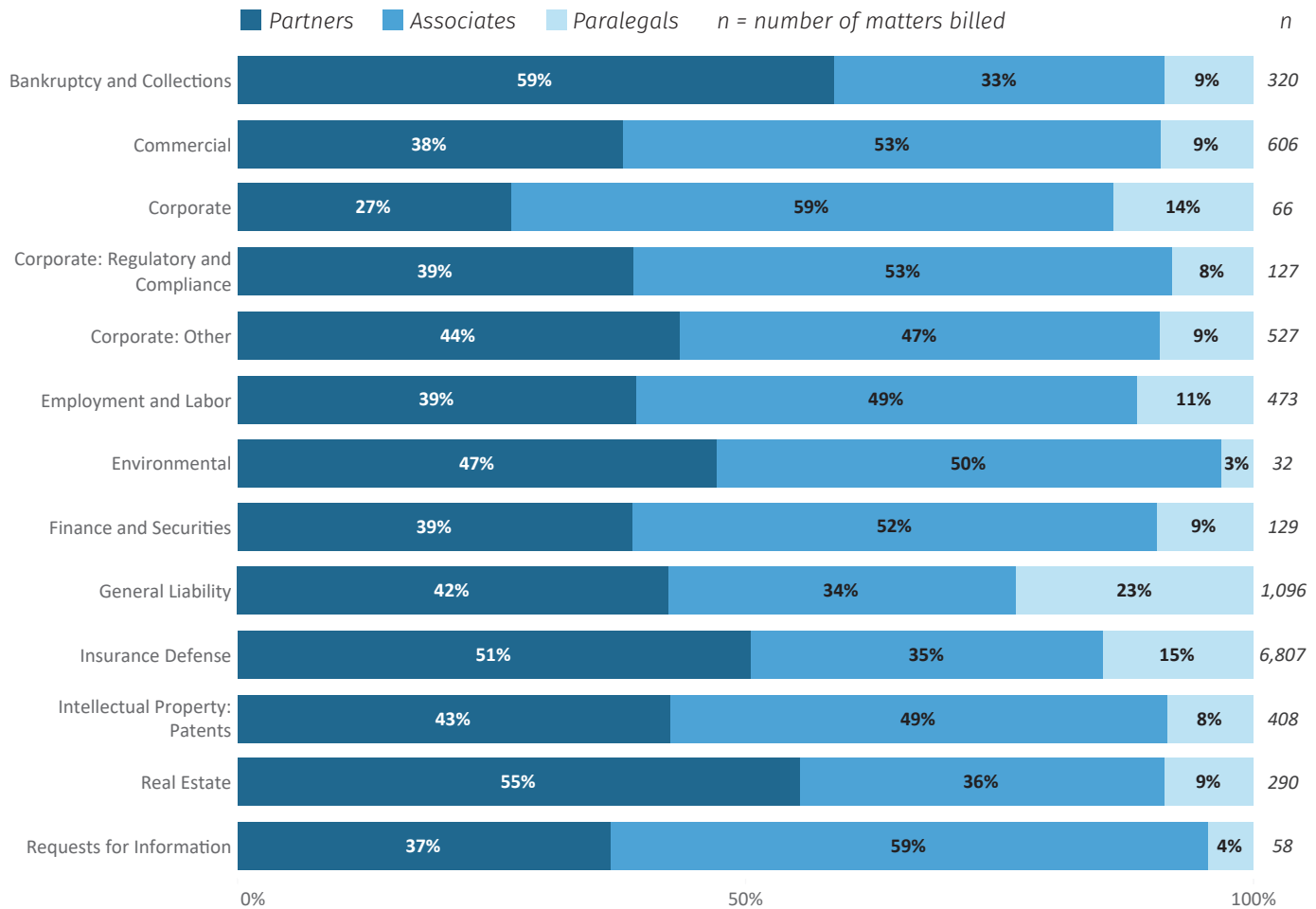
# Section VI: Matter Staffing Analysis

All data and analysis based on  
data collected thru Q2 2022

## Section VI: Matter Staffing Analysis

### Long Litigation Matters, More Than 100 Total Hours Billed

2019 to 2022 -- Percentage of Hours Billed per Matter



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# Section VII: Data Methodology

All data and analysis based on  
data collected thru Q2 2022

# Appendix: Data Methodology

## Invoice Information

Data in Wolters Kluwer ELM Solutions' reference database and the 2022 Real Rate Report were taken from invoice line-item entries contained in invoices received and approved by participating companies.

Invoice data were received in the Legal Electronic Data Exchange Standard (LEDES) format (LEDES.org). The following information was extracted from those invoices and their line items:

- Law firm (which exists as a random number in the ELM Solutions reference database)
- Timekeeper ID (which exists as a random number in the ELM Solutions reference database)
- Matter ID (which exists as a random number in the ELM Solutions reference database)
- Timekeeper's position (role) within the law firm (partner, associate, paralegal, etc.)
- Uniform Task-Based Management System Code Set, Task Codes, and Activity Codes (UTBMS.com)
- Date of service
- Hours billed
- Hourly rate billed
- Fees billed

## Non-Invoice Information

To capture practice area details, the matter ID within each invoice was associated with matter profiles containing areas of work in the systems of each company. The areas of work were then systematically categorized into legal practice areas. Normalization of practice areas was done based on company mappings to system-level practice areas available in the ELM Solutions system and by naming convention.

The majority of analyses included in this report have been mapped to one of 11 practice areas, further divided into sub-areas and litigation/non-litigation (for more information on practice areas and sub-areas, please refer to pages 232-234).

To capture location and jurisdiction details, law firms and timekeepers were systematically mapped to the existing profiles within ELM Solutions systems, as well as with publicly available data sources for further validation and normalization. Where city location information is provided, it includes any address within that city's defined Core-Based Statistical Area (CBSA) as defined by the Office of Management and Budget (OMB). The CBSAs are urban centers with populations of 10,000 or more and include all adjacent counties that are economically integrated with that urban center.

Where the analyses focus on partners, associates, and paralegals, the underlying data occasionally included some sub-roles, such as "senior partner" or "junior associate." In such instances, those timekeeper sub-roles were placed within the broader partner, associate, and paralegal segments.

Demographics regarding law firm size, location, and lawyer years of experience were augmented by incorporating publicly available information.

# Appendix: Data Methodology

## A Note on US Cities

| Principal City    | CBSA Name                                    |
|-------------------|----------------------------------------------|
| Hartford, CT      | Hartford-East Hartford-Middletown, CT        |
| Honolulu, HI      | Urban Honolulu HI                            |
| Houston, TX       | Houston-The Woodlands-Sugar Land, TX         |
| Indianapolis, IN  | Indianapolis-Carmel-Anderson, IN             |
| Jackson, MS       | Jackson, MS                                  |
| Jacksonville, FL  | Jacksonville, FL                             |
| Kansas City, MO   | Kansas City, MO-KS                           |
| Lafayette, LA     | Lafayette, LA                                |
| Las Vegas, NV     | Las Vegas-Henderson-Paradise, NV             |
| Lexington, KY     | Lexington-Fayette, KY                        |
| Little Rock, AR   | Little Rock-North Little Rock-Conway, AR     |
| Los Angeles, CA   | Los Angeles-Long Beach-Anaheim, CA           |
| Louisville, KY    | Louisville/Jefferson County, KY-IN           |
| Madison, WI       | Madison, WI                                  |
| Memphis, TN       | Memphis-Forrest City, TN-MS-AR               |
| Miami, FL         | Miami-Fort Lauderdale-Pompano Beach, FL      |
| Milwaukee, WI     | Milwaukee-Waukesha, WI                       |
| Minneapolis, MN   | Minneapolis-St. Paul-Bloomington, MN-WI      |
| Nashville, TN     | Nashville-Davidson-Murfreesboro-Franklin, TN |
| New Haven, CT     | New Haven-Milford, CT                        |
| New Orleans, LA   | New Orleans-Metairie, LA                     |
| New York, NY      | New York-Newark-Jersey City, NY-NJ-PA        |
| Oklahoma City, OK | Oklahoma City, OK                            |
| Omaha, NE         | Omaha-Council Bluffs, NE-IA                  |
| Orlando, FL       | Orlando-Kissimmee-Sanford, FL                |
| Philadelphia, PA  | Philadelphia-Camden-Wilmington, PA-NJ-DE-MD  |
| Phoenix, AZ       | Phoenix-Mesa-Chandler, AZ                    |
| Pittsburgh, PA    | Pittsburgh, PA                               |
| Portland, ME      | Portland-South Portland, ME                  |
| Portland, OR      | Portland-Vancouver-Hillsboro, OR-WA          |
| Providence, RI    | Providence-Warwick, RI-MA                    |
| Raleigh, NC       | Raleigh-Cary, NC                             |
| Reno, NV          | Reno-Carson City-Fernley, NV                 |

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# Appendix: Data Methodology

## Bankruptcy and Collections

Chapter 11  
Collections

General/Other  
Workouts and Restructuring

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## Commercial (Commercial Transactions and Agreements)

Contract Breach or Dispute  
General, Drafting, and Review  
General/Other

---

## Corporate<sup>1</sup>

Antitrust and Competition  
Corporate Development  
General/Other  
Governance  
Information and Technology  
Mergers, Acquisitions, and Divestitures

Partnerships and Joint Ventures  
Regulatory and Compliance  
Tax  
Treasury  
White Collar/Fraud/Abuse

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## Employment and Labor

ADA  
Agreements  
Compensation and Benefits  
Discrimination, Retaliation, and Harassment/EEO  
Employee Dishonesty/Misconduct  
ERISA

General/Other  
Immigration  
Union Relations and Negotiations/NLRB  
Wages, Tips, and Overtime  
Wrongful Termination

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## Environmental

General/Other  
Health and Safety

Superfund  
Waste/Remediation

---

## Finance and Securities

Commercial Loans and Financing  
Debt/Equity Offerings  
Fiduciary Services  
General/Other

Investments and Other Financial Instruments  
Loans and Financing  
SEC Filings and Financial Reporting  
Securities and Banking Regulations

---

## General Liability

Asbestos/Mesothelioma  
Auto and Transportation  
Consumer Related Claims  
Crime, Dishonesty and Fraud  
General/Other

Personal Injury/Wrongful Death  
Premises  
Product and Product Liability  
Property Damage  
Toxic Tort

<sup>1</sup> All references to “Corporate: General/Other” in the Real Rate Report are the aggregation of all Corporate sub-areas excluding the Mergers, Acquisitions, and Divestitures sub-area and the Regulatory and Compliance sub-area.

# Exhibit 4

Free Newsletter Sign Up

Business & Practice

# Big Law Rates Topping \$2,000 Leave Value ‘In Eye of Beholder’

By Roy Strom

Column

June 9, 2022, 2:30 AM

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*Welcome back to the Big Law Business column on the changing legal marketplace written by me, Roy Strom. Today, we look at a new threshold for lawyers' billing rates and why it's so difficult to put a price on high-powered attorneys. Sign up to receive this column in your inbox on Thursday mornings. Programming note: Big Law Business will be off next week.*

Some of the nation's top law firms are charging more than \$2,000 an hour, setting a new pinnacle after a two-year burst in demand.

Partners at Hogan Lovells and Latham & Watkins have crossed the threshold, according to court documents in bankruptcy cases filed within the past year.

Other firms came close to the mark, billing more than \$1,900, according to the documents. They include Kirkland & Ellis, Simpson Thacher & Bartlett, Boies Schiller Flexner, and Sidley Austin.

Simpson Thacher & Bartlett litigator Bryce Friedman, who helps big-name clients out of jams, especially when they're accused of fraud, charges \$1,965 every 60 minutes, according to a court document.

In need of a former acting US Solicitor General? Hogan Lovells partner Neal Katyal bills time at \$2,465 an hour. Want to hire famous litigator David Boies? That'll cost \$1,950 an hour (at least). Reuters was first to report their fees.

Eye-watering rates are nothing new for Big Law firms, which typically ask clients to pay higher prices at least once a year, regardless of broader market conditions.

"Value is in the eye of the beholder," said John O'Connor, a San Francisco-based expert on legal fees. "The perceived value of a good lawyer can reach into the multi-billions of dollars."

Kirkland & Ellis declined to comment on its billing rates. None of the other firms responded to requests to comment.

## Charge It Up

Big Law firms are crossing the \$2,000-an-hour threshold after two years of surging rates driven by an increase in demand for lawyers.

| Firm                       | Highest Billing Rate |
|----------------------------|----------------------|
| Hogan Lovells              | \$2,465              |
| Latham & Watkins           | \$2,075              |
| Kirkland & Ellis           | \$1,995              |
| Simpson Thacher & Bartlett | \$1,965              |
| Boies Schiller Flexner     | \$1,950              |
| Sidley Austin              | \$1,900              |

Source: Court documents

Bloomberg Law

Law firms have been more successful raising rates than most other businesses over the past 15 years.

Law firm rates rose by roughly 40 percent from 2007 to 2020, or just short of 3 percent per year, Thomson Reuters Peer Monitor data show. US inflation rose by about 28% during that time.

The 100 largest law firms in the past two years achieved their largest rate increases in more than a decade, Peer Monitor says. The rates surged more than 6% in 2020 and grew another 5.6% through November of last year. Neither level had been breached since 2008.

The price hikes occurred during a once-in-a-decade surge in demand for law services, which propelled profits at firms to new levels. Fourteen law firms reported average profits per equity partner in 2021 over \$5 million, according to data from The American Lawyer. That was up from six the previous year.

The highest-performing firms, where lawyers charge the highest prices, have outperformed their smaller peers. Firms with leading practices in markets such as mergers and acquisitions, capital markets, and real estate were forced to turn away work at some points during the pandemic-fueled surge.

Firms receive relatively tepid pushback from their giant corporate clients, especially when advising on bet-the-company litigation or billion-dollar deals.

The portion of bills law firms collected—a sign of how willingly clients pay full-freight—rose during the previous two years after drifting lower following the Great Financial Crisis. Collection rates last year breached 90% for the first time since 2009, Peer Monitor data show.

Professional rules prohibit lawyers from charging “unconscionable” or “unreasonable” rates. But that doesn’t preclude clients from paying any price they perceive as valuable, said Jacqueline Vinaccia, a San Diego-based lawyer who testifies on lawyer fee disputes.

Lawyers’ fees are usually only contested when they will be paid by a third party.

That happened recently with Hogan Lovells’ Katyal, whose nearly \$2,500 an hour fee was contested in May by a US trustee overseeing a bankruptcy case involving a Johnson & Johnson unit facing claims its talc-based powders caused cancer.

The trustee, who protects the financial interests of bankruptcy estates, argued Katyal’s fee was more than \$1,000 an hour higher than rates charged by lawyers in the same case at Jones Day and Skadden Arps Slate Meagher & Flom.

A hearing on the trustee’s objection is scheduled for next week. Hogan Lovells did not respond to a request for comment on the objection.

Vinaccia said the firm’s options will be to reduce its fee, withdraw from the case, or argue the levy is reasonable, most likely based on Katyal’s extensive experience arguing appeals.

Still, the hourly rate shows just how valuable the most prestigious lawyers’ time can be—even compared to their highly compensated competitors.

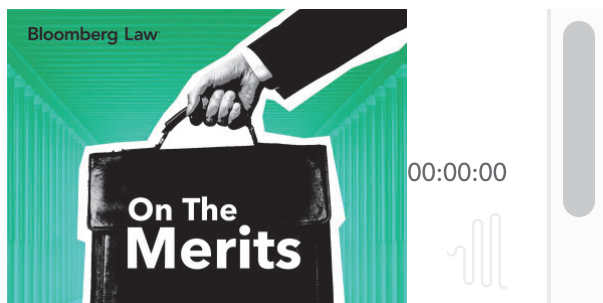
“If the argument is that Jones Day and Skadden Arps are less expensive, then you’re already talking about the cream of the crop, the top-of-the-barrel law firms,” Vinaccia said. “I can’t imagine a case in which I might argue those two firms are more reasonable than the rates I’m dealing with.”

## **Worth Your Time**

**On Cravath:** Cravath Swaine & Moore is heading to Washington, opening its first new office since 1973 by hiring former heads of the U.S. Securities and Exchange Commission and Federal Deposit Insurance Corporation. Meghan Tribe reports the move comes as Big Law firms are looking to add federal government expertise as clients face more regulatory scrutiny.

**On Big Law Promotions:** It’s rare that associates get promotions to partner in June, but Camille Vasquez is now a Brown Rudnick partner after she shot to fame representing Johnny Depp in his defamation trial against ex-wife Amber Heard.

**On Working From Home:** I spoke this week with Quinn Emanuel’s John Quinn about why he thinks law firm life is never going back to the office-first culture that was upset by the pandemic. Listen to the podcast [here](#).



*That's it for this week! Thanks for reading and please send me your thoughts, critiques, and tips.*

To contact the reporter on this story: Roy Strom in Chicago at [rstrom@bloomberglaw.com](mailto:rstrom@bloomberglaw.com)

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## Documents

[Trustee's Objection](#)

## Related Articles

[Overworked Big Law Can't Find Enough Lawyers With Demand Surging](#) Dec. 9, 2021, 3:00 AM

[Never Underestimate Big Law's Ability to Raise Billing Rates](#) Aug. 12, 2021, 3:00 AM

## Law Firms

Simpson Thacher  
Hogan Lovells  
Jones Day  
Skadden  
Sidley Austin  
Quinn Emanuel  
Cravath Swaine & Moore  
Latham & Watkins  
Kirkland & Ellis  
Boies Schiller Flexner

## **Topics**

expert fees  
compensation of bankruptcy attorney  
acquisitions  
U.S. trustees  
financial markets  
client-paid legal fees  
data breaches

## **Companies**

Johnson & Johnson  
Thomson Reuters Corp

**PROOF OF SERVICE**

*Wade v. Mallory Safety and Supply LLC, et al.*  
23CV00951

STATE OF CALIFORNIA                     )  
                                                           ) ss  
COUNTY OF LOS ANGELES            )

I, Zeyra Ceballos, state that I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to this action. My business address is 3055 Wilshire Blvd., 12<sup>th</sup> Fl., Los Angeles, California 90010. My electronic service address is zceballos@wilshirelawfirm.com.

On February 5, 2024, I served the foregoing **DECLARATION OF JUSTIN F. MARQUEZ IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**, on the interested parties by placing a true copy thereof, enclosed in a sealed envelope by following one of the methods of service as follows:

Todd R. Wulffson (SBN 150377)  
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Attorneys for Defendant

- (X) **BY UPLOAD:** I hereby certify that the documents were uploaded by my office to the State of California Labor and Workforce Development Agency Online Filing Site.
- (X) **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known email address or e-mail of record in this action.
- (X) **BY MAIL:** I enclosed the above documents in a sealed envelope with postage thereon fully prepaid and placed for collection and mailing on the above date in accordance with ordinary business practices. I am readily familiar with this firm's practice of collection and processing of correspondence for mailing with the United States Postal Service, and that the correspondence shall be deposited with the United States Postal Service the same day in the ordinary course of business pursuant to Cal. Code Civ. Proc. § 1013(a).

///

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

3 Executed this **February 5, 2024**, at Los Angeles, California.

4   
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6 Zeyra Ceballos  
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