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Attorneys for Plaintiff Lindsay Orin
and Proposed Class Counsel

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

LINDSAY ORIN, on behalf of herself
and all others similarly situated and on
behalf of the general public,

Plaintiff,

v.

CAL. DEL. U.S.A. INC., a California
corporation, and DOES 1 through 10,
inclusive,

Defendants.

Case No. 2:23-cv-03404-FMO-KS

Assigned To: Fernando M. Olguin
Courtroom: 6D

CLASS ACTION

**DECLARATION OF DANIEL F.
GAINES IN SUPPORT OF
UNOPPOSED RENEWED MOTION
FOR PRELIMINARY APPROVAL
OF CLASS AND PAGA ACTION
SETTLEMENT**

**Date: April 18, 2024
Time: 10:00 A.M.
Courtroom: 6D
Judge: Fernando M. Olguin**

1 I, DANIEL F. GAINES, hereby declare and state as follows:

2 1. I am an attorney duly admitted to the practice of law in the State of
3 California. I am a shareholder of Gaines & Gaines, APLC, counsel for Plaintiff
4 Lindsay Orin and proposed Class Counsel in this action. I have personal knowledge
5 of the facts set forth herein and if called as a witness to testify to them, I could and
6 would do so competently.

7 **Education and Experience:**

8 2. I obtained my BS degree from the University California at Berkeley in
9 2003. I majored in Business Administration at the Haas School of Business.

10 3. Thereafter, I attended the University of Virginia School of Law. At
11 Virginia, I was a member of the editorial board of the Virginia Tax Review. I was
12 also the recipient of the Lacy Armour Scholarship, awarded to recognize academic
13 excellence. At Virginia, I focused my studies on tax and real estate. I earned my JD
14 and became a member of the California Bar in 2007.

15 4. Since becoming a member of the Bar, and until his retirement, I practiced
16 law with my partner/father, Kenneth, at Gaines & Gaines, APLC. Our practice
17 specializes in litigation, with an emphasis in business, real estate, and employment
18 disputes like this one. Over 95% of my practice is devoted to complex employment
19 litigation.

20 5. My firm has represented employees and consumers in dozens of complex
21 class action matters similar to the instant case. Class action cases in which I have had
22 a direct involvement have resolved for tens of millions of dollars on behalf of hundreds
23 of thousands of employees and consumers. We have significant experience litigating
24 these types of cases. My firm has participated, as lead counsel and co-lead counsel, in
25 more than 100 class action matters. Attached hereto as **Exhibit A** is a list of some of
26 these cases.

27 6. Based on my own investigation and evaluation, I am of the opinion that
28 the Settlement, its allocation among Class Members, and the recovery for each Class

1 Member, is fair and reasonable. I believe I have a strong understanding of the trends
2 in both the likelihood of certification of wage and hour cases and the value of
3 settlements of cases such as this one. My opinion takes into consideration the amounts
4 received in other similar class actions which I have litigated and/or am familiar with,
5 the risks inherent in litigation of this genre, and the reasonable tailoring of each Class
6 Member's claim to the amount received in settlement. Based on that knowledge, I am
7 of the opinion the settlement is fair, reasonable and adequate and is in the best interests
8 of the Class.

9 **Factual Background and Procedural Posture:**

10 7. Plaintiff and Class Members are current and former non-exempt
11 employees of Defendant Cal. Del. U.S.A. Inc. ("Defendant" or "CDUSA") in the State
12 of California. Plaintiff was employed by Defendant from October 2022 through March
13 2023 as a non-exempt employee in Los Angeles County, California.

14 8. On or about March 27, 2023, Plaintiff complied with the administrative
15 prerequisites set forth in the Private Attorneys General Act, Labor Code ¶ 2698 *et. seq.*
16 ("PAGA") by sending a letter, by online submission to the Labor & Workforce
17 Development Agency ("LWDA") and by certified mail to Defendant, outlining the
18 facts and theories underlying her claims. Attached hereto as **Exhibit C** is a true and
19 correct copy of the March 27, 2023 LWDA letter.

20 9. On April 3, 2023, Plaintiff filed a Class and Collective Action Complaint
21 with the Los Angeles County Superior Court. On or about May 4, 2023, Defendant
22 removed the Action to the United States District Court, Central District. On July 19,
23 2023, Plaintiff filed her First Amended Class, Collective, and Representative Action
24 Complaint in this Court.

25 10. In the First Amended Complaint, Plaintiff alleges that: Defendant paid
26 Class Members commission wages that were not included in their regular rate of pay
27 for purposes of paying them sick pay wages at the correct rate, in violation of Labor
28 Code §§ 246 and 558 and IWC Wage Order No. 4-2001; Defendant failed to pay Class

Members premium overtime compensation for all overtime hours worked, in violation of Labor Code §§ 510, 558, and 1194; Defendant failed to provide Class Members with legally compliant rest periods, or premium wages of one hour's pay in lieu thereof, as required by Labor Code §§ 226.7 and IWC Wage Order 4-2001; Defendant failed to permit or authorize Class Members to take timely 30-minute meal periods for shifts greater than 5 hours in length, in violation of Labor Code §§ 226.7, 512, and 558 and IWC Wage Order 4-2001; Class Members were required to incur expenses in the performance of their job duties for which they are not fully reimbursed, in violation of Labor Code § 2802; Defendant failed to issue Class Members accurately itemized wage statements, in violation of Labor Code § 226(a)(1), (2), (5), and (9); and Defendant failed to pay Class Members all wages due upon separation of employment, in violation of Labor Code §§ 201-202. As a result, Plaintiff claims she and the Class are entitled to wages and overtime pay pursuant to the Fair Labor Standards Act, 29 USC §§ 206, 207 and Labor Code sections 226.7, 246, 510, 512, and 1194, compensation for missed rest breaks pursuant to Labor Code section 226.7; compensation for missed meal breaks pursuant to Labor Code sections 226.7 and 512, reimbursement of necessary business expenses pursuant to Labor Code section 2802; penalties for inaccurate itemized wage statements pursuant to Labor Code section 226(a), (e), penalties to separated employees pursuant to Labor Code section 203, PAGA penalties pursuant to Labor Code section 2699, and restitution and injunctive relief in accord with California Business and Professions Code section 17200, as well as interest and attorneys' fees.

Counsel's Due Diligence and Settlement Negotiations:

11. After engaging in informal discussions about the case, the Parties agreed to forego formal discovery, engage in comprehensive informal discovery, and to engage in private mediation.

12. Specifically, my office requested, and Defendant informally produced, the number of current and former Class Members, number of workweeks, number of pay periods, number of current and former alleged aggrieved employees, and average rates

1 of pay. Defendant also produced relevant portions of Defendant's employee handbook,
2 Plaintiff's personnel records, and a 25% sampling of time and pay records for Class
3 Members.

4 13. Prior to attending mediation, my office engaged an outside expert to
5 analyze the sampling of time and wage data which provided my office with details
6 including, but not limited to, when and if meal periods were taken, and the amount of
7 underpaid overtime wages and sick pay wages due to Defendant's alleged failure to
8 blend commission wages into its employees' regular rate of pay.

9 14. The Parties attended a mediation session October 4, 2023 presided over
10 by Michael L. Ludwig, Esq., a mediator with significant experience in wage and hour
11 class actions. Each Party was represented by respective counsel during the good-faith
12 negotiations facilitated by Mr. Ludwig. In connection with the mediation, Defendant
13 provided information to Mr. Ludwig and Class Counsel concerning Defendant's
14 varying practices throughout the State of California with regards to wage payment,
15 meal and rest break claims, unpaid wage claims, and issuance of wage statements. The
16 Parties were able to reach a resolution of the claims in the First Amended Complaint at
17 the mediation.

18 15. The Parties, after taking into account the sharply disputed factual and legal
19 issues involved in this action, the risks of attending further prosecution, and the benefits
20 to be received pursuant to the compromise and settlement, subsequently negotiated the
21 terms of a formal settlement agreement. A true and correct copy of the First Amended
22 Stipulation and Settlement of Class, Collective, and Representative Action (the
23 "Settlement," "Settlement Agreement," "Stipulation," or "Stip.") is attached hereto as
24 **Exhibit B**. The Settlement includes all terms of the Parties' agreement.

25 16. Discussions between counsel for the Parties, informal discovery, as well
26 as the investigation and evaluation of the claims of Plaintiff by the Parties, have
27 permitted each side to assess the relative merits of the claims and the defenses to those
28 claims. At all times, the Parties' settlement negotiations have been non-collusive,

1 adversarial, and at arm's length. The Parties agree that the above-described
2 investigation and evaluation, as well as the information exchanged during settlement
3 negotiations and mediation, are more than sufficient to assess the merits of the
4 respective Parties' positions and to compromise the issues on a fair and equitable basis.

5 17. Plaintiff was well-informed about the strengths and weaknesses of her
6 case after my office reviewed Defendant's written policies and relevant data, and
7 conducted a damages analysis based on data produced by Defendant.

8 18. Based on our independent investigation and evaluation, I am of the
9 opinion that the consideration and terms of the Settlement, considering the risk inherent
10 in asserting and prevailing on representative and class claims, and the risk of loss on
11 the merits, is fair, reasonable, and adequate in light of all known facts and
12 circumstances, and is in the best interests of the Class. I am also of the opinion that the
13 total consideration and payment set forth in the Stipulation of Settlement is adequate
14 in light of the uncertainties surrounding the risk of further litigation, and the possible
15 defenses that Defendant has asserted and could assert.

16 **The Nature of Plaintiff's Claims and Risks of Continued Litigation:**

17 19. With regards to the payment of sick pay and overtime wages, Defendant
18 used a formula that allegedly did not properly compute commission earnings into its
19 employees' regular rate of pay for purposes of paying sick pay and overtime wages at
20 the correct rates. Defendant also produced time records that will show when meal
21 breaks are short, missed, or late. Regarding Defendant's rest break policies and
22 practices, Defendant asserts that it maintained uniform and compliant policies and
23 practices that were applied to all non-exempt employees statewide. Finally, Plaintiff's
24 claims that Defendant failed to issue complete and accurate wage statements and issue
25 final wages timely at the separation of employment were purely derivative based on
26 the unpaid wages claims above.

27 20. Defendant forcefully maintained that it enforced legally compliant
28 policies and procedures regarding meal and rest periods that provided all employees

1 with proper, timely meal and rest breaks, and any missed meal and rest periods were
2 waived by employees on their own volition. Defendant also maintained that it had
3 legally compliant expense reimbursement policies and all employees were properly
4 reimbursed for all business expenses incurred. Finally, as to Plaintiff's claim that
5 Defendant failed to blend all non-base wages into the regular rate of pay, Defendant
6 also maintained numerous defenses to this claim, including that the payments were
7 discretionary, and that Class Members rarely earned any commissions or other non-
8 base hourly wages, so liability, if any, would be minimal. Data shows that overtime
9 wages were almost always paid correctly at the proper rates.

10 21. Additionally, the risks and costs of proceeding to trial and potential appeal
11 warrant further reduction of the value of the claims. Continued litigation would be
12 expensive and would result in a substantial delay and would likely reduce any recovery
13 by Class Members. Plaintiff contends that the risks in proceeding combined with the
14 delays if the case were to go to trial or be appealed significant favor settlement,
15 especially a settlement which provides significant relief to Class Members.

16 22. While Plaintiff attests that she rarely received a rest break, Defendant
17 argues that all employees were provided with ten-minute rest breaks as required by
18 California law, and that any failure to take an authorized break was a waiver thereof.
19 My office gauged that it would be difficult, if not impossible, through a survey process,
20 to demonstrate a 100% violation rate for rest breaks particularly where, as here,
21 Defendant argues that rest breaks were indeed offered. Based on the likelihood that
22 Plaintiff would be able to demonstrate some, but not all, rest breaks were not properly
23 provided, she applies a projected 50% violation rate. However, this assumption is likely
24 overstated. As discussed throughout, Defendant contends that any rest periods not
25 taken were waived, not denied.

26 23. As to Plaintiff's expense reimbursement claim, Plaintiff contends that she
27 was required to use her personal cell phone for her first 90 days of employment, until
28

1 she was provided with a work cell phone. Based on this, my office calculated \$30 in
2 unreimbursed cell phone expenses per employee for three months of employment.

3 24. My office did not have Mr. Berger compute separate damages based on
4 the violation of Business & Professions Code § 17200 claim (the “UCL claim”) because it does not have any independent value. The UCL claim is wholly predicated
5 on the Labor Code violations alleged and it simply extends the statute of limitations to
6 four years; the value of the unpaid wage and expense reimbursement claims set forth
7 herein extend for the four-year limitations period available under the UCL.
8

9 25. Based on the calculations provided by Mr. Berger, the estimated
10 maximum amount of damages and penalties that Class Members theoretically could be
11 awarded at trial is approximately \$687,270, inclusive of unpaid wages, meal and rest
12 period premiums, waiting time penalties, and wage statement penalties. The estimated
13 maximum amount of PAGA civil penalties that Aggrieved Employees theoretically
14 could be awarded at trial is approximately \$585,300. However, my office believes that
15 a more accurate number for the PAGA penalties is \$194,600, based on one penalty per
16 pay period at \$100 per penalty. As discussed below, it is unlikely that this Court would
17 allow for the “stacking” of PAGA penalties, and therefore, this number is the most
18 accurate estimation of potential PAGA civil penalties Defendant could be found liable
19 for.

20 26. There were numerous risks to recovery here which required a compromise
21 to resolve the Action at this juncture of the litigation. Defendant argued that many of
22 its employees rarely received commission or other non-base hourly wages, and when
23 they did, all employees were properly compensated for overtime and sick pay wages.
24 Defendant also forcefully maintained that it enforced legally compliant policies and
25 procedures regarding meal and rest periods that provided all employees with proper,
26 timely meal and rest breaks, and any missed meal and rest periods were waived by
27 employees. Defendant argued that no wage statement penalties or waiting time
28 penalties would be recovered because it paid all wages due, it acted in good faith at all

1 times, and Class Members suffered no actionable injury. It also took the position that
2 PAGA penalties could not be stacked, and the Court would likely exercise its discretion
3 to reduce or eliminate them altogether, based on the alleged weakness of the claims
4 asserted. It also contended that a class could not be certified because of manageability
5 concerns, among other issues, particularly with respect to the claims for meal and rest
6 periods. Finally, Defendant argued that Plaintiff faced the risk that she would not
7 obtain a maximum damage/penalty award on all (or any of) her claims.

8 27. Defendant strongly contends that its policies and practices do not violate
9 any laws. It contends that it properly paid all wages and provided for all meal and rest
10 periods and fully compensated its employees for all time worked. It further contends
11 that the wage statements it provided to its employees are fully compliant with
12 California law.

13 28. Defendant also contended that the Ninth Circuit has held that heightened
14 PAGA penalties are not appropriate where the defendant was not notified by the Labor
15 Commissioner or any court that it was committing any violation of the law. Further,
16 based on my experience, courts are often hesitant to award a heightened penalty where
17 there is no prior citation by the Labor Commissioner. Defendant was not notified by
18 the Labor Commissioner or any court that it was subject to the California Labor Code,
19 and has not been previously cited by the Labor Commissioner for Labor Code
20 violations. Therefore, any violations prior to Plaintiff's LWDA letter are not subject to
21 heightened penalties.

22 29. Additionally, Defendant contended that there is no California authority
23 that expressly permits the practice of counting multiple PAGA violations/penalties that
24 occur within the same pay period, known as "stacking" penalties. My office is aware
25 of no court that has actually stacked such PAGA penalties for multiple violations
26 (meaning the "market" for PAGA settlements is based on no stacking of penalties) and
27 given the circumstances of this case, it is unlikely that this Court would impose a
28 massive penalty by stacking the PAGA penalty claims against Defendant. Although

1 stacking penalties is not unlawful, the majority of cases that address awards of PAGA
2 penalties focus on the court's discretion to reduce awards. Based thereon, the non-
3 stacking/one penalty per pay period is an appropriate evaluation for maximum potential
4 PAGA civil penalties exposure in this case.

5 30. Finally, Defendant contended it acted within the requirements of
6 California law at all times as to all Class Members and Aggrieved Employees. In
7 particular, Defendant contends that it paid all employees all wages due. Defendant also
8 contended that it has compliant meal and rest break practices. Defendant further
9 contends that not every pay period at issue involved an alleged Labor Code violation.
10 Moreover, Defendant maintained that even if the Court did award PAGA civil
11 penalties, the Court could and would *substantially* reduce the penalties awarded based
12 on the discretionary factors contained in Labor Code § 2699(e)(2).

13 31. My office found Defendant's defenses on these claims could be
14 meritorious and result in no recovery for Plaintiff and the Class. Further, the reasonable
15 damages and/or penalties that Class Members could expect to be awarded at trial are
16 uncertain. Class certification is a tremendous risk, and my office believes that the risk
17 entailed in losing a class certification motion is up to 50%, particularly as to the meal
18 and rest break claims. All penalty claims alleged are wholly derivative of the unpaid
19 wage claims, such that if Plaintiff does not prevail on those claims, she will not recover
20 a penny of penalties (and these penalties represent a substantial portion of her damage
21 model). Accordingly, when the costs and risks of non-certification and loss on the
22 merits are considered, my office is of the opinion that the settlement reached is clearly
23 a favorable one.

24 32. The table below shows the maximum potential recovery on each claim
25 alleged by Plaintiff and the realistic recovery on each such claim, as gauged by
26 Plaintiff's Counsel, applying a 75% discount (representing a 50% discount for class
27 certification risks and a 50% discount for the risk of a loss on the merits). As to PAGA
28

claims, Plaintiff's Counsel believes that there is at least a 50% risk of reduction of the penalties due to the Court's discretion to reduce them.

CLAIM	MAXIMUM POTENTIAL RECOVERY	REALISTIC RECOVERY
Unpaid Wages	\$44,276	\$11,069
Meal Breaks	\$142,733	\$35,683.25
Rest Breaks	\$260,200	\$65,050
Expense Reimbursement	\$5,670	\$1,417.50
Wage Statements	\$114,050	\$28,512.50
Waiting Time Penalties	\$120,341	\$30,085.25
PAGA Penalties – All Claims	\$194,600	\$97,300
TOTAL:	\$881,870	\$269,117.50

The Settlement Terms in Light of These Risks:

33. Under the terms of the Settlement, Defendant will pay \$250,000 to resolve the action. The settlement amount is approximately 36% of the maximum damages allegedly owed to Class Members or 92% of the risk-adjusted exposure in this case, a fair result when considering Defendant's significant defenses, and warranting this Court's approval.

34. The amount offered under the proposed Settlement provides a fair average per person net recovery for a wage-and-hour class action, especially in light of the narrow scope of the claims at hand (net payments will be \$2,338.23 on average for each of the 68 Class Members).

35. As discussed above, it is our judgment that Defendant's defenses to certification and liability are an important basis for validating the reasonableness of the settlement amount. Defendant has consistently maintained that it has ample legal and

1 factual grounds for defending this action on both class and merits issues. Considering
2 the risks going forward, the present settlement represents an excellent compromise of
3 Plaintiff's and Class Members' claims.

4 36. The settlement for each participating Class Member is fair, reasonable,
5 and adequate, given the inherent risk of litigation, the risk relative to class certification
6 and the costs of pursuing such litigation. The fairness of the settlement is demonstrated
7 by the uncertainty and risks to the Plaintiff and the Class both in not prevailing on one
8 or more causes of action or theories alleged in the Complaint and in non-certification.
9 Although we are confident that all of the elements necessary for certification are
10 satisfied in this case, the risk of non-certification is always present. Defendant has
11 adamantly disputed that Plaintiff will be able to certify any class and that the Class
12 Members were entitled to recovery under any of the theories alleged. If the Class were
13 not certified, most Class Members would likely not be able to pursue their individual
14 claims against Defendant because 1) their individual claims would not be large enough
15 to provide incentive to litigate individually, and 2) they may not know their claims even
16 exist. Further, Defendant has indicated it would consider a motion for summary
17 judgment which poses an additional risk to Plaintiff. The settlement takes these risks
18 into account and is a good compromise for the damages of absent Class Members.

19 37. Prosecution of this case will result in tangible benefits for the Class
20 Members in the following respects: (1) by this settlement, Class Members will receive
21 their recoveries over a reasonably short period of time as opposed to waiting additional
22 years for the same, or a possibly worse, result; and (2) settlement at this juncture will
23 translate into significant savings in our attorney's fees and costs which would have
24 only increased exponentially had the case progressed through trial, appeals, etc.

25 38. There is no governmental entity involved except the LWDA who did not
26 give notice that it will investigate the claims and who received notice of the Settlement.
27 Attached hereto as **Exhibit D** is a true and correct copy of the submission confirmation
28

1 my office received after uploading the amended Settlement, the renewed Motion, and
2 other supporting documents to the LWDA.

3 39. The reaction of the Class Members to the settlement will be better gauged
4 at the final fairness hearing and the close of the opt out and objection deadline.

5 40. Class payment apportionment is an art, not a science, and cannot always
6 be accomplished with precision. The proposed allocation here is fair based on the
7 information my office reviewed and the records maintained by Defendant. My office
8 believes that apportioning the Net Settlement Amount and FLSA Settlement Amount
9 to the Class Members based on the gross wages paid to all Class Members is fair. The
10 more wages an employee earned means that the employee worked more shifts and more
11 hours, and therefore, it is generally proportionate to the damages sustained.

12 41. My office insisted that the settlement payment be non-reversionary (i.e.,
13 maximizing payments to class members and aligning the interests of all parties to a
14 successful settlement administration).

15 **Suitability of the Action for Class Certification:**

16 42. To date, no class has been certified. The Settlement reached among the
17 Parties contains a provision pursuant to which we stipulate to the Court's provisional
18 certification of the Settlement Class, but do so for purposes of the Settlement only.

19 43. As proposed Class Counsel, and based on the discovery to date, I am
20 confident that Plaintiff could successfully prove that this action meets the requirements
21 of class certification under Rule 23.

22 44. Here, all Class Members share several common legal questions: (1)
23 whether Defendant violated Labor Code §§ 226.7, 246, 510, 512, and 1194 and the
24 FLSA, 29 U.S.C. §§ 206 and 207 by failing to pay all wages due during employment;
25 (2) whether Defendant violated Labor Code § 226(a) by failing to provide fully and
26 accurately itemized wage statements; (3) whether Defendant violated Labor Code §
27 2802 by failing to reimburse for all necessary business expenses; (4) whether
28 Defendant violated Labor Code §§ 226.7 and 512 by failing to provide all meal and

1 rest periods, or compensation in lieu thereof; and (5) whether Defendant violated Labor
2 Code §§ 201-203 by failing to timely pay all wages due at separation of employment.

3 45. The proposed Settlement Class is sufficiently cohesive because all
4 Settlement Class Members share a common nucleus of facts and potential legal
5 remedies – the same facts and law govern their claims; this Court could try their claims
6 in representative fashion by common evidence regarding Plaintiff's and Class
7 Members' claims, and identical law applies. Few factual issues are individualized to
8 Class Members – the policies applied by Defendant to all Class Members will drive the
9 resolution of the litigation. All of the Settlement Class Members seek relief based on
10 the same allegations and factual predicates (e.g. uniform policies and practices relating
11 to overtime and sick pay, meal and rest breaks, and expense reimbursement). As a
12 result, common questions of law and fact predominate here.

13 46. It is Plaintiff's position that her claims are not only typical of those of all
14 Class Members – they are identical. Plaintiff Orin alleges that the same employment
15 policies – the calculation of overtime and sick pay, the provision of meal and rest
16 breaks, and expense reimbursement – were applied to her as they were to each and
17 every Settlement Class Member.

18 47. Here, Plaintiff Orin has interests directly aligned with all Class Members
19 and has vigorously prosecuted this case on their behalf. She has no apparent conflicts
20 with Class Members. She has demonstrated her commitment to prosecute this Action
21 on their behalf through its conclusion and has acted in the best interests of the class
22 since commencing the action. The personal benefit Plaintiff would receive if it was
23 limited to her settlement payment as part of the class would not compensate her for the
24 aforementioned personal costs and risks she has assumed in order to benefit the class.

25 48. My law colleague, Alex P. Katofsky, obtained his BA degree from the
26 California State University Northridge in 1993 where he majored in Political Science.
27 Thereafter, he attended the University of the Pacific McGeorge School of Law. At
28 McGeorge, he was a member of the Governing Board of Community Legal Services

1 and was a student teacher of Appellate Advocacy. He also earned the American
2 Jurisprudence Award in Insurance Law. He earned his JD and became a member of the
3 California Bar in 1999. Since his admission to the Bar in 1999, he has devoted his
4 practice to a wide variety of matters, including business disputes, real estate litigation,
5 and wage and hour class action matters. He has substantial involvement in complex
6 litigation like the instant case, and has worked on more than one hundred wage and
7 hour class action cases with Gaines & Gaines.

8 49. As discussed above, Alex and I are highly experienced litigators, with
9 more than five decades of collective litigation experience. Both of us have substantial
10 experience prosecuting complex class action cases in the employment context. As
11 such, there is no conflict of interest between the named Plaintiff, proposed Class
12 Counsel, and the Settlement Class Members, and the adequacy element is met.

13 50. With respect to the predominance inquiry required under Rule 23(b)(3),
14 Plaintiff submits that the proposed Settlement Class is sufficiently cohesive because all
15 Class Members share a common nucleus of facts and potential legal remedies – the
16 same facts and law govern their claims; this Court could try their claims in
17 representative fashion by common evidence regarding Plaintiff's and Class Members'
18 claims, and identical law applies. Few factual issues are individualized to Class
19 Members – the policies applied by Defendant to all Class Members will drive the
20 resolution of the litigation. All of the Class Members seek relief based on the same
21 allegations and factual predicates (e.g. uniform policies and practices relating to
22 overtime payment, meal breaks, and expense reimbursement). As a result, common
23 questions of law and fact predominate here.

24 51. Perhaps the most persuasive argument in favor of the superiority of class
25 treatment here is the relative size of the alleged violations by Defendant; were a class
26 not certified, many (if not all) Class Members would not bring claims for the violations
27 alleged, because few (if any) know that Defendant's conduct is allegedly unlawful and
28 few would have the incentive to pursue litigation over these small claims. As a result,

1 class treatment is a superior method for adjudicating these claims, and a class action is
2 the preferred method of resolution.

3 **Class Counsel's Attorneys' Fees and Costs:**

4 52. The Parties have agreed that Class Counsel will seek no more than
5 \$62,500 (i.e., twenty-five percent of the Gross Settlement Amount) in attorneys' fees,
6 which will be less than our projected lodestar through the conclusion of this matter. A
7 clear-sailing agreement is fully disclosed in the Stipulation. Any attorneys' fees
8 awarded are subject to this Court's approval at the final approval hearing, in advance
9 of which Plaintiff will file a formal noticed motion with time records.

10 53. This Court can appreciate that litigating a high stakes case against a large
11 corporate defendant represented by a highly respected law firm in an evolving area of
12 law is not appealing to most lawyers, particularly when the plaintiff's lawyer will have
13 to finance the litigation. This case was taken solely on a contingency basis and is not
14 a case undertaken lightly. The risk of advancing substantial costs in this type of
15 litigation can be very high.

16 54. We have expended substantial time to date litigating the case and bringing
17 it to fruition. We expect to spend substantial more time through a comprehensive
18 notice and claims program and final approval process. We have aggressively litigated
19 this case from the start.

20 55. Finally, the Settlement provides that we will seek to recover litigation
21 costs of no more than \$13,000 from the Gross Settlement Amount. Before final
22 approval, we will submit an itemized statement of costs incurred to the Court for its
23 approval.

24 **CAFA Notice:**

25 56. The Parties agree that notice under the Class Action Fairness Act
26 ("CAFA") is required. In compliance with the CAFA, within ten (10) days after this
27 Renewed Motion for Preliminary Approval is filed, Defendant's Counsel shall cause
28 notice of this proposed Settlement to be served on the Attorney General of the United

1 States and the Attorneys General of California and Texas (where Class Members
2 presently reside). Defendant shall file with the Court a certification stating the date(s)
3 upon which such CAFA notices were sent. Defendant will provide my office with any
4 substantive responses received in response to any CAFA notice served. The Settlement
5 complies with the substantive requirements of CAFA because it does not include
6 coupons, class members are not obligated to pay any money to Class Counsel, and the
7 Settlement does not discriminate based on geographic location.

8 I declare, under penalty of perjury, under the laws of the United States, that the
9 foregoing is true and correct. Executed on March 15, 2024 at Westlake Village,
10 California.

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12 /s/ Daniel F. Gaines
13 DANIEL F. GAINES
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EXHIBIT A

Adams v. Newell Rubbermaid, USDC – Central District of California (Los Angeles), Case No. EDCV 08-1499 JTM (CTx)

Adams v. Sam's West, Inc., San Bernardino County Superior Court, Case No. CIVDS1403987

Agredano v. GS Brothers, Inc., Los Angeles County Superior Court, Case No. BC445561

Allen v. Toms Sierra Company, Nevada County Superior Court, Case No. CU18-082823

Allen v. Valley Inventory Service, Inc., Solano County Superior Court, Case No. FCS034682

Alvarez v. Pilot Travel Centers, LLC, San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-4605

Alonzo v. Camblin Steel Service, Inc., Placer County Superior Court, Case No. SCV0034165

Amenhotep v. Google, Inc., Santa Clara County Superior Court, Case No. 17CV311528

Anaya v. Progressive Logistics Services, LLC, Riverside County Superior Court, Case No. RIC1308270

Andre v. Newell Rubbermaid, Inc., San Bernardino County Superior Court, Case No. CIVVS1200282

Anduha v. ABC Phones of North Carolina, Inc., Stanislaus County Superior Court, Case No. 2022729

Anslow v. Wellington Energy, Inc., USDC – Northern District of California (San Francisco), Case No. CV11-1596-JCS

Aranda, et al. v. Universal Lumpers of California, Inc., San Joaquin County Superior Court, Case No. STK-UOE-2017-7826

Armendariz v. Integrated Pain Management Medical Group, Inc., Kern County Superior Court, Case No. BCV-19-100267-SDS

Barrow, et al. v. Desmond Foods, L.P., Sacramento County Superior Court, Case No. 34-2015-00187227

Batmanghelich v. Sirius XM Radio Inc., USDC – Central District of California (Los Angeles), Case No. CV 09-9190 VBF (JCx)

Bosser v. Hooked on Solar, Yolo County Superior Court, Case No. CVCV-2016-876

Bourland v. Horizon Personnel Services, Inc., Sacramento County Superior Court, Case No. 34-2014-00161365-CU-OE-GDS

Bowen v. IMI Material Handling Logistics, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2016-0000192

Branson v. Mladen Buntich Construction, San Bernardino County Superior Court, Case No. CIVDS1609129

Brandt v. Sacramento Auto Insurance Center, Inc., San Joaquin County Superior Court, Case No. 39-2009-00202938-CU-OE-STK

Brown v. 22nd District Agricultural Association, United States District Court, Southern District of California, Case No. 15-cv-2578-DHB

Brown v. Sierra Central Credit Union, Sutter County Superior Court, Case No. CVCS18-0002161

Burgess v. Blue Cross and Blue Shield of South Carolina, San Joaquin County Superior Court, Case No. 39-2012-00277449-CU-BT-STK

Burgess v. Strategic Retail Solutions, LLC, Los Angeles County Superior Court, Case No. BC413791

Calhoun v. Celadon Trucking Services, Inc., USDC – Central District of California (Los Angeles), Case No. 5:16-cv-01351-PSG-FFM

Caporicci v. Owens & Minor Distribution, Inc., San Joaquin County Superior Court, Case No. 39-2013-00295662-CU-OE-STK

Carl v. Advanced Call Center Technologies, LLC, Sacramento County Superior Court, Case No. 34-2013-00148310

Carlisle, et al. v. Professional Technical Security Services, Inc., Case No. CGC18569791

Carrete v. Gamestop, Inc., Imperial County Superior Court, Case No. ECU08501

Carrillo v. Bimbo Bakeries, Inc., San Bernardino County Superior Court, Case No. CIVDS1606813

Caudillo v. Aegis Treatment Centers, LLC, Merced County Superior Court, Case No. 18CV-0744

Cerami v. Metlife, Inc., USDC – Central District of California (Orange County), Case No. 11-CV-00681-CJC (MLGx)

Charles v. Aaron's Inc., Los Angeles County Superior Court, Case No. BC431468

Charles v. Nursefinders, LLC, Imperial County Superior Court, Case No. ECU07422

Cheifer v. JetBlue Airways Corporation, Los Angeles County Superior Court, Case No. BC451887

Cheifer, et al. v. WHGM, Inc., Los Angeles County Superior Court, Case No. LC104900

Chong, et al. v. Crescent Northwoods Inn, Inc., Del Norte County Superior Court, Case No. CVUJ-2018-1133

Church v. GameStop, Inc., et. al., USDC – Central District of California (Los Angeles), Case No. 11-CV-00132-VAP-RZ

Clothier v. Spar Marketing Services, Inc., Alameda County Superior Court, Case No: RG12-639317

Coleman v. Wireless Lifestyle, Inc., USDC – Western District of Missouri, Case No. 4:12-cv-00855-ODS

Colombo-Beyeler, et al. v. Viking River Cruises, Inc., San Bernardino County Superior Court, Case No. CIVDS1611608

Conlee v. Clark Pacific Corporation, Yolo County Superior Court, Case No. CV14-1409

Contreras v. Osmose Utilities Services, Inc., San Bernardino County Superior Court, Case No. CIVDS1513998

Contreras v. West American Service Corporation, Kings County Superior Court, Case No. 14C0280

Corona v. Yosemite Meat & Locker Service, Inc., Stanislaus County Superior Court, Case No. 2006828

Cortellessa v. Dotnext, Inc., Alameda County Superior Court, Case No. RG09429971

County v. Ingram Mirco, Inc., San Bernardino Superior Court, Case No. CIVRS 1304445

Covarrubias, et al. v. Petersendean Builder Group, Inc., Kern County Superior Court, Case No. BCV-16-101122

Cowen, et al. v. Evergreen Alliance Golf Limited, L.P., d/b/a Arcis Golf, San Bernardino County Superior Court, Case No. CIVDS1719283

Cruz-Garcia v. Lemonade Restaurant Group, LLC, Los Angeles County Superior Court, Case No. BC478205

Cunningham v. Performance Contracting, Inc., Contra Costa County Superior Court, Case No. C16-02157

Dabney v. Coneybeare, LLC, et al., Orange County Superior Court, Case No. 30-2018-00999989-CU-OE-CXC

Dabney, et al. v. Panera, LLC., San Bernardino County Superior Court, Case No. CIVDS1516030

Diaz, et al. v. Seaworld Entertainment, Inc., Imperial County Superior Court, Case No. ECU10046

Diggs v. Western Waterproofing Company, Inc., San Francisco County Superior Court, Case No. CGC-14-539281

Dismuke v. Rhodes Retail Services, Inc., Sacramento County Superior Court, Case No. 34-2011-00105001

Dorsette v. TA Operating, LLC, USDC – Central District of California (Los Angeles), Case No. EDCV 09-1350 PA (RZx)

Duran v. The Image of California, Inc., Kern County Superior Court, Case No. S-1500-CV-284056 DRL

Edwards v. Trans World Entertainment Corp., San Diego County Superior Court, Case No. 37-2010-00095123-CU-OE CTL

Esakhani v. Central Valley Gaming, Stanislaus County Superior Court, Case No. 2020667

Escobar v. SMSSI of California, Inc., San Francisco Superior Court, JCCP No. 4776

Espinosa v. Taltech Construction, et al., Los Angeles County Superior Court, Case No. BC590176

Espinosa v. Bodycote Thermal Processing, Inc., Los Angeles County Superior Court, Case No. BC501617

Espinoza v. Pabco Building Products, LLC, Los Angeles County Superior Court, Case No. VC065660

Estrada v. Net Source Communications, Inc., Los Angeles County Superior Court, Case No. BC431169

Estrada v. OS Restaurant Services, LLC, Santa Clara County Superior Court, Case No. 16CV293249

Estupinan v. Global Development Strategies, Inc., Santa Clara County Superior Court, Case No. 110CV178898

Fadhl. v. Siemens Healthcare Diagnostics Inc., Sacramento County Superior Court, Case No. 34-2017-00209518

Fernandez v. The Regents of the University of California, Los Angeles County Superior Court, Case No. BC656256

Ferrer v. Dish Network Corporation, Los Angeles County Superior Court, Case No. BC441354

Findora v. Barry Callebaut USA LLC, Napa County Superior Court, Case No. 19CV000219

Flores v. Cintas Corporation, Los Angeles County Superior Court, Case No. BC400422

Friel v. Midwest Construction Services, Inc., San Joaquin County Superior Court, Case No. 39-2015-00329204-CU-OE-STK

Gagnon v. Banc of California, Contra Costa County Superior Court, Case No. C 15-00196

Galarza v. Bayou Well Services, LLC, Kern County Superior Court, Case No. S-1500-CV-279372 DRL

Galarza v. C & H Testing Service LLC, Kern County Superior Court, Case No. BCV-15-100008 SPC

Garcia v. Old Dominion Freight Line, Inc., San Bernardino County Superior Court, Case No. CIVDS1404636

Geer v. Applied Aerospace Structures Corp., San Joaquin County Superior Court, Case No. 39-2014-00313702-CU-OE-STK

Getz v. California Cinema Investments, Inc., Ventura County Superior Court, Case No. 56-2013-00437706-CU-MC-VTA

Gibbs v. M. Lehmann Enterprises, Orange County Superior Court, Case No. 30-2013-00678538-CU-OE-CXC

Gilles v. Schaefer Ambulance Service Inc., Imperial County Superior Court, Case No. ECU07970

Goldman, et al. v. Defender's, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-0009973

Gomez v. Low Desert Empire Pizza, Inc., San Bernardino County Superior Court, Case No. CIVVS900392

Gomez v. Pizza Hut of Southeast Kansas, Inc., San Bernardino County Superior Court, Case No. CIVVS900679

Gonzalez v. Harris Farms, Inc., USDC – Eastern District of California (Fresno), Case No. 1:14-cv-00038-LJO-SAB

Guerrero v. Main Electric Supply Company LLC, Ventura County Superior Court, Case No. 56-2019-00525427-CU-OE-VTA

Gutierrez v. Asset Management Specialists, Inc., Fresno County Superior Court, Case No. 12CECG03577

Gutierrez v. Linkus Enterprises, Inc., Madera County Superior Court, Case No. MCV065774

Gutierrez v. Shiekh, LLC, San Bernardino County Superior Court, Case Nos. CIVRS1206525, CIVRS1303408

Hairston v. Stanislaus Surgical Hospital, Stanislaus County Superior Court, Case No. CV-19-000651

Hindman v. Service Quick, Inc., San Bernardino County Superior Court, Case No. CIVDS1724229

Hogan v. iMobile of CA LLC, San Bernardino County Superior Court, Case No. CIVDS1409263

Hogan v. Wireless Evolution Inc., Riverside County Superior Court, Case No. MCC1300669

Hogan v. Wireless That's It! LLC, Riverside County Superior Court, Case No. RIC1201997

Holmes v. Bottling Group, LLC, Stanislaus County Superior Court, Case No. 2022584

Hooper, et al. v. URS Midwest, Inc., et al., San Bernardino Superior Court, Case No. CIVDS1607489

Humphrey v. Freedomroads, LLC, Shasta County Superior Court, Case No. 178228

Hurtado v. Rush Truck Centers of California, Inc., Los Angeles County Superior Court, Case No. BC427672

Hyde v. Dent Wizard International Corporation, Sacramento County Superior Court, Case No. 34-2015-00173882

Ibrihim v. Imperfect Foods, Inc., San Joaquin County Superior Court, Case No. STK-VI-UOE-2019-0000846

Id-deen v. Educational Services of America, Solano County Superior Court, Case No. FCS040803

Isherwood v. Mason Dixon Intermodal, Inc., San Joaquin County Superior Court, Case No. 39-2012-00279891-CU-OC-STK

Jahanbin v. Pacific Mercantile Bank, Orange County Superior Court, Case No. 30-2011-00480705CU-OE-CXC

Jenkins v. Sedgwick Claims Management Services, Inc., Los Angeles Superior Court, Case No. LC101648

Job v. California Security Services, Yuba County Superior Court, Case No. 14-0000820

Johnson v. The Goodyear Tire & Rubber Company, USDC – Northern District of California (San Francisco), Case No. 3:13-cv-01069-MMC

Jolin v. Bay Cities Recovery, Inc., El Dorado County Superior Court, Case No. PC20100458

Jordan v. Sutter Memorial Hospital, Stanislaus County Superior Court, Case No. 2023344

Keebaugh v. Mike Thompson Recreational Vehicles, San Bernardino County Superior Court, Case No. CIV-DS-1500718

Kelly v. Robin's Enviro Vac, Inc., Kern County Superior Court, Case No. S-1500-CV-282277
DRL

King v. Levy Premium Foodservice Limited Partnership, Alameda County Superior Court, Case No. HG15786353

Kunsman v. Punch Bowl Sacramento, LLC, et al., Sacramento County Superior Court, Case No. 34-2018-00243175

LaFear v. Encore Education Corporation, San Bernardino County Superior Court, Case No. CIVDS1802251

Lanzarin v. AWI Management Corporation, Solano County Superior Court, Case No. FCS041809

Lee, et al. v. Foster Dairy Farms, Stanislaus County Superior Court, Case Nos. 2006542, 2015679

Lemus, et al. v. Eastridge Workforce Technology, Inc., San Bernardino County Superior Court, Case No. CIV-DS-1611470

Lewis v. American Casino & Entertainment Properties LLC, San Bernardino County Superior Court, Case No. CIVDS1719094

Lemus v. On Assignment Staffing Services, San Bernardino County Superior Court, Case No. CIV-DS-1600497

Leon v. Piercey West Inc., Los Angeles County Superior Court, Case No. BC656874

Lopez v. Creative Communication Technologies, Inc., Imperial County Superior Court, Case No. ECU07851

Lopez v. Go Green Auto Spa Franchise, Inc., et al., Los Angeles County Superior Court, Case No. BC 562212

Lopez v. Truck Accessories Group, LLC, Yolo County Superior Court, Case No. CV13798

Ludlow v. Prince Telecom, LLC, Stanislaus County Superior Court, Case No. 684239

Luna v. Express Locations, LLC, Imperial County Superior Court, Case No. ECU09779

Macias v. American Tire Distributors, Inc., Kern County Superior Court, Case No. BCV-18-101586

Maldonado v. Hardwood Flooring Liquidators, Inc., Los Angeles County Superior Court, Case No. BC642170

Mansfield v. Cambridge Real Estate Services, Inc., Butte County Superior Court, Case No. 160175

Martinez v. DPI Specialty Foods West, San Joaquin County Superior Court, Case No. 39-2015-00327311-CU-OE-STK

Martinez v. Styles For Less, Inc., San Bernardino County Superior Court, Case No. CIVVS1203057

Mayne v. John Muir Behavioral Health, Contra Costa County Superior Court, Case No. C17-00998

Maze v. Bulldog Freightway, Inc., Imperial County Superior Court, Case No. ECU08716

McCormick v. G & O Body Shop, Inc., El Dorado Superior Court, Case No. PC20130291

McCrary v. Campbell Soup Supply Company, San Joaquin County Superior Court, Case No. 39-2013-00297698-CU-OE-STK

McDaniel v. Vancary, Inc., Tulare County Superior Court, Case No. 268036

Melgar-Farela v. Guardian Compliance, Inc., Los Angeles County Superior Court, Case No. BC481865

Mendiola v. Tyco Electronics Corporation, Riverside County Superior Court, Case No. RIC1400721

Mettler v. Les Schwab Tire Centers of California, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-476

Miller v. California Subshine, Inc., Los Angeles County Superior Court, Case No. BC637754

Miller v. Southwest Airlines Co., USDC – Northern District of California (San Francisco), Case No. 3:12-cv-05978-CRB

Mitchell v. Crossmark, Inc., USDC – Central District of California (Los Angeles), Case No. CV 11-2818-JAK (FMOx)

Moghrabi v. Vitaligent, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-1650

Molina v. Berkshire Hathaway Energy Company, et al., Imperial County Superior Court, Case No. ECU000522

Moore v. Horizon Solar Power, Inc., San Bernardino County Superior Court, Case No. CIVDS1410001

Murray v. Select Media Services, LLC, Los Angeles County Superior Court, Case No. BC424506

Myles v. Central Transport LLC, San Bernardino County Superior Court, Case No. CIVDS1401434

Navarro v. Mariana Packing Co., Inc., Solano County Superior Court, Case No. FCS045935

Nehrlich, et al. v. RPM Mortgage, Inc., Orange County Superior Court, Case No. 30-2013-00666783-CU-OE-CXC

Overton v. Hat World, Inc., USDC – Eastern District of California (Sacramento), Case No. 2:11-CV-01645-LKK-KJN

Perez v. Alcatel-Lucent USA Inc., Imperial County Superior Court, Case No. ECU07977

Perez v. Major Gloves and Safety, Inc., San Bernardino County Superior Court, Case No. CIVDS1710445

Perry v. Cardinal Health 200, LLC, Solano County Superior Court, Case No. FCS035303

Phraxayavong-Briones v. RSM, Inc., Sacramento County Superior Court, Case No. 34-2012-00117524

Pugh v. Wi Spa, LLC, Imperial County Superior Court, Case No. ECU07932

Quist v. Knight Transportation, Inc., San Bernardino Superior Court, Case No. CIVDS 1615414

Quitco v. Aviation Fuel Systems Repair, Inc., San Bernardino Superior Court, Case No. CIVRS1302311

Rambeau v. C.C.M. Corporation, et al., Sacramento County Court, Case No. 34-2018-00244842

Rankins v. Roman Empire Living Skills, Inc., Los Angeles County Superior Court, Case No. BC713399

Rees v. Advantel, Incorporated, Santa Clara County Superior Court, Case No. 16-CV-292219

Renfrow v. Janra Enterprises, Inc., Sacramento County Superior Court, Case No. 3402010-00080471

Reynolds v. Diamond Pet Food Processors of Ripon, San Joaquin County Superior Court, Case No. 39-2014-00310818

Richard v. A-Para Transit Corp., Alameda County Superior Court, Case No. HG17870373

Richardson v. TEC Equipment, Inc., et al., Los Angeles County Superior Court, Case No. VC065536

Robles v. North County Health Project Incorporated, San Diego Superior Court, Case No. 37-2014-00001751-CU-OE-NC

Rodas v. Monetary Management of California, Inc., USDC – Eastern District of California (Sacramento), Case No. 2:14 cv 01389 TLN AC

Rodriguez v. 20/20 Plumbing & Heating, Inc., San Bernardino County Superior Court, Case No. CIVDS1705362

Rodriguez v. Commerce Distribution Company, Los Angeles County Superior Court, Case No. BC656259

Rodriguez v. Valley Oak, San Joaquin County Superior Court, Case No. STK-CV-UOE-2016-7980

Roden v. Service Champions, San Bernardino County Superior Court, Case No. CIVDS1613183

Russell v. Bradshaw International, Imperial County Superior Court, Case No. ECU00853

Rutledge, et al. v. Healthport Technologies, LLC, Alameda County Superior Court, Case No. RG16835813

Sabala v. Econtactlive, Inc., Stanislaus County Superior Court, Case No. 684981

Sabatier v. Picture Perfect Installation, Inc., Riverside County Superior Court, Case No. RIC10004953

Salameh v. Sonomaidence OPCO, LLC, Sonoma County Superior Court, Case No. SVC264228

Salazar v. Tag-3 Medical Investment Group, LLC, Los Angeles County Superior Court, Case No. BC527698

Salbeck v. Ingredion Incorporated, San Joaquin County Superior Court, Case No. STK-UOE-2017-0012622

Sampson v. Healthnet of California Inc., Sacramento County Superior Court, Case No. 34-2015-00183785-CU-OE-GDS

Sanchez v. Don Roberto Jewelers, Inc., Imperial County Superior Court, Case No. ECU06819

Sanders v. Lionakis, Sacramento County Superior Court, Case No. 34-2017-00223601

Santana v. United Staffing Associates, LLC, Tulare County Superior Court, Case No. 249338

Schrader v. Adidas Promotional Retail Operations, Inc., Los Angeles County Superior Court, Case No. BC414168

Sebrell v. Pomeroy IT Solutions, San Bernardino County Superior Court, Case No. CIVDS1721560

Seymour v. Quest Service Group, LLC, Sacramento County Superior Court, Case No. 34-2017-00206917

Silva v. Trical, San Benito County Superior Court, Case No. CU-16-00218

Simler v. Polly's Inc., Riverside County Superior Court, Case No. RIC 1117862

Sipin, Scott v. Salesforce.com, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2019-0004629

Skuro v. BMW of North America, LLC, USDC – Central District of California (Los Angeles), Case No.: CV 10-8672-GW (FFMx)

Smith v. Steelcase, Inc., San Bernardino County Superior Court, Case No. CIVDS1725850

Sohal v. Foster Poultry Farms, Stanislaus County Superior Court, Case No. 2026605

Solomon v. City of Los Angeles, Los Angeles County Superior Court, Case No. BC570345

Solano v. Vozzcom, Inc., Imperial County Superior Court, Case No. ECU09519

Smith, et al. v. Sente Development, Inc., Sacramento County Superior Court, Case No. 34-2016-00196614

Solorzano v. FDS Manufacturing Corporation, Los Angeles County Superior Court, Case No. BC542532

Solowitz v. BakeMark USA LLC, Los Angeles County Superior Court, Case No. BC467838

Spampinato v. Wind & Sea Restaurants, Inc., San Bernardino County Superior Court, Case No. CIVVS1205154

Spitzer, et al. v. FRHI Hotels & Resorts (Canada) Inc., San Bernardino County Superior Court, Case No. C IVDS1712220

Stephens v. C.S., Inc., Riverside County Superior Court, Case No. PSC1301224

Stevenson v. Harvest Management Sub LLC, Ventura County Superior Court, Case No. 56-2011-00397420-CU-OE-SIM

Thompson v. Continental Labor Resources, Inc. d/b/a Continental Labor & Staffing Resources, Kern County Superior Court, Case No. S-1500-CV-278751-DRL

Thompson v. Sidhu Truck Line, Inc., Kern County Superior Court, Case No. BCV-15-101308-DRL

Tigas v. Ajilon Communications, Los Angeles County Superior Court, Case No. BC409737

Torres v. Coastal Employment Inc., Los Angeles County Superior Court, Case No. BC529207

Tran v. CSP Fiber Services, San Bernardino County Superior Court, Case No. CIVDS172758

Tripp v. California Guest Services, Inc., Plumas County Superior Court, Case No. CV16-00036

Valdez v. Diamond Landscaping, Inc., Los Angeles County Superior Court, Case No. BC497097

Valencia v. American Team Managers, Inc., Orange County Superior Court, Case No. 30-2016-00857365-CU-CR-CXC

Van Son v. Rush Truck Centers of California, Inc., Los Angeles County Superior Court, Case No. BC494747

Vasquez v. Schurman Fine Papers, San Joaquin County Superior Court, Case No. STK-CV-LMC-2015-10035

Velasquez v. Modesto Ventures, LLC, Sacramento County Superior Court, Case No. 32-2012-00126159

Victoria v. Bali Limousines Inc., San Mateo County Superior Court, Case No. CIV507774

Victorian v. Vision X, Inc., Los Angeles County Superior Court, Case No. BC400333

Wade v. Frito Lay, Kern County Superior Court, Case No. BCV-17-102014

Walls v. E. & J. Gallo, Stanislaus County Superior Court, Case No. 2015874

Warner v. Waterdrops Express Car Wash, LLC, Tulare County Superior Court, Case No. 265708

Waybright v. EAH, Inc., Stanislaus County Superior Court, Case No. 2011677

Weiss v. C.A.R. Enterprises, Inc., Riverside County Superior Court, Case No. RIC1113165

White v. Sally Beauty Supply, LLC, Imperial County Superior Court, Case No. ECU08177

Williams v. Dennis Dillon RV, LLC, San Bernardino County Superior Court, Case No. CIVDS 16006879

Williams v. Closet World, Inc., Los Angeles County Superior Court, Case No. BC400178

Williams v. Progress Rail Services Corporation, Kern County Superior Court, Case No. S-1500-CV-280236 DRL

Wing v. Three Group, Inc., Los Angeles County Superior Court, Case No. BC643883

Wilson v. ALSCO, Inc., Imperial County Superior Court, Case No. ECU07406

Wilson v. Michael C. Stead, Inc., Contra Costa Superior Court, Case No. C1400135

Winningham v. Storer Transportation Service, San Joaquin County Superior Court, Case No. 39-2015-00324708-CU-STK

Woody v. WBN Home Design, San Bernardino County Superior Court, Case No. CIVDS1613367

Woods, et al. v. F&B Innovations, LLC, San Bernardino County Superior Court, Case No. CIVDS1717765

Woodyard v. Bellus ALC Acquisition, LLC, USDC – Central District of California (Los Angeles), Case No. 2:13-cv-05285 SJO AGRx

Wright v. Social Vocational Services, Inc., Kern County Superior Court, Case No. BCV-15-101264

Ybarra v. New Legend, Inc., Sutter County Superior Court, Case No. CVCS-16-2097

Zaragoza v. Center Automotive, Inc., Los Angeles Superior Court, Case No. BC505194

EXHIBIT B

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12
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

13 LINDSAY ORIN, on behalf of herself
14 and all others similarly situated and on
15 behalf of the general public,

16 Plaintiff,

17 v.

18 CAL. DEL. U.S.A. INC., a California
19 corporation, and DOES 1 through 10,
20 inclusive,

21 Defendant.
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Case No. 2:23-cv-03404-FMO-KS

**FIRST AMENDED STIPULATION
AND SETTLEMENT OF CLASS,
COLLECTIVE AND
REPRESENTATIVE ACTION**

1 **FIRST AMENDED STIPULATION AND SETTLEMENT OF CLASS,**
2 **COLLECTIVE AND REPRESENTATIVE ACTION**

3 I. Subject to final approval by the Court, which counsel and the Parties agree to
4 diligently pursue and recommend in good faith, Plaintiff Lindsay Orin (“Plaintiff”),
5 individually and on behalf of all others similarly situated and alleged aggrieved
6 employees, on the one hand, and Defendant Cal. Del. U.S.A. Inc. (“Defendant”), on
7 the other hand (collectively, the “Parties” and individually, a “Party”), hereby agree
8 to the following binding settlement of the class, collective and representative action
9 designated Lindsay Orin v. Cal. Del. U.S.A. Inc., et al., United States District Court,
10 Central District of California, Case No. 2:23-cv-03404-FMO removed from the Los
11 Angeles Superior Court, Case No. 23STCV07181, as amended (the “Action”),
12 pursuant to the terms and conditions set forth below (the “Settlement,” “Settlement
13 Agreement” or “Agreement”). Upon the Effective Date, the payment by Defendant
14 of all monies due under the Agreement, and the conclusion of the Settlement
15 administration, Plaintiff shall file with the Court (1) a Satisfaction of Judgment; and
16 (2) a declaration from the Settlement Administrator certifying that all payments have
17 been distributed, as more fully set forth herein.

18 **II. Definitions.**

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

21 **A. “Action.”**

22 The case titled Lindsay Orin v. Cal. Del. U.S.A. Inc., et al., United States
23 District Court, Central District of California, Case No. 2:23-cv-03404-FMO removed
24 from the Los Angeles Superior Court, Case No. 23STCV07181, as amended.

25 **B. “Aggrieved Employees.”**

26 All current and former non-exempt employees of Defendant employed in
27 California at any time during the PAGA Period.

28 ///

1 **C. “Amended Complaint.”**

2 The amended complaint Plaintiff filed on July 19, 2023, after seeking
3 and receiving Court approval, to add a claim under the California Private Attorneys
4 General Act (“PAGA”), and any and all other claims/causes of action encompassed
5 by the Released Claims.

6 **D. “Attorneys’ Fees and Costs.”**

7 The attorneys’ fees agreed upon by the Parties and approved by the
8 Court for Class Counsel’s litigation and resolution of the Action, and all costs
9 incurred and to be incurred by Class Counsel in the Action, including, but not limited
10 to, costs associated with documenting the Settlement, securing the Court’s approval
11 of the Settlement, any expert expenses, and securing an entry of judgment on all
12 claims in the Action which are covered by the Released Claims as defined herein.
13 Class Counsel will request attorneys’ fees not to exceed twenty-five percent (25%) of
14 the Gross Settlement Amount of \$250,000.00, which is estimated to be \$62,500.00.
15 The costs requested to be reimbursed will not exceed \$13,000.00. The attorneys’ fees
16 and costs awarded are subject to the Court’s approval. If the Court does not award
17 Class Counsel the entirety of the attorneys’ fees and/or costs and expenses requested,
18 the unawarded amounts will revert to the Net Settlement Amount to be distributed to
19 the Settlement Class. Defendant has agreed not to oppose Class Counsel’s request for
20 attorneys’ fees and reimbursement of costs and expenses as set forth above. Such
21 Attorneys’ Fees and Costs shall be paid from the Gross Settlement Amount. Class
22 Counsel will be issued an IRS Form 1099 for the Attorneys’ Fees and Costs detailed
23 in this Section and shall be solely and legally responsible for paying all applicable
24 taxes on the payment made pursuant to this Section. Class Counsel will file their
25 Motion for Attorneys’ Fees and Costs and Class Representative Enhancement
26 Payment no later than the date of mailing of the Notice of Class Action Settlement to
27 Class Members.
28

1 **E. “Claims Administrator.”**

2 ILYM Group, Inc. shall be the third-party class action settlement claims
3 administrator as agreed to by the Parties and approved by the Court for the purposes
4 of administering this Settlement. The Parties each represent that they do not have any
5 financial interest in the Claims Administrator or otherwise have a relationship with
6 the Claims Administrator that could create a conflict of interest.

7 **F. “Claims Administration Costs.”**

8 The costs payable from the Gross Settlement Amount to the Claims
9 Administrator for administering this Settlement, including, but not limited to,
10 printing, distributing, and tracking documents for this Settlement, calculating
11 estimated amounts per Class Member, tax reporting, distributing the Gross Settlement
12 Amount, and providing necessary reports and declarations, and other duties and
13 responsibilities set forth herein to process this Settlement Agreement, and as
14 requested by the Parties. The Claims Administration Costs will be paid from the
15 Gross Settlement Amount, including, if necessary, any such costs in excess of the
16 amount represented by the Claims Administrator as being the maximum costs
17 necessary to administer the Settlement. The Claims Administration Costs are
18 currently estimated to be \$3,000. To the extent actual Claims Administration Costs
19 are greater than \$3,000, such excess amount will be deducted from the Gross
20 Settlement Amount, subject to the Court’s approval. The Claims Administration
21 Costs will be paid no later than fifteen (15) calendar days following the Effective
22 Date.

23 **G. “Class Counsel.”**

24 Attorneys for GAINES & GAINES, APLC shall be appointed Class
25 Counsel upon approval by the Court.

26 **H. “Class List.”**

27 A complete list of all Class Members that Defendant will diligently and
28 in good faith compile from their records and provide to the Claims Administrator

1 within fourteen (14) calendar days after Preliminary Approval of this Settlement.
2 The Class List will be formatted in a readable Microsoft Office Excel spreadsheet and
3 will include each Class Member's full name, most recent mailing address, telephone
4 number, Social Security number, dates of employment (*i.e.*, hire date and termination
5 date, if applicable), approximate number of workweeks, and any other relevant
6 information needed to calculate settlement payments.

7 **I. "Class Member(s)" or "Settlement Class."**

8 All current and former non-exempt employees of Defendant employed in
9 California at any time during the Class Period.

10 **J. "Class Period."**

11 The period from April 3, 2019 through the date of Preliminary Approval
12 or December 4, 2024, whichever occurs first.

13 **K. "Class Representative Enhancement Payment."**

14 The amount to be paid to Plaintiff in recognition of her effort and work
15 in prosecuting the Action on behalf of Class Members and for her general release of
16 all claims. Subject to the Court granting Final Approval of this Settlement
17 Agreement, Plaintiff will request Court approval of a Class Representative
18 Enhancement Payment of \$5,000.00. If the Court does not award Plaintiff the
19 entirety of the Enhancement Payment requested, the unawarded amount will revert to
20 the Net Settlement Amount to be distributed to the Settlement Class. Plaintiff will be
21 issued an IRS Form 1099 in connection with her respective Class Representative
22 Enhancement Payment. Plaintiff shall be solely and legally responsible for paying
23 any and all applicable taxes on this payment and shall hold Defendant harmless from
24 any claim or liability for taxes, penalties or interest arising as a result of the payment.
25 The Class Representative Enhancement Payment will be paid from the Gross
26 Settlement Amount and will be in addition to Plaintiff's Individual Settlement
27 Payment paid pursuant to the Settlement, and is conditioned on Plaintiff's execution
28 of this Settlement Agreement. Defendant makes no representations as to the tax

1 treatment or legal effect of the payment called for herein, and Plaintiff is not relying
2 on any statement or representation by Defendant or its counsel in this regard.

3 **L. “Defendant.”**

4 Cal. Del. U.S.A. Inc.

5 **M. “Effective Date.”**

6 The date on which the Final Award becomes final. For purposes of this
7 Section, the Final Award “becomes final” only after the Court grants the Motion for
8 Final Approval and upon service of the Notice of Entry of Order and/or Judgment.

9 **N. “FLSA Collective Action Period.”**

10 The period from April 3, 2020 through the date of Preliminary Approval or
11 December 4, 2024, whichever occurs first.

12 **O. “FLSA Collective Members.”**

13 All current and former non-exempt employees of Defendant employed in
14 California at any time during the FLSA Collective Action Period.

15 **P. “FLSA Payment” or “FLSA Settlement Amount.”**

16 The amount that the Parties have agreed to pay to the Participating FLSA
17 Collective Members in connection with the FLSA claims. The Parties have agreed
18 that \$10,000.00 of the Gross Settlement Amount will be allocated to the resolution of
19 any claims arising under the FLSA, payable to the FLSA Collective Members.

20 **Q. “Final Approval” or “Final Award.”**

21 The Court entering an Order Granting Final Approval of the Settlement
22 Agreement and Judgment.

23 **R. “Gross Settlement Amount.”**

24 The sum of \$250,000.00 to be paid by Defendant in full satisfaction of
25 all claims arising from the Action. The Gross Settlement Amount includes all
26 Settlement Payment Checks to Class Members, Individual PAGA Settlement
27 Payments to Aggrieved Employees, the Class Representative Enhancement Payment
28 to Plaintiff, Claims Administration Costs to the Claims Administrator, the Labor and

1 Workforce Development Agency (“LWDA”) Payment, and the Attorneys’ Fees and
2 Costs. Defendant will be responsible for any employer payroll taxes required by law,
3 separate and in addition to the Gross Settlement Amount, including the employer
4 FICA, FUTA, and SDI contributions on the wage portion of the Settlement Payment
5 Checks. The Gross Settlement Amount may increase based on the escalator provision
6 in paragraph XIX, below.

7 **S. “Individual Settlement Payment.”**

8 Each Class Member’s share of the Net Settlement Amount, which shall
9 be distributed to the Class Members, less employee portions of state and federal
10 withholding taxes, including the employee FICA, FUTA and SDI contributions and
11 any other applicable payroll deductions required by law as a result of the payment of
12 the amount allocated to such Class Member as set forth herein.

13 **T. “LWDA Notice.”**

14 The Parties agree that Plaintiff will submit Notice to the Labor and
15 Workforce Development Agency (“LWDA”) of this Settlement along with a copy of
16 this Settlement Agreement concurrently with the filing of Plaintiff’s Motion for
17 Preliminary Approval, and will thereafter submit a copy of any judgment or any other
18 order (*e.g.*, the Final Award) providing for an award of civil penalties in conformity
19 with Labor Code Section 2699(l).

20 **U. “LWDA Payment” or “PAGA Settlement Amount.”**

21 The amount that the Parties have agreed to pay to the LWDA in
22 connection with the California Private Attorneys General Act of 2004 (“PAGA”).
23 The Parties have agreed that \$10,000.00 of the Gross Settlement Amount will be
24 allocated to the resolution of any claims arising under PAGA (“PAGA Settlement
25 Amount”) as set forth in the Released Aggrieved Employee Claims. Pursuant to
26 PAGA, \$7,500.00 (75%) of the PAGA Settlement Amount will be paid to the LWDA
27 and \$2,500.00 (25%) of the PAGA Settlement Amount will be distributed to
28

1 Aggrieved Employees. The 25% portion of the PAGA Settlement Amount is referred
2 to as “Aggrieved Employees Amount.”

3 **V. “Net Settlement Amount.”**

4 The portion of the Gross Settlement Amount remaining after deduction
5 of the approved Class Representative Enhancement Payment, Claims Administration
6 Costs, LWDA Payment, the FLSA Payment, and the Attorneys’ Fees and Costs.

7 **W. “Notice of Class Action Settlement.”**

8 The document substantially in the form attached as Exhibit 1 that will be
9 mailed to Class Members’ last known addresses and which will provide Class
10 Members with information regarding the Action and information regarding the
11 Settlement.

12 **X. “Notice of Objection.”**

13 The Court may hear from any Class Member who attends the final
14 approval hearing and asks to speak regarding his or her objection. In order for any
15 Class Member to object to this Settlement, or any term of it, the person making the
16 objection must not submit a request for exclusion (i.e., must not opt out). While not
17 required, the preferred method by which any Class member may to object to this
18 Settlement, or any term of it, is that the objecting Class Member, by no later than the
19 Response Deadline, mail or email directly to the Court a written statement of the
20 grounds of objection, signed by the objecting Class Member or his or her attorney,
21 along with all supporting papers. The objection may be mailed to the Court at United
22 States Courthouse, 350 W. 1st Street, 6th Floor, Courtroom 6D, Los Angeles,
23 California 90012. The objection may be emailed to the Court via the Courtroom
24 Deputy Clerk at Vanessa_Figueroa@cacd.uscourts.gov. All such objections and
25 written notices of intention to appear should be signed and contain the Class
26 Member’s name and address and the address of counsel, if any. If submitted in this
27 manner, the objection should clearly explain why the settlement class member objects
28 to the Settlement and state whether the Class Member (or someone on their behalf)

1 intends to appear at the Final Approval Hearing. A Class Member may appear
2 personally or through an attorney, at his or her own expense, at the Final Approval
3 hearing to present his or her objection directly to the Court. If a Class Member
4 objects to this Settlement, the Class Member will remain a member of the Settlement
5 Class and if the Court approves this Agreement, the Class Member will be bound by
6 the terms of the Settlement and Final Approval in the same way and to the same
7 extent as a settlement class member who does not object. The Court retains final
8 authority with respect to the consideration and admissibility of any Class Member
9 objections.

10 Neither the Parties nor their counsel will solicit or otherwise encourage
11 Class Members to submit written objections to the Settlement Agreement or appeal
12 from the Order and Judgment. Class Counsel will not represent any Class Members
13 with respect to any such objections to this Settlement.

14 **Y. “Notice Packet.”**

15 The Notice of Class Action Settlement, FLSA Settlement Claim Form
16 and Release of Claims, Individual Settlement Payment calculations, Individual
17 Participating FLSA Collective Member Settlement Payment calculations, and
18 Individual PAGA Payment calculations to include workweek and wage information.

19 **Z. “PAGA Period.”**

20 The period from March 27, 2022 through the date of Preliminary Approval
21 or December 4, 2024, whichever occurs first.

22 **AA. “Participating FLSA Collective Members.”**

23 All similarly situated individuals who timely submit an FLSA Collective Claim
24 Form (those who opt in and consent to participate in the Stipulated FLSA Collective)
25 shall be Participating FLSA Collective Members and shall be bound by the Release
26 Of Claims By Participating FLSA Collective Members as defined herein.
27 Participating Collective Members have the ability to opt-in based on the procedures
28

1 outlined in the Notice (Exhibit 1) and the “FLSA Settlement Claim Form and Release
2 of Claims” (“FLSA Settlement Claim Form”) attached as Exhibit 2.

3 **BB. “Plaintiff.”**

4 Plaintiff Lindsay Orin.

5 **CC. “Plaintiff’s Released Claims.”**

6 Upon the Effective Date, and as a condition of receiving any portion of
7 her Class Representative Enhancement Payment, Plaintiff shall fully and finally
8 release the Released Parties from any and all claims, known and unknown, under
9 federal, state and/or local law, statute, ordinance, regulation, common law, or other
10 source of law, including but not limited to claims arising from or related to her
11 employment with Defendant and her compensation while an employee of Defendant.
12 Plaintiff’s Released Claims include, but are not limited to, all claims arising from or
13 related to the Action. Plaintiff’s Released Claims include all claims for unpaid
14 wages, including, but not limited to, failure to pay minimum wages, straight time
15 compensation, overtime compensation, double-time compensation, and interest; the
16 calculation of the regular rate of pay; wages related to alleged illegal time rounding;
17 failure to pay wages at least twice each calendar month; failure to timely pay wages;
18 failure to timely pay final wages; missed/short/late/interrupted meal period, rest
19 period, and/or recovery period wages/premiums; failure to provide meal periods;
20 failure to authorize and permit rest periods and/or recovery periods; the calculation of
21 meal period, rest period, and/or recovery period premiums; reimbursement for all
22 necessary business expenses, including work-related cell-phone expenses and car
23 mileage for work-related travel; payment for all hours worked, including off-the-
24 clock work; wage statements; deductions; failure to keep accurate records; failure to
25 provide suitable seating; failure to maintain temperature providing reasonable
26 comfort; unlawful deductions and/or withholdings from wages; unfair business
27 practices; penalties, including, but not limited to, recordkeeping penalties, wage
28 statement and payroll reporting penalties, minimum-wage penalties, and waiting-time

1 penalties; and attorneys' fees and costs. Plaintiff's Released Claims include all
2 claims arising under the California Labor Code (including, but not limited to, sections
3 200, 201, 201.1, 201.3, 201.5, 202, 203, 204, 204.1, 204.2, 206, 210, 216, 218, 218.5,
4 218.6, 221, 225.5, 226, 226.2, 226.3, 226.7, 226.8, 246, 247.5, 248.5, 256, 450, 510,
5 511, 512, 515, 516, 558, 558.1, 1174, 1174.5, 1175, 1182.12, 1194, 1194.2, 1194.3,
6 1197, 1197.1, 1197.2, 1198, 1198.5, 2698 *et seq.*, 2699 *et seq.*, 2802, and 2804); all
7 claims arising under: the Wage Orders of the California Industrial Welfare
8 Commission; the California Private Attorneys General Act of 2004 (PAGA);
9 California Business and Professions Code section 17200, *et seq.*; the California Civil
10 Code, to include sections 3287, 3336 and 3294; 8 CCR §§ 3203, 11070, 11090,
11 11100; California Code of Civil Procedure § 1021.5; all state and local ordinances
12 related to COVID-19 right of recall; the California common law of contract; the
13 FLSA, 29 U.S.C. §§ 201, *et seq.*; 29 CFR 778.223; 29 CFR 778.315; federal common
14 law; and the Employee Retirement Income Security Act, 29 U.S.C. §§ 1001, *et seq.*
15 (ERISA). Plaintiff's Released Claims also include all claims for lost wages and
16 benefits, emotional distress, retaliation, punitive damages, and attorneys' fees and
17 costs arising under federal, state, or local laws for discrimination, harassment,
18 retaliation, and wrongful termination, such as, by way of example only, (as amended)
19 42 U.S.C. § 1981, Title VII of the Civil Rights Act of 1964, the Americans with
20 Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), and
21 the California Fair Employment and Housing Act (FEHA); and the law of contract
22 and tort. This release excludes the release of claims not permitted by law.

23 Plaintiff's Released Claims include all claims, whether known or
24 unknown. Even if Plaintiff discovers facts in addition to or different from those that
25 she now knows or believes to be true with respect to the subject matter of Plaintiff's
26 Released Claims, those claims will remain released and forever barred. Thus,
27 Plaintiff expressly waives and relinquish the provisions, rights and benefits of section
28 1542 of the California Civil Code, which reads:

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

6 **DD. “Preliminary Approval.”**

7 The Court’s order granting preliminary approval of the Settlement
8 Agreement.

9 **EE. “Qualified Settlement Account.”**

10 The fund established by the Claims Administrator pursuant to Internal
11 Revenue Code Section 1.468B-1.

12 **FF. “Released Aggrieved Employee Claims.”**

13 As of the date of the Order Granting Final Approval, and only after the
14 Settlement has been fully funded by Defendant, all Aggrieves Employees shall fully
15 and finally release Released Parties of the Released Aggrieved Employee Claims.

16 The Released Aggrieved Employee Claims include all claims, rights, demands,
17 liabilities and causes of action under PAGA which are alleged in the operative First
18 Amended Complaint, and March 27, 2023 LWDA exhaustion letter identified on the
19 LWDA’s website as LWDA-CM-944652-23, and all claims, rights, demands,
20 liabilities and causes of action under PAGA which could be alleged based on the facts
21 set forth in the First Amended Complaint, for all periods of employment in a non-
22 exempt position in California during the PAGA Period. This includes claims arising
23 under PAGA for unpaid wages, including, failure to pay minimum wages, straight time
24 compensation, overtime compensation, double-time compensation, and interest;
25 reimbursement for all necessary business expenses; failure to provide accurate wage
26 statements; unfair business practices; penalties, including, but not limited to, statutory
27 penalties, recordkeeping penalties, wage statement penalties, minimum-wage
28 penalties, and waiting-time penalties; and attorneys’ fees and costs; all claims related

1 to the PAGA Released Claims which are asserted in the Lawsuit or which could have
2 been asserted based on the factual allegations pled in the Lawsuit arising under: the
3 California Labor Code (including, but not limited to, sections 201, 202, 203, 218.5,
4 226, 226.3, 226.7, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1,
5 1198, and 2802), and Wage Order 4-2001 of the California Industrial Welfare
6 Commission (“PAGA Released Claims”). This release excludes the release of claims
7 not permitted by law and excludes all claims for unpaid wages and statutory penalties.
8 Aggrieved Employees shall not be able to exclude themselves from the PAGA portion
9 of this settlement and the PAGA Released Claims, and Aggrieved Employees shall
10 receive their PAGA portion of the settlement even if they opt-out of the class action
11 settlement.

12 **GG. “Released Class Claims.”**

13 As of the date of the Order Granting Final Approval, and only after the
14 Settlement has been fully funded by Defendant, all Class Members shall fully and
15 finally release Released Parties of the Released Class Claims.

16 The Released Class Claims include any and all claims, rights, demands,
17 liabilities and causes of action alleged in the operative First Amended Complaint, and
18 all claims, rights, demands, liabilities and causes of action which could be alleged
19 based on the facts set forth in the First Amended Complaint, for all periods of
20 employment in a non-exempt position in California during the Settlement Class
21 Period. This includes claims for unpaid wages, including, failure to pay minimum
22 wages, straight time compensation, overtime compensation, double-time
23 compensation, and interest; reimbursement for all necessary business expenses;
24 failure to provide accurate wage statements; unfair business practices; penalties,
25 including, but not limited to, civil penalties apart from those as described in
26 Paragraph DD, above, statutory penalties, recordkeeping penalties, wage statement
27 penalties, minimum-wage penalties, and waiting-time penalties; and attorneys’ fees
28 and costs; all claims related to the Released Claims which are asserted in the Lawsuit

1 or which could have been asserted based on the factual allegations pled in the Action
2 arising under: the California Labor Code (including, but not limited to, sections 201,
3 202, 203, 218.5, 226, 226.3, 226.7, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1194,
4 1194.2, 1197, 1197.1, 1198, and 2802), Wage Order 4-2001 of the California
5 Industrial Welfare Commission; and California Business and Professions Code
6 section 17200, et seq based on the foregoing. This release excludes the release of
7 claims not permitted by law and excludes all claims arising under PAGA.

8 **HH. “Released Participating FLSA Collective Member Claims.”**

9 As of the date of the Order Granting Final Approval, and only after the
10 Settlement has been fully funded by Defendant, all Participating FLSA Collective
11 Members shall fully and finally release Released Parties of the Released Participating
12 FLSA Collective Member Claims.

13 In exchange for Defendants’ promise to make the Fair Labor Standards Act
14 (“FLSA”) payments provided for in this Settlement Agreement, Participating FLSA
15 Collective Members will release all Released Parties for the FLSA claims that were
16 alleged or that reasonably could have been alleged based on the facts alleged in the
17 First Amended Complaint, including but not limited to claims pursuant to 29 U.S.C.
18 sections 206 and 207, for all periods of employment in a non-exempt position in
19 California during the FLSA Collective Action Period.

20 **II. “Released Parties.”**

21 Defendant and its past, present, and future parents, subsidiaries,
22 affiliated companies (including but not limited to, An. Del. U.S.A., and all of its
23 subsidiaries and affiliates), agents, managing agents, employees, servants, officers,
24 directors, owners (whether direct or indirect), general partners, limited partners,
25 trustees, representatives, shareholders, stockholders, members, mortgagees or ground
26 lessors, attorneys, parents, subsidiaries, equity sponsors, related
27 companies/corporations and/or partnerships, divisions, assigns, predecessors,
28 successors, insurers, consultants, joint venturers, joint employers, potential and/or

1 alleged joint employers, temporary staffing agencies, dual employers, potential and/or
2 alleged dual employers, co-employers, potential and/or alleged co-employers,
3 common law employers, potential and alleged common law employers, contractors,
4 affiliates, service providers, alter-egos, potential and/or alleged alter-egos, vendors,
5 affiliated organizations, any person and/or entity with potential or alleged to have
6 joint liability, and all of their respective past, present and future employees, directors,
7 officers, members, owners, agents, representatives, payroll agencies, attorneys,
8 stockholders, fiduciaries, parents, subsidiaries, other service providers, and assigns
9 and any and all persons and/or entities acting under, by, through or in concert with
10 any of them.

11 **JJ. “Request for Exclusion.”**

12 A notice submitted by a Class Member requesting to be excluded from
13 the Settlement. A Request for Exclusion is a letter from a Class Member or his/her
14 representative that reasonably communicates the Class Member’s election to be
15 excluded from the Settlement and includes the Class Member’s name, address and
16 email address or telephone number. To be valid, a Request for Exclusion must be
17 timely faxed, emailed, or postmarked by the Response Deadline. The date of the
18 postmark email or fax receipt confirmation will be the exclusive means to determine
19 whether a Request for Exclusion has been timely submitted. A Class Member who
20 does not submit a timely and valid Request for Exclusion from the Settlement will be
21 deemed a Class Member and will be bound by all terms of the Settlement Agreement
22 if the Settlement is granted Final Approval by the Court. Any Class Member who
23 timely submits a valid Request for Exclusion will not receive a Settlement Payment
24 Check, and will not be bound by the terms of the Settlement Agreement or Judgment
25 (with the exception of claims arising under PAGA). Aggrieved Employees eligible
26 for a portion of the PAGA Settlement Amount will receive their share of the
27 employee portion of the PAGA Settlement Amount and will be deemed to have
28 released the Released Aggrieved Employee Claims, regardless of whether they

1 submit a Request for Exclusion. FLSA Collective Members are bound by the FLSA
2 Release if they submit a FLSA Settlement Claim Form and Release of Claims.

3 **KK. "Response Deadline."**

4 The deadline by which Class Members must mail or fax to the Claims
5 Administrator valid Requests for Exclusion, FLSA Claim Form, or workweek
6 disputes and must mail or fax to the Court valid Notices of Objection to the
7 Settlement. The Response Deadline will be forty-five (45) calendar days from the
8 initial mailing of the Notice Packet by the Claims Administrator, unless the 45th day
9 falls on a Sunday or Federal holiday, in which case the Response Deadline will be
10 extended to the next day on which the U.S. Postal Service is open. The Response
11 Deadline for Requests for Exclusion, Notices of Objection, or workweek disputes
12 will be extended fifteen (15) calendar days for any Class Member who is re-mailed a
13 Notice Packet by the Claims Administrator, unless the 15th day falls on a Sunday or
14 Federal holiday, in which case the Response Deadline will be extended to the next
15 day on which the U.S. Postal Service is open. The Response Deadline may also be
16 extended by express agreement between Class Counsel and Defendant. Under no
17 circumstances, however, will the Claims Administrator have the authority to
18 unilaterally extend the deadline for Class Members to submit a Request for
19 Exclusion, Notice of Objection to the Settlement, or workweek disputes.

20 **III. Funding of the Gross Settlement Amount.**

21 Within twenty-one (21) calendar days after the Effective Date of the
22 Settlement, Defendant will make a one-time deposit of the Gross Settlement Amount
23 into a Qualified Settlement Account to be established by the Claims Administrator as
24 well as an amount sufficient to pay the employer's share of payroll taxes with respect
25 to the wages portion of the Individual Settlement Payments. Within fourteen (14)
26 calendar days of the funding of the Settlement, the Claims Administrator will issue
27 payments to: (a) Class Members who have not timely and validly requested
28 exclusion; (b) Aggrieved Employees; (c) the LWDA; (d) Plaintiff; and (e) Class

1 Counsel. The Claims Administrator will also issue a payment to itself for Court-
2 approved services performed in connection with the Settlement. Defendant has no
3 obligation to deposit such funds prior to the deadline set forth herein. Prior to issuing
4 checks to Class Members, the Claims Administrator will run the Class Members'
5 most updated addresses against the National Change of Address Database to obtain
6 the most current address for mailing the checks. If a check is returned as
7 undeliverable from Class Members whose Notice Packet was returned and no new
8 address was ascertained, then no further steps need to be taken. For other checks
9 returned, the Claims Administrator shall conduct a skip trace or other similar search
10 to locate an updated address and the Claims Administrator shall re mail the check
11 within seven (7) business days of return of the check.

12 **IV. Attorneys' Fees and Costs.**

13 Defendant agree not to oppose or impede any application by Class
14 Counsel for attorneys' fees of not more than twenty-five percent (25%) of the Gross
15 Settlement Amount (estimated to be \$62,500), or the reimbursement of costs and
16 expenses associated with Class Counsel's litigation and settlement of the claims
17 covered by the Action not to exceed \$13,000.00. If the Court does not approve the
18 entire amount of Class Counsel's attorneys' fees and costs, the remainder will revert
19 to the Net Settlement Amount to be distributed to the Settlement Class. No counsel
20 shall be entitled to attorneys' fees or costs for work performed in the Action other
21 than as provided in this Settlement Agreement. The instant Settlement Agreement is
22 the exclusive means for recovery of attorneys' fees and costs incurred in the Action
23 by any attorney, law firm and/or other legal services provider except for the event
24 that either party is required to seek to enforce this settlement agreement or the
25 judgment.

26 **V. Class Representative Enhancement Payment.**

27 In exchange for a general release and in recognition of her effort and
28 work in prosecuting the Action on behalf of Class Members, Defendant agrees not to

1 oppose or impede any application or motion for a Class Representative Enhancement
2 Payment in the amount of up to \$5,000.00 for Plaintiff. If the Court does not award
3 Plaintiff the entirety of the Enhancement Payment requested, the unawarded amount
4 will revert to the Net Settlement Amount to be distributed to the Settlement Class.
5 The Class Representative Enhancement Payment will be paid from the Gross
6 Settlement Amount and will be in addition to Plaintiff's Individual Settlement
7 Payment paid pursuant to the Settlement. Plaintiff will be solely and legally
8 responsible to pay any and all applicable taxes on the payment made pursuant to this
9 Section and will indemnify and hold Defendant harmless from any claim or liability
10 for taxes, penalties, or interest arising as a result of the payment.

11 **VI. Claims Administration Costs.**

12 The Claims Administrator will be paid for the reasonable costs of
13 administration of the Settlement and distribution of payments from the Gross
14 Settlement Amount, which are currently estimated to be \$3,000.

15 The Parties hereby acknowledge that the Claims Administration Costs
16 may increase above the current estimate of \$3,000 and that any such additional
17 Claims Administration Costs that are approved by the Parties' counsel and the Court
18 shall be taken out of the Gross Settlement Amount.

19 **VII. Labor and Workforce Development Agency Payment/PAGA Settlement**
20 **Amount.**

21 Subject to Court approval, the Parties agree that \$10,000.00 of the Gross
22 Settlement Amount will be designated for satisfaction of PAGA claims (the "PAGA
23 Settlement Amount") and release of the Released Aggrieved Employee Claims.
24 Pursuant to the PAGA, \$7,500.00 (75%) of the PAGA Settlement Amount will be
25 paid to the LWDA and \$2,500.00 (25%) of the PAGA Settlement Amount will be
26 paid to Aggrieved Employees as part of the Net Settlement Amount.

VIII. FLSA Settlement Amount.

Subject to Court approval, the Parties agree that \$10,000.00 of the Gross Settlement Amount will be designated for satisfaction of FLSA claims for Participating FLSA Collective Members (the “FLSA Settlement Amount”) and release of the Released Participating FLSA Member Claims.

IX. Net Settlement Amount.

The Net Settlement Amount will be used to satisfy Individual Settlement Payments to Class Members from the Settlement Class in accordance with the terms of this Settlement.

X. Individual Settlement Payment Calculations.

Individual Settlement Payments will be calculated and apportioned from the Net Settlement Amount based on the total gross wages a Class Member and Participating FLSA Collective Member was paid in a non-exempt position in California during the Class Period and based on the number of Individual Pay Periods an Aggrieved Employee worked in a non-exempt position in California during the PAGA Period with respect to the PAGA Payment. Specific calculations of Individual Settlement Payments will be made as follows:

- (a) The Claims Administrator will calculate the total amount of gross wages paid to each Class Member (“Individual Wages”) and the total amount of gross wages paid to all Class Members (“Class Wages”) during the Class Period.
- (b) To determine each Class Member’s Individual Settlement Payment, the Claims Administrator will use the following formula: $\text{Individual Settlement Payment} = (\text{Individual Wages} \div \text{Class Wages}) \times \text{Net Settlement Amount}.$

Non-Participating Class Members will not receive any Individual Settlement Payments. The Administrator will retain amounts equal to their Individual

1 Settlement Payments in the Net Settlement Amount for distribution to Participating
2 Class Members on a pro rata basis.

3 The Individual Settlement Payments made to Class Members under this
4 Settlement, and any other payments made pursuant to this Settlement, will not be
5 utilized to calculate any additional benefits under any benefit plans to which any
6 Class Members may be eligible, including, but not limited to, profit-sharing plans,
7 bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans,
8 PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this
9 Settlement Agreement will not affect any rights, contributions, or amounts to which
10 any Class Members may be entitled under any benefit plans.

11 Individual FLSA Payments to Participating FLSA Collective Members
12 will be calculated and apportioned from the FLSA Settlement Amount will be
13 calculated as follows:

- 14 (a) The Claims Administrator will calculate the total amount of gross
15 wages paid to each FLSA Collective Member ("Individual FLSA
16 Wages") and the total amount of gross wages paid to all FLSA
17 Collective Members ("Collective FLSA Wages") during the
18 FLSA Collective Action Period.
- 19 (b) To determine each Participating FLSA Collective Member's
20 Individual Settlement Payment, the Claims Administrator will use
21 the following formula: Individual FLSA Settlement Payment =
22 (Individual FLSA Wages ÷ Collective FLSA Wages) × FLSA
23 Settlement Amount.

24 Non-Participating FLSA Collective Members will not receive any
25 Individual FLSA Settlement Payments. The Administrator will retain amounts equal
26 to their Individual FLSA Settlement Payments in the Net Settlement Amount for
27 distribution to Participating FLSA Collective Members on a pro rata basis.

1 The Individual FLSA Settlement Payments made to Participating FLSA
2 Collective Members under this Settlement, and any other payments made pursuant to
3 this Settlement, will not be utilized to calculate any additional benefits under any
4 benefit plans to which any Class Members may be eligible, including, but not limited
5 to, profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation
6 plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the
7 Parties' intention that this Settlement Agreement will not affect any rights,
8 contributions, or amounts to which any Participating FLSA Collective Members may
9 be entitled under any benefit plans.

10 PAGA Payments will be calculated and apportioned from the Aggrieved
11 Employees Amount based on the number of workweeks an Aggrieved Employee
12 worked in a non-exempt position in California during the PAGA Period. Specific
13 calculations of PAGA Payments will be made as follows:

- 14 (a) The Claims Administrator will calculate the total number of weeks
15 worked (weeks in which at least one day was worked) by each
16 Aggrieved Employee ("Individual Pay Periods") and the total
17 number of weeks worked by all Aggrieved Employees ("Total Pay
18 Periods") during the Class Period.
- 19 (b) To determine each Aggrieved Employees Individual PAGA
20 Payment, the Claims Administrator will use the following
21 formula: $\text{PAGA Payment} = (\text{Individual Pay Periods} \div \text{Total Pay}$
22 $\text{Periods}) \times \text{Aggrieved Employees Amount}.$

23 The Individual Settlement Payment will be reduced by any required deductions
24 for each Class Member as set forth herein, including employee-side tax withholdings
25 or deductions. The class portion of the Individual Settlement Payments will be
26 allocated as follows: one-third (1/3) to wages, one-third (1/3) to interest, and one-
27 third (1/3) to penalties. The PAGA portion will be allocated 100% to penalties.

1 **XI. Claims Administration Process.**

2 1. The Parties agree to cooperate in the administration of the
3 Settlement and to make all reasonable efforts to control and minimize the costs and
4 expenses incurred in administration of the Settlement. The Claims Administrator will
5 provide the following services:

- 6 a. Establish and maintain a Qualified Settlement Account.
7
8 b. Calculate the Individual Settlement Payment each Class Member
9 is eligible to receive.
10
11 c. Translate the Notice Packet into Spanish by request of Class
12 Members.
13
14 d. Print and mail the Notice Packet.
15
16 e. Establish and maintain a toll-free information telephone support
17 line to assist Class Members who have questions regarding the
18 Notice Packet.
19
20 f. Establish and maintain a website with information to assist Class
21 Members, including the posting of notice of final judgment.
22
23 g. Conduct additional address searches for mailed Notice Packets
24 that are returned as undeliverable.
25
26 h. Process Requests for Exclusion, calculate Class Members'
27 Individual Settlement Payment, field inquiries from Class
28 Members, and administer any Requests for Exclusion. This
service will include settlement proceed calculation, printing and
issuance of Settlement Payment Checks, and preparation of IRS
W-2 and 1099 Tax Forms. Basic accounting for and payment of
employee tax withholdings and forwarding all payroll taxes and
penalties to the appropriate government authorities will also be
included as part of this service.

- 1 i. Issuing to Plaintiff, Class Members, and Plaintiff's Counsel any
2 W-2, 1099, or other tax forms as may be required by law for all
3 amounts paid pursuant to this Settlement.
- 4 j. Provide declarations and/or other information to the Court as
5 requested by the Parties and/or the Court.
- 6 k. Provide weekly status reports to counsel for the Parties.
- 7 2. Within fourteen (14) days of Preliminary Approval, Defendant
8 will provide the Class List to the Claims Administrator.
- 9 3. Within fourteen (14) calendar days after receiving the Class List
10 from Defendant, the Claims Administrator will mail a Notice Packet to all Class
11 Members via regular First-Class U.S. Mail, using the last known mailing addresses
12 identified in the Class List.
- 13 4. Prior to mailing, the Claims Administrator will perform a search
14 based on the National Change of Address Database for information to update and
15 correct any known or identifiable address changes. Within seven (7) days of
16 receiving a returned Notice Packet, the Claims Administrator must re-mail the Notice
17 Packet via regular First-Class U.S. Mail to the forwarding address affixed thereto and
18 the Claims Administrator will indicate the date of such re-mailing on the Notice
19 Packet. If no forwarding address is provided, the Claims Administrator will promptly
20 attempt to determine the correct address using a skip-trace, or other search using the
21 name, address and/or Social Security number of the Class Member involved, and will
22 then perform a single re-mailing. Those Class Members who receive a re-mailed
23 Notice Packet, whether by skip-trace or by request, will have between the later of (a)
24 an additional fifteen (15) calendar days or (b) the Response Deadline to postmark a
25 Request for Exclusion or Notice of Objection to the Settlement.
- 26 5. All Class Members will be mailed a Notice Packet containing the
27 forms attached as Exhibit 1 and Exhibit 2 as approved by the Court.
- 28

1 6. Class Members will have an opportunity to dispute the
2 information provided in their Notice Packets. To the extent Class Members dispute
3 the number of workweeks to which they have been credited or the amount of their
4 Individual Settlement Payment, Class Members may produce evidence to the Claims
5 Administrator showing that such information is inaccurate. Absent evidence
6 rebutting Defendant's records, Defendant's records will be presumed determinative.
7 However, if a Class Member produces evidence to the contrary, the Claims
8 Administrator will evaluate the evidence submitted by the Class Member and will
9 make the final decision as to the number of eligible workweeks that should be applied
10 and/or the Individual Settlement Payment to which the Class Member may be
11 entitled. The workweek dispute must be returned by mail or fax to the Claims
12 Administrator at the specified address or facsimile number and postmarked or faxed
13 on or before the Response Deadline. The date of the postmark or fax receipt
14 confirmation will be the exclusive means to determine whether a workweek dispute
15 has been timely submitted. All such disputes are to be resolved not later than
16 fourteen (14) calendar days after the Response Deadline.

17 7. Defective Submissions. If a Class Member's Request for
18 Exclusion is defective as to the requirements listed herein, that Class Member will be
19 given an opportunity to cure the defect(s). The Claims Administrator will mail the
20 Class Member a cure letter within three (3) business days of receiving the defective
21 submission to advise the Class Member that his or her submission is defective and
22 that the defect must be cured to render the Request for Exclusion valid. The Class
23 Member will have until the later of (a) the Response Deadline or (b) fifteen (15)
24 calendar days from the date of the cure letter, whichever date is later, to postmark or
25 fax a revised Request for Exclusion.

26 8. Request for Exclusion Procedures. Any Class Member wishing to
27 opt-out from the Settlement Agreement must sign and postmark, email or fax a
28 written Request for Exclusion to the Claims Administrator within the Response

1 Deadline. The date of the postmark on the return mailing envelope or the fax receipt
2 confirmation will be the exclusive means to determine whether a Request for
3 Exclusion has been timely submitted. All Requests for Exclusion will be submitted
4 to the Claims Administrator, who will certify jointly to Class Counsel and
5 Defendant's Counsel the Requests for Exclusion that were timely submitted. The
6 Administrator may not reject a Request for Exclusion as invalid because it fails to
7 contain all the information specified in the Class Notice. The Administrator shall
8 accept any Request for Exclusion as valid if the Administrator can reasonably
9 ascertain the identity of the person as a Class Member and the Class Member's desire
10 to be excluded. The Administrator's determination shall be final and not appealable
11 or otherwise susceptible to challenge. If the Administrator has reason to question the
12 authenticity of a Request for Exclusion, the Administrator may demand additional
13 proof of the Class Member's identity. The Administrator's determination of
14 authenticity shall be final and not appealable or otherwise susceptible to challenge.
15 Any Class Member who does not timely seek exclusion will be bound by the terms of
16 this Settlement Agreement. Any Class Member who timely submits a valid Request
17 for Exclusion will not receive payment from the Settlement, and will not be bound by
18 the terms of the Settlement Agreement or Judgment (with the exception of the PAGA
19 Released Claims if they are an Aggrieved Employee). Class Members eligible for a
20 portion of the PAGA Settlement will receive their share of the employee portion of
21 the PAGA Settlement Amount and will be deemed to have released any claims
22 arising out of PAGA, regardless of whether they submit a Request for Exclusion.

23 **XII. NULLIFICATION OF THE SETTLEMENT AGREEMENT.**

24 1. Defendant's Option to Nullify the Settlement Agreement. If ten
25 percent (10%) or more of the Class Members opt out of the Settlement (or are
26 otherwise excluded), Defendant, in their sole discretion, shall have the option of
27 nullifying the Settlement Agreement. In such a case, the Parties and any funds to be
28 awarded under this Settlement Agreement shall be returned to their respective

1 statuses as of the date and time immediately prior to the execution of this Agreement,
2 and the Parties shall proceed in all respects as if this Settlement Agreement had not
3 been executed, except that any fees already incurred by the Claims Administrator
4 shall be paid by Defendant.

5 2. Nullification of the Settlement Agreement. In the event: (i) the
6 Court does not enter the Preliminary Approval Order and approve the Released
7 Claims specified herein; (ii) the Court does not finally approve the Settlement as
8 provided herein; (iii) Defendant exercise their option to nullify the Settlement
9 Agreement based on an excessive number of opt-outs, as described in the above
10 Section; or (iv) the Settlement does not become final for any other reason (*e.g.*, an
11 objection by the LWDA), this Settlement Agreement shall be null and void. A
12 reduction of the Attorneys' Fees and Costs and/or any Class Representative
13 Enhancement Payment(s) shall not be grounds for nullification of this Settlement. If
14 the Settlement is nullified, any order or judgment entered by the Court in furtherance
15 of this Settlement Agreement shall be treated as void from the beginning, and the
16 Stipulations and Recitals contained herein shall be of no force or effect, and shall not
17 be treated as an admission by the Parties or their counsel. In such a case, the Parties
18 and any funds to be awarded under this Settlement Agreement shall be returned to
19 their respective statuses as of the date and time immediately prior to the execution of
20 this Settlement Agreement, and the Parties shall proceed in all respects as if this
21 Settlement Agreement had not been executed, except that any fees already incurred
22 by the Claims Administrator shall be paid equally by both Parties. The Parties agree
23 that they will cooperate and take all steps necessary in order to obtain preliminary
24 and/or final approval in the event that the Court raises issues or questions about this
25 Settlement or anything pertaining to this Settlement (including, but not limited to, the
26 motion for preliminary approval and motion for final approval).

27 3. Settlement Terms Bind All Class Members Who Do Not Opt Out.
28 Any Class Member who does not affirmatively opt out of the Settlement Agreement

1 by submitting a timely and valid Request for Exclusion will be bound by all its terms,
2 including those pertaining to the Released Claims.

3 **XIII. Certification Reports Regarding Individual Settlement Payment**
4 **Calculations.**

5 1. The Claims Administrator will provide Defendant's counsel and
6 Class Counsel a weekly report which certifies: (a) the number of Class Members who
7 have submitted valid Requests for Exclusion; (b) any objections submitted to the
8 Settlement along with a copy of any such objection; and (c) whether any Class
9 Member has submitted a challenge to any information contained in his/her Notice
10 Packet. Additionally, the Claims Administrator will provide to counsel for both
11 Parties any updated reports regarding the administration of the Settlement Agreement
12 as needed or requested.

13 2. Uncashed Settlement Checks. Any checks issued by the Claims
14 Administrator to Class Members, FLSA Collective Members, or Aggrieved
15 Employees will be negotiable for one-hundred eighty (180) calendar days. After one-
16 hundred eighty (180) calendar days from the date of mailing, the checks shall become
17 null and void, and any monies remaining in the distribution account shall be
18 distributed to the Controller of the State of California to be held pursuant to the
19 Unclaimed Property Law, California Civil Code § 1500 *et seq.*, for the benefit of
20 those Settlement Class members, FLSA Collective Members, or Aggrieved
21 Employees who did not cash their checks until such time that they claim their
22 property. The Parties agree that this disposition results in no "unpaid residue" under
23 California Civil Procedure Code § 384, as the entire Settlement Payment will be paid
24 out to Settlement Class members, whether or not they all cash their Settlement
25 Checks. Therefore, Defendant will not be required to pay any interest on said
26 amount.

27 3. Certification of Completion. Upon completion of administration
28 of the Settlement, the Claims Administrator will provide a written declaration under
oath to certify such completion to the Court and counsel for all Parties.

1 **XIV. Tax Treatment of Individual Settlement Payments.**

2 The PAGA Payments will be allocated as 100% penalties and reported on an
3 IRS-Form 1099. All Individual Settlement Payments and Individual FLSA Settlement
4 Payments will be allocated as follows: one-half (1/2) of each Individual Settlement
5 Payment and Individual FLSA Settlement Payment will be allocated as wages and
6 one-half (1/2) will be allocated as non-wages. The portion allocated to wages will be
7 reported on an IRS Form W-2 and the portion allocated to non-wages will be reported
8 on an IRS Form-1099 by the Claims Administrator. The Individual Settlement
9 Payments and Individual FLSA Settlement Payment will be reduced by any required
10 legal deductions for each Class Member. All standard employee payroll deductions
11 will be made for state and federal withholding taxes, including any other applicable
12 payroll deductions owed by the Class Members as a result of the wage component,
13 resulting in a net wage component. The Claims Administrator will issue a check and
14 W-2 Form to each Class Member for the wage component. The Claims
15 Administrator will issue a second check and IRS Form-1099 for the remaining non-
16 wages component. No withholding shall be made on the non-wages portion of the
17 Individual Settlement Payment or Individual FLSA Settlement Payment. The Claims
18 Administrator shall be responsible for issuing the payments and calculating and
19 withholding all required state and federal taxes. The Claims Administrator shall
20 determine the eligibility for, and the amounts of, any Individual Settlement Payments
21 and Individual FLSA Settlement Payment under the terms of this Settlement
22 Agreement. Any disputes not resolved by the Claims Administrator concerning the
23 administration of the Settlement will be resolved by the Court, under the laws of the
24 State of California. Prior to any such involvement of the Court, counsel for the
25 Parties will confer in good faith to resolve the dispute without the necessity of
26 involving the Court.

1 **XV. Administration of Taxes by the Claims Administrator.**

2 1. Tax Liability. Defendant makes no representation as to the tax
3 treatment or legal effect of the payments called for hereunder, and Plaintiff and Class
4 Members are not relying on any statement, representation, or calculation by
5 Defendant or by the Claims Administrator in this regard. Plaintiff and Class
6 Members understand and agree they will be solely responsible for the payment of
7 their share of any taxes and penalties assessed on the payments described herein.

8 2. Circular 230 Disclaimer. EACH PARTY TO THIS
9 SETTLEMENT AGREEMENT (FOR PURPOSES OF THIS SECTION, THE
10 “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS SETTLEMENT
11 AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER
12 PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF
13 THIS SETTLEMENT AGREEMENT, AND NO WRITTEN COMMUNICATION
14 OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR
15 ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR
16 WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE
17 CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE
18 MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230
19 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY
20 (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN,
21 INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING
22 TAX ADVICE) IN CONNECTION WITH THIS SETTLEMENT AGREEMENT,
23 (B) HAS NOT ENTERED INTO THIS SETTLEMENT AGREEMENT BASED
24 UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY
25 ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT
26 ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY
27 ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY
28 TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING

PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS SETTLEMENT AGREEMENT.

XVI. Releases.

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

2. It is the desire of Plaintiff, Class Members (except those who exclude themselves from the Settlement), and Defendant to fully, finally, and forever settle, compromise, and discharge the Released Class Claims and Released Aggrieved Employee Claims. Upon fully funding the Gross Settlement Amount, and except as to such rights or claims as may be created by this Settlement Agreement, the Class Members shall fully release and discharge the Released Parties from any and all Released Class Claims for the entire Class Period and the Aggrieved Employees shall fully release and discharge the Released Parties from any and all Released Aggrieved Employee Claims for the entire PAGA Period. This release shall be binding on all Class Members who have not timely submitted a valid and complete Request for Exclusion, including each of their respective attorneys, agents, executors, representatives, guardians ad litem, heirs, successors, and assigns, and shall inure to the benefit of the Released Parties, who shall have no further or other liability or

obligation to any Class Member with respect to the Released Class Claims, except as expressly provided herein.

XVII. Preliminary Approval Hearing.

1. Plaintiff will obtain a hearing before the Court to request Preliminary Approval of the Settlement Agreement and the entry of a Preliminary Approval Order for: (a) conditional certification of the Settlement Class for settlement purposes only, (b) Preliminary Approval of the proposed Settlement Agreement, and (c) setting a date for a Final Approval/Settlement Fairness Hearing.

2. The Preliminary Approval Order will provide for the Notice Packet to be sent to all Class Members as specified herein. In conjunction with the Preliminary Approval Hearing, Plaintiff will submit this Settlement Agreement and will include the proposed Notice Packet.

3. Class Counsel will be responsible for drafting all documents necessary to obtain Preliminary Approval, subject to review by Defendant's counsel. Any failure by the Court to fully and completely approve the Settlement Agreement which has the effect of preventing the full and complete approval of the Settlement Agreement as written and agreed to by the Parties will result in this Settlement Agreement, and all obligations under this Settlement Agreement, being nullified and voided.

XVIII. Final Settlement Approval Hearing and Entry of Judgment.

1. Upon expiration of the Response Deadline, and with the Court's permission, a Final Approval/Settlement Fairness Hearing will be conducted to determine the Final Approval of the Settlement Agreement along with the amounts properly payable for: (a) Individual Settlement Payments and Individual PAGA Payments; (b) the LWDA payment; (c) the Attorneys' Fees and Costs; (d) the Class Representative Enhancement Payment; and (e) all Claims Administration Costs.

2. Depending on the Court's availability, the Parties will request that the Final Approval Hearing will be held approximately thirty (30) calendar days after

1 the Response Deadline. A violation of this provision shall not serve as grounds for
2 nullification of this Agreement.

3 3. Class Counsel will be responsible for drafting all documents
4 necessary to obtain Final Approval, subject to Defendant's counsel's review. Class
5 Counsel will also be responsible for drafting the Attorneys' Fees and Costs
6 application to be heard at the Final Approval/Settlement Fairness Hearing. Any
7 failure by the Court to fully and completely approve the Settlement Agreement will
8 result in this Settlement Agreement entered into by the Parties, and all obligations
9 under this Settlement Agreement, being nullified and voided. Upon such failure, any
10 order or judgment entered by the Court in furtherance of this Settlement Agreement
11 shall be treated as void from the beginning, and the Stipulations and Recitals
12 contained herein shall be of no force or effect and shall not be treated as an admission
13 by the Parties or their counsel. In such a case, the Parties and any funds to be
14 awarded under this Settlement Agreement shall be returned to their respective
15 statuses as of the date and time immediately prior to the execution of this Settlement
16 Agreement, and the Parties shall proceed in all respects as if this Settlement
17 Agreement had not been executed, except that any fees already incurred by the
18 Claims Administrator shall be paid equally by both Parties.

19 **XIX. Judgment and Continued Jurisdiction.**

20 The Court shall retain jurisdiction with respect to the interpretation,
21 implementation, and enforcement of the terms of this Settlement Agreement and all
22 orders and judgments entered in connection therewith, and the Parties and their
23 counsel hereto submit to the jurisdiction of the Court for purposes of interpreting,
24 implementing, and enforcing the Settlement embodied in this Settlement Agreement
25 and all orders and judgments entered in connection therewith.

26 **XX. Escalator Clause**

27 Defendant understands and believes there are approximately 6,200
28 workweeks by Class Members from April 3, 2019 through September 24, 2023. If it is

determined that the actual number of workweeks through September 24, 2023 exceeds 6,200 by more than ten percent (10%) (i.e., exceeds 6,820), then, Defendant shall increase the Gross Settlement Amount by \$36.66 for each workweek in excess of 6,820 through September 24, 2023. Alternatively, Defendant may choose to cut off the Class and PAGA Periods on the date on which the workweek total reached 6,820.

XXI. Other Provisions.

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

2. Entire Agreement. This Settlement Agreement any attached Exhibits and Plaintiff's individual settlement agreement constitute the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements may be deemed binding on the Parties.

3. Amendment or Modification. This Settlement Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest and approved by the Court.

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

Parties may seek the assistance of Michael Ludwig, Esq. (mediator) to resolve such disagreement.

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

6. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto will be governed by and interpreted according to the laws of the State of California.

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

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

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

10. Class Action Certification for Settlement Purposes Only. The Parties agree to stipulate to class certification only for purposes of the Settlement. If,

1 for any reason, the Settlement is not approved, the stipulation to certification will be
2 void. The Parties further agree that certification for purposes of the Settlement is not
3 an admission that class action certification is proper under the standards applied to
4 contested certification motions and that this Settlement Agreement will not be
5 admissible in this or any other proceeding as evidence that either: (a) a class action
6 should be certified or (b) Defendant is liable to Plaintiff or any Class Member, other
7 than according to the Settlement's terms.

8 11. Non-Admission of Liability. The Parties enter into this Settlement
9 Agreement to resolve the dispute that has arisen between them and to avoid the
10 burden, expense, and risk of continued litigation. In entering into this Settlement
11 Agreement, Defendant does not admit, and specifically denies, it has violated any
12 federal, state, or local law; violated any regulations or guidelines promulgated
13 pursuant to any statute or any other applicable laws, regulations or legal
14 requirements; breached any contract; violated or breached any duty; engaged in any
15 misrepresentation or deception; or engaged in any other unlawful conduct with
16 respect to their employees. Neither this Settlement Agreement, nor any of its terms
17 or provisions, nor any of the negotiations connected with it, shall be construed as an
18 admission or concession by Defendant of any such violations or failures to comply
19 with any applicable law. Except as necessary in a proceeding to enforce the terms of
20 this Settlement Agreement, this Settlement Agreement and its terms and provisions
21 shall not be offered or received as evidence in any action or proceeding to establish
22 any liability or admission on the part of Defendant or to establish the existence of any
23 condition constituting a violation of, or a non-compliance with, federal, state, local or
24 other applicable law.

25 12. Captions. The captions and section numbers in this Settlement
26 Agreement are inserted for the reader's convenience, and in no way define, limit,
27 construe or describe the scope or intent of the provisions of this Settlement
28 Agreement.

1 13. Waiver. No waiver of any condition or covenant contained in this
2 Settlement Agreement or failure to exercise a right or remedy by any of the Parties
3 hereto will be considered to imply or constitute a further waiver by such party of the
4 same or any other condition, covenant, right or remedy.

5 14. Enforcement Action. If one or more of the Parties institutes any
6 legal action or other proceeding against any other Party or Parties to enforce the
7 provisions of this Settlement or to declare rights and/or obligations under this
8 Settlement, the successful Party or Parties will be entitled to recover from the
9 unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert
10 witness fees incurred in connection with any enforcement Action, pursuant to C.C.P.
11 § 664.6.

12 15. Mutual Preparation. The Parties have had a full opportunity to
13 negotiate the terms and conditions of this Settlement Agreement. Accordingly, this
14 Settlement Agreement will not be construed more strictly against one Party than
15 another merely by virtue of the fact that it may have been prepared by counsel for one
16 of the Parties, it being recognized that, because of the arm's-length negotiations
17 between the Parties, all Parties have contributed to the preparation of this Settlement
18 Agreement.

19 16. Representation by Counsel. The Parties acknowledge that they
20 have been represented by counsel throughout all negotiations that preceded the
21 execution of this Settlement Agreement and that this Settlement Agreement has been
22 executed with the consent and advice of counsel and reviewed in full. Further,
23 Plaintiff and Class Counsel warrant and represent that there are no liens on the
24 Settlement Agreement.

25 17. All Terms Subject to Final Court Approval. All amounts and
26 procedures described in this Settlement Agreement herein will be subject to final
27 Court approval.
28

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

4 19. Confidentiality. Neither Plaintiff nor Plaintiff's Counsel shall
5 issue any press release or announcement of any kind related in any way to the
6 Settlement. Plaintiff and Plaintiff's Counsel agree that, prior to Preliminary Approval
7 of the Settlement, they will keep the terms of this Settlement confidential except for
8 purposes of communicating with Plaintiff only. Plaintiff shall be informed that the
9 Settlement is confidential and shall be advised to keep the Settlement confidential.
10 From and after Preliminary Approval of the Settlement, the Class Members
11 (including Plaintiff and Class Counsel) may: (1) as required by law; (2) as required
12 under the terms of the Settlement; or (3) as required under counsel's duties and
13 responsibilities as Class Counsel, comment regarding the specific terms of the
14 Settlement. In all other cases, Plaintiff and Class Counsel agree to limit their
15 statements regarding the terms of the Settlement, whether oral, written or electronic
16 (including the world wide web), to say the Class Action has been resolved and that
17 Plaintiff and Class Counsel are satisfied with the Settlement terms. Nothing in this
18 Section is intended to interfere with Class Counsel's duties and obligations to
19 faithfully discharge their duties as Class Counsel, including but not limited to,
20 communicating with Class Members regarding the Settlement. This Settlement shall
21 not be advertised or mentioned on any source, including Plaintiff's Counsels'
22 personal or firm website(s).

23 The parties stipulate and agree, pursuant to California Code of Civil
24 Procedure section 583.330(a), to extend the time within which this action must be
25 brought to trial pursuant to Code of Civil Procedure sections 583.310 through
26 583.360, by that period of time from Preliminary Approval to the date of Final
27 Approval or upon written notice from either party of an intent to resume litigation,
28

1 and that said period of time shall not be included in the computation of the five-year
2 period specified in Code of Civil Procedure section 583.310.

3 20. Binding Agreement. The Parties warrant that they understand and
4 have full authority to enter into this Settlement, intend that this Settlement Agreement
5 will be fully enforceable and binding on all Parties, and agree that it will be
6 admissible and subject to disclosure in any proceeding to enforce its terms,
7 notwithstanding any mediation confidentiality provisions that otherwise might apply
8 under federal or state law. Plaintiff, and not her respective representative(s), must
9 personally execute this Settlement Agreement.

10 *The Settlement Agreement consists of 38 pages with signatures appearing below.*
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1 Dated: 03 / 13 / 2024
2
3

PLAINTIFF LINDSAY ORIN



4 Plaintiff Lindsay Orin
5

CAL. DEL. U.S.A. INC.

6 Dated: _____
7

8 Please Print Name of Authorized
9 Signatory

10 **APPROVED AS TO FORM**

11 **GAINES & GAINES, APLC**

12
13 Dated: 03/15/2024
14

15 Attorneys for Plaintiff Lindsay Orin
16

**SHEPPARD, MULLIN, RICHTER &
HAMPTON LLP**

17 Dated: _____
18

19 Matthew A. Tobias
20 Attorneys for Defendant Cal. Del. U.S.A.
21 Inc.
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1 Dated: _____

PLAINTIFF LINDSAY ORIN

2
3 Plaintiff Lindsay Orin

4 **CAL. DEL. U.S.A. INC.**

5
6 Dated: 3/13/2024

7 Roberto Lorenzini
8 Please Print Name of Authorized
9 Signatory

10 **APPROVED AS TO FORM**

11 **GAINES & GAINES, APLC**

12
13 Dated: _____

14 _____
Attorneys for Plaintiff Lindsay Orin

15 **SHEPPARD, MULLIN, RICHTER &**
16 **HAMPTON LLP**

17 Dated: 3/14/2024
18 _____

19 Matthew A. Tobias
20 Matthew A. Tobias
21 Attorneys for Defendant Cal. Del. U.S.A.
22 Inc.
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EXHIBIT 1

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

LINDSAY ORIN, on behalf of herself
and all others similarly situated and on
behalf of the general public,

Plaintiff,

v.

CAL. DEL. U.S.A. INC., a California
corporation, and DOES 1 through 10,
inclusive,

Defendant.

Case No. 2:23-cv-03404-FMO-KS

**NOTICE OF PENDENCY OF
PROPOSED CLASS ACTION
SETTLEMENT AND FINAL
HEARING**

**YOU MAY BE ENTITLED TO RECEIVE MONEY FROM A SETTLEMENT.
PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE
AFFECTED.**

A California court authorized this notice. This is not a solicitation from a lawyer.

- A lawsuit was filed by Plaintiff Lindsay Orin (“Plaintiff”) alleging that Cal. Del. U.S.A. Inc. (“Defendant”) failed to pay all wages to non-exempt employees, including all minimum and overtime wages; failed to provide compliant meal and rest periods or premium compensation in lieu thereof; failed to timely issue final wages upon separation of employment; failed to issue accurate and complete itemized wage statements; failed to reimburse for necessary business expenses; engaged in violations of Business and Professions Code § 17200; engaged in violations of the Fair Labor Standards Act (“FLSA”) 29 U.S.C. §§ 206 and 207; and is subject to penalties under the Labor Code Private Attorneys General Act of 2004 (the “Action”).
- Defendant denies Plaintiff’s allegations in the Action and maintains it has appropriately paid all wages and has fully complied with the law, including all Labor Code obligations. By agreeing to the Settlement, Defendant in no way admits any violation of law or any liability whatsoever to Plaintiff or others and expressly denies all such liability. Defendant also understands the significant costs associated with further litigation of the Action.
- The Plaintiff and Defendant have agreed to a settlement to resolve the Action that has been preliminarily approved by the Court. If the Court grants final approval of the settlement, the settlement will provide \$250,000 to pay claims to all current and

former non-exempt California employees of Cal. Del. U.S.A. Inc. (“Defendant”) at any time between April 3, 2019 and [REDACTED] (“Settlement Class Members”), all non-exempt employees of Defendant in California at any time between April 3, 2020 and [REDACTED] (“FLSA Collective Members”) (Settlement Class Members and FLSA Collective Members are collectively referred to as “Class Members”), and all non-exempt employees of Defendant in California at any time between March 27, 2022 and [REDACTED] (“Aggrieved Employees”). Both Plaintiff and Defendant have agreed to the Settlement in light of all known facts and circumstances—including the cost and uncertainty associated with litigation.

- Lawyers for the employees will ask the Court to award them up to \$62,500 as attorney’s fees and \$13,000 as expenses for investigating the facts, litigating the case, and negotiating the settlement. This will be paid from the settlement amount.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing	You do not need to take any action if you wish to receive your settlement payment. If the settlement is approved by the Court, you will automatically be mailed a settlement check at the address on file with the Claims Administrator. If your address has changed, you must notify the Claims Administrator of your new address. In exchange for the settlement payment, you will release claims against the Defendant, as detailed below.
Opt-in to the FLSA Settlement	In order to participate in the FLSA Collective Settlement, you must complete the attached FLSA Settlement Claim Form and Release of Claims (the “Claim Form”) and mail it to the Claims Administrator no later than [REDACTED]. The Claims Administrator’s address is [Claims Administrator address]. In exchange for the FLSA Settlement Payment, you will release claims against the Defendant, as detailed below. If you do not timely return the Claim Form, you will not receive a share of the FLSA Settlement Amount and you will not be bound by the Released Participating FLSA Collective Member Claims.
Exclude Yourself	To exclude yourself, you must send a written Request for Exclusion to the Claims Administrator by the applicable deadline, as detailed below. If you request exclusion, you will receive no money from the class settlement. This is the only option that allows you to ever be part of any other lawsuit against Cal. Del. U.S.A. Inc. about the legal claims that were brought in this case. Even if you exclude yourself, you will still be an Aggrieved Employee subject to the PAGA settlement.
Object	Write to the Court directly about why you don’t like the settlement by the applicable deadline, as detailed below, and/or appear at the Final Approval Hearing to make an oral objection.
Go to a Hearing	Ask to speak in Court about the fairness of the settlement, as detailed below.

WHY DID YOU RECEIVE THIS NOTICE?

This notice explains a proposed settlement of a class action lawsuit, and informs you of your legal rights under that proposed settlement. You are receiving this notice because you may be a member of the Class on whose behalf this class action lawsuit has been brought.

WHAT IS THIS LAWSUIT ABOUT?

On April 3, 2023, Plaintiff, a former employee of Defendant, filed this lawsuit in the Los Angeles County Superior Court. On or about May 8, 2023, this lawsuit was removed to the United States District Court, Central District of California. The lawsuit alleges violations of the California Labor Code, California Business and Professions Code, and the Fair Labor Standards Act. The lawsuit seeks to certify a class of all non-exempt employees of Defendant in California at any time between April 3, 2019 and [REDACTED] (“Class Period”) and between April 3, 2020 and [REDACTED] (“FLSA Collective Action Period”). Specifically, the lawsuit alleges that members of the Class were not paid all wages, including all minimum and overtime wages due; provided compliant meal and rest periods or premium compensation in lieu thereof; timely issued final wages upon separation of employment; issued accurate and complete itemized wage statements; reimbursed for all business-related expenses; and related claims. The Settlement seeks recovery of wages, liquidated damages, damages, interest, statutory and civil penalties, restitution, attorney’s fees, and costs. Defendant denies all of the material allegations in the lawsuit, denies any liability, and denies that it owes Class Members any remedies. The Court has not made a ruling on the merits of the case.

The lawyers for the parties are:

Plaintiff’s Attorneys

Daniel F. Gaines, Esq.
Alex P. Katofsky, Esq.
Gaines & Gaines, APLC
4550 E. Thousand Oaks Blvd., Suite 100
Westlake Village, CA 91362
Phone: (866) 550-0855

Defendant’s Attorneys

Matthew A. Tobias, Esq.
Sheppard, Mullin, Richter & Hampton LLP
333 South Hope Street, 43rd Floor
Los Angeles, CA 90071
Phone: (213) 617-5421

SUMMARY OF THE SETTLEMENT

A. Why is there a Settlement?

The Court did not decide in favor of Plaintiff or Defendant. Plaintiff believes she would have prevailed on her claims at a trial. Defendant does not believe that Plaintiff

would have won anything from a trial. There has been no trial. Instead, both sides agreed to a settlement, which is memorialized in the First Amended Stipulation and Settlement of Class, Collective and Representative Action (“Settlement” or “Settlement Agreement”), in order to avoid the further costs of litigation, risks, and uncertainty of a trial. Plaintiff and Plaintiff’s Attorneys believe the settlement is fair, reasonable, adequate, and in the best interests of all Class Members.

B. Who is in the Settlement Class? Who is in the FLSA Collective Class? Who is an Aggrieved Employee?

The Settlement encompasses a class composed of all non-exempt employees of Defendant Cal. Del. U.S.A. Inc. in California at any time between April 3, 2019 and [REDACTED] (“Class Period”). It also encompasses FLSA Collective Members composed of all non-exempt employees of Defendant in California at any time between April 3, 2020 and [REDACTED] (the “FLSA Collective Action Period”). It further encompasses Aggrieved Employees composed of all non-exempt employees of Defendant in California at any time between March 27, 2022 and [REDACTED] (“PAGA Period”).

C. What does the Settlement provide?

1. Gross Settlement Amount.

The Settlement provides that Defendant will pay \$250,000 (the “Gross Settlement Amount”) to settle the lawsuit.

2. Net Settlement Amount.

The “Net Settlement Amount” is the portion of the Gross Settlement Amount that will be available for distribution to Class Members who do not submit timely and valid requests for exclusion in exchange for the release of their class claims. The Net Settlement Amount is the Gross Settlement Amount less the following amounts that will be requested at the Final Approval Hearing and are subject to comment or objection by Participating Class Members. The Court will set these amounts at the Final Approval Hearing.

(a) **Class Counsel’s Attorney’s Fees** in an amount set by the Court, not to exceed twenty-five percent of the Gross Settlement Amount (estimated at \$62,500);

(b) **Class Counsel’s Documented Litigation Costs/Expenses** in an amount set by the Court, not to exceed \$13,000;

(c) **Enhancement Payment to the Class Representative** in an amount set by the Court, not to exceed \$5,000 to Plaintiff for her service in the lawsuit;

(d) **Claims Administration Costs** which are currently estimated to not exceed \$3,000, for administering the settlement;

(e) **FLSA Settlement Amount** in the total amount of \$10,000 for resolution of any claims arising under the FLSA, payable to the FLSA Collective Members who opt in to the FLSA release; and

(f) **PAGA Settlement Amount** in the total amount of \$10,000 for the settlement of claims arising under the California Private Attorneys General Act (“PAGA”). Of that amount, 75% or \$7,500, shall be paid to the California Labor and Workforce Development Agency (“LWDA”). The remaining 25%, or \$2,500, shall be included in the Net Settlement Amount for payment to Aggrieved Employees.

3. Individual Settlement Payment Amount.

Your share of the Net Settlement Amount will be determined by the formula detailed in section E below.

D. What Are You Releasing Under the Settlement?

As of the date of the Order Granting Final Approval, and only after the Settlement has been fully funded by Defendant, all Settlement Class Members shall fully and finally release Released Parties of the Released Class Claims.

The Released Class Claims include any and all claims, rights, demands, liabilities and causes of action alleged in the operative First Amended Complaint, and all claims, rights, demands, liabilities and causes of action which could be alleged based on the facts set forth in the First Amended Complaint, for all periods of employment in a non-exempt position in California during the Settlement Class Period. This includes claims for unpaid wages, including, failure to pay minimum wages, straight time compensation, overtime compensation, double-time compensation, and interest; reimbursement for all necessary business expenses; failure to provide accurate wage statements; unfair business practices; penalties, including, but not limited to, civil penalties apart from those as described in Paragraph DD, above, statutory penalties, recordkeeping penalties, wage statement penalties, minimum-wage penalties, and waiting-time penalties; and attorneys’ fees and costs; all claims related to the Released Claims which are asserted in the Lawsuit or which could have been asserted based on the factual allegations pled in the Action arising under: the California Labor Code (including, but not limited to, sections 201, 202, 203, 218.5, 226, 226.3, 226.7, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, and 2802), Wage Order 4-2001 of the California Industrial Welfare Commission; and California Business and Professions Code section 17200, et seq based on the foregoing.

This release excludes the release of claims not permitted by law and excludes all claims arising under PAGA.

As of the date of the Order Granting Final Approval, and only after the Settlement has been fully funded by Defendant, all Participating FLSA Collective Members shall fully and finally release Released Parties of the Released Participating FLSA Collective Member Claims.

The Released Participating FLSA Collective Member Claims are the FLSA claims that were alleged or that reasonably could have been alleged based on the facts alleged in the First Amended Complaint, including but not limited to claims pursuant to 29 U.S.C. sections 206 and 207, for all periods of employment in a non-exempt position in California during the FLSA Collective Action Period.

As of the date of the Order Granting Final Approval, and only after the Settlement has been fully funded by Defendant, all Aggrieved Employees shall fully and finally release Released Parties of the Released Aggrieved Employee Claims.

The Released Aggrieved Employee Claims include all claims, rights, demands, liabilities and causes of action under PAGA which are alleged in the operative First Amended Complaint, and March 27, 2023 LWDA exhaustion letter identified on the LWDA's website as LWDA-CM-944652-23, and all claims, rights, demands, liabilities and causes of action under PAGA which could be alleged based on the facts set forth in the First Amended Complaint, for all periods of employment in a non-exempt position in California during the PAGA Period. This includes claims arising under PAGA for unpaid wages, including, failure to pay minimum wages, straight time compensation, overtime compensation, double-time compensation, and interest; reimbursement for all necessary business expenses; failure to provide accurate wage statements; unfair business practices; penalties, including, but not limited to, statutory penalties, recordkeeping penalties, wage statement penalties, minimum-wage penalties, and waiting-time penalties; and attorneys' fees and costs; all claims related to the PAGA Released Claims which are asserted in the Lawsuit or which could have been asserted based on the factual allegations pled in the Lawsuit arising under: the California Labor Code (including, but not limited to, sections 201, 202, 203, 218.5, 226, 226.3, 226.7, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, and 2802), and Wage Order 4-2001 of the California Industrial Welfare Commission ("PAGA Released Claims"). This release excludes the release of claims not permitted by law and excludes all claims for unpaid wages and statutory penalties. Aggrieved Employees shall not be able to exclude themselves from the PAGA portion of this settlement and the PAGA Released Claims, and Aggrieved Employees shall receive their PAGA portion of the settlement even if they opt-out of the class action settlement.

The Released Parties are Defendant and its past, present, and future parents, subsidiaries, affiliated companies (including but not limited to, An. Del. U.S.A., and all of its subsidiaries and affiliates), agents, managing agents, employees, servants, officers, directors, owners (whether direct or indirect), general partners, limited partners, trustees, representatives, shareholders, stockholders, members, mortgagees or ground lessors, attorneys, parents, subsidiaries, equity sponsors, related companies/corporations and/or partnerships, divisions, assigns, predecessors, successors, insurers, consultants, joint venturers, joint employers, potential and/or alleged joint employers, temporary staffing agencies, dual employers, potential and/or alleged dual employers, co-employers, potential and/or alleged co-employers, common law employers, potential and alleged common law employers, contractors, affiliates, service providers, alter-egos, potential and/or alleged alter-egos, vendors, affiliated organizations, any person and/or entity with potential or alleged to have joint liability, and all of their respective past, present and future employees, directors, officers, members, owners, agents, representatives, payroll agencies, attorneys, stockholders, fiduciaries, parents, subsidiaries, other service providers, and assigns and any and all persons and/or entities acting under, by, through or in concert with any of them.

E. How Is My Share Of The Settlement Calculated?

Individual Settlement Payments will be calculated and apportioned from the Net Settlement Amount based on the total gross wages a Settlement Class Member was paid in a non-exempt position in California during the Class Period, based on the total gross wages a FLSA Collective Member was paid in a non-exempt position in California during the FLSA Collective Action Period, and based on the number of Individual Pay Periods an Aggrieved Employee worked in a non-exempt position in California during the PAGA Period with respect to the PAGA Payment. Specific calculations of Individual Settlement Payments will be made as follows:

- (a) The Claims Administrator will calculate the total amount of gross wages paid to each Class Member (“Individual Wages”) and the total amount of gross wages paid to all Class Members (“Class Wages”) during the Class Period.
- (b) To determine each Class Member’s Individual Settlement Payment, the Claims Administrator will use the following formula: Individual Settlement Payment = (Individual Wages ÷ Class Wages) × Net Settlement Amount.

Non-Participating Class Members will not receive any Individual Settlement Payments. The Administrator will retain amounts equal to their Individual Settlement Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

The Individual Settlement Payments made to Class Members under this Settlement, and any other payments made pursuant to this Settlement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to, profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

Individual FLSA Payments to Participating FLSA Collective Members will be calculated and apportioned from the FLSA Settlement Amount will be calculated as follows:

- (a) The Claims Administrator will calculate the total amount of gross wages paid to each FLSA Collective Member ("Individual FLSA Wages") and the total amount of gross wages paid to all Collective FLSA Members ("Collective FLSA Wages") during the FLSA Collective Action Period.
- (b) To determine each FLSA Collective Member's Individual Settlement Payment, the Claims Administrator will use the following formula: $\text{Individual FLSA Settlement Payment} = (\text{Individual FLSA Wages} \div \text{Collective FLSA Wages}) \times \text{FLSA Settlement Amount}$.

Non-Participating FLSA Collective Members will not receive any Individual FLSA Settlement Payments. The Administrator will retain amounts equal to their Individual FLSA Settlement Payments in the Net Settlement Amount for distribution to Participating FLSA Collective Members on a pro rata basis.

The Individual FLSA Settlement Payments made to Participating FLSA Collective Members under this Settlement, and any other payments made pursuant to this Settlement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to, profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Participating FLSA Collective Members may be entitled under any benefit plans.

PAGA Payments will be calculated and apportioned from the Aggrieved Employees Amount based on the number of workweeks an Aggrieved Employee worked in a non-exempt position in California during the PAGA Period. Specific calculations of PAGA Payments will be made as follows:

- (a) The Claims Administrator will calculate the total number of weeks worked (weeks in which at least one day was worked) by each Aggrieved Employee (“Individual Pay Periods”) and the total number of weeks worked by all Aggrieved Employees (“Total Pay Periods”) during the Class Period.
- (b) To determine each Aggrieved Employees Individual PAGA Payment, the Claims Administrator will use the following formula:
$$\text{PAGA Payment} = (\text{Individual Pay Periods} \div \text{Total Pay Periods}) \times \text{Aggrieved Employees Amount}.$$

The Individual Settlement Payment will be reduced by any required deductions for each Class Member as set forth herein, including employee-side tax withholdings or deductions. The class portion of the Individual Settlement Payments will be allocated as follows: one-third (1/3) to wages, one-third (1/3) to interest, and one-third (1/3) to penalties. The PAGA portion will be allocated 100% to penalties..

Settlement Class Payment: According to the records of Defendant, you earned [REDACTED] in gross wages while employed as a non-exempt employee in California from April 3, 2019 through [REDACTED]. Based on these wages earned, you are entitled to an Individual Settlement Payment of approximately \$[REDACTED]. This amount is subject to change based on the final ruling of the Court.

FLSA Collective Payment: According to the records of Defendant, you earned [REDACTED] in gross wages while employed as a non-exempt employee in California from April 3, 2020 through [REDACTED]. Based on these wages earned, you are entitled to an Individual Settlement Payment of approximately \$[REDACTED]. This amount is subject to change based on the final ruling of the Court.

PAGA Settlement Payment: According to the records of Defendant, you worked [REDACTED] weeks while employed as a non-exempt employee in California from March 27, 2022 through [REDACTED]. Based on these weeks worked, you are entitled to a PAGA Settlement Payment Amount of approximately \$[REDACTED]. This amount is subject to change based on the final ruling of the Court.

Please be advised that the individual data above is presumed to be correct unless you submit documentation proving otherwise. If you disagree with the data, please submit an explanation and evidence in support of your position to the Claims Administrator no later than [REDACTED], 2024. In the event of a dispute, the Claims Administrator will resolve the challenge with input from the Defendant and will make a final and binding determination without a hearing or right of appeal by you.

THE SETTLEMENT HEARING

The Court will conduct a final fairness hearing regarding the proposed settlement (the “Final Settlement Hearing”) on [REDACTED], at 8:30 a.m., in the Courtroom of Judge Fernando M. Olguin of the United States District Court, Central District of California, located at the United States Courthouse, 350 W. 1st Street, 6th Floor, Courtroom 6D, Los Angeles, CA 90012. The Court will determine: (i) whether the lawsuit should finally be certified as a class action for settlement purposes; (ii) whether the settlement should be given the Court’s final approval as fair, reasonable, adequate and in the best interests of the Settlement Class Members; (iii) whether the Settlement Class Members should be bound by the terms of the settlement; (iv) the amount of the attorney’s fees and costs to be awarded to Plaintiff’s Attorneys; and (v) the amount that should be awarded to Plaintiff as an Enhancement Award. At the Final Settlement Hearing, the Court will hear all properly filed objections, as well as arguments for and against the proposed settlement. You have a right to attend this hearing, but you are not required to do so. You also have the right to hire an attorney to represent you, or to enter an appearance and represent yourself.

WHAT ARE YOUR OPTIONS?

• OPTION 1 – DO NOTHING AND PARTICIPATE IN THE SETTLEMENT

IF YOU TAKE NO ACTION IN RESPONSE TO THIS NOTICE, YOU WILL AUTOMATICALLY RECEIVE YOUR SHARE OF THE SETTLEMENT IF IT IS APPROVED BY THE COURT. YOU ARE NEVER REQUIRED TO GO TO COURT OR PAY ANYTHING TO THE LAWYERS IN THIS CASE. If you move, you must update your address with the Claims Administrator. If you disagree with pre-printed data indicated in section E above, you must submit an explanation and/or documentation to the Claims Administrator to justify your position, postmarked no later than [REDACTED]. The Claims Administrator’s address is [Claims Administrator address].

In order to participate in the FLSA Collective Settlement, you must complete the attached FLSA Settlement Claim Form and Release of Claims (the “Claim Form”) and mail it to the Claims Administrator no later than [REDACTED]. The Claims Administrator’s address is [Claims Administrator address]. You may also use the pre-printed and pre-paid return envelope to mail your completed Claim Form.

• OPTION 2 – OBJECT TO THE SETTLEMENT

If you wish to remain a Class Member, but you object to the proposed settlement (or any of its terms) and wish the Court to consider your objection at the Final Settlement Hearing, you may object to the proposed settlement in writing. In order for any Class Member to object to this Settlement, or any term of it, the person making the objection must

not submit a request for exclusion (i.e., must not opt out). While not required, the preferred method by which any Class Member may to object to this Settlement, or any term of it, is that the objecting Class Member, postmarked by no later than [REDACTED], mail or email directly to the Court a written statement of the grounds of objection, signed by the objecting Class Member or his or her attorney, along with all supporting papers. The objection may be mailed to the Court at United States Courthouse, 350 W. 1st Street, 6th Floor, Courtroom 6D, Los Angeles, California 90012. The objection may be emailed to the Court via the Courtroom Deputy Clerk at Vanessa_Figueroa@cacd.uscourts.gov. All such objections and written notices of intention to appear should be signed and contain the Class Member's name and address and the address of counsel, if any. If submitted in this manner, the objection should clearly explain why the settlement class member objects to the Settlement and state whether the Class Member (or someone on their behalf) intends to appear at the Final Approval Hearing. A Class Member may appear personally or through an attorney, at his or her own expense, at the Final Approval hearing to present his or her objection directly to the Court. If a Class Member objects to this Settlement, the Class Member will remain a member of the Settlement Class and if the Court approves this Agreement, the Class Member will be bound by the terms of the Settlement and Final Approval in the same way and to the same extent as a settlement class member who does not object. The Court retains final authority with respect to the consideration and admissibility of any Class Member objections.

• OPTION 3 – EXCLUDE YOURSELF FROM THE SETTLEMENT

You have a right to exclude yourself (“opt out”) from the Settlement Class, but if you choose to do so, you will not receive any benefits from the proposed settlement except you will participate in the PAGA portion thereof and be paid a share of the PAGA settlement. If you do not timely return the Claim Form, you will not receive a share of the FLSA Settlement Amount and you will not be bound by the Released Participating FLSA Collective Member Claims. With these exceptions, you will not be bound by a judgment in this case, and you will have the right to file your own lawsuit against the Defendant and pursue your own claims in a separate suit. You can opt out of the Settlement Class by mailing a letter to the Claims Administrator at the above-stated address, such that it is postmarked no later than [REDACTED]. The letter must reasonably communicate your election to be excluded from the Settlement and include your name, address and email address or telephone number.

ARE THERE MORE DETAILS ABOUT THE SETTLEMENT?

The above is a summary of the basic terms of the settlement. For the precise terms and conditions of the settlement, you should review the detailed “First Amended Stipulation and Settlement of Class, Collective and Representative Action” which is on file with the Clerk of the Court and available by contacting Class Counsel at

admin@gaineslawfirm.com. Plaintiff Orin's application for attorneys' fees and costs and class representative enhancement are also available for your review. The pleadings and other records in the Lawsuit may be examined at any time during regular business hours at the Office of the Clerk of the United States District Court, Central District, located at United States Courthouse, 350 W. 1st Street, 6th Floor, Los Angeles, CA 90012 and/or online, for a fee, at <https://pacer.login.uscourts.gov/csologin/login.jsf>. New users will need to create an account. For the Court, select "California Central District Court." The case number is 2:23-cv-03404-FMO-KS.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact the Claims Administrator at [address], [telephone number].

PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT OR THE CLAIMS PROCESS.

**BY ORDER OF THE UNITED STATES DISTRICT
COURT, CENTRAL DISTRICT OF CALIFORNIA**

EXHIBIT 2

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF
CALIFORNIA

Lindsay Orin v. Cal.Del. U.S.A. INC.

Case No. 2:23-cv-03404-FMO-KS

FLSA SETTLEMENT CLAIM FORM AND RELEASE OF CLAIMS

YOU MUST RETURN THIS FORM BY [DATE] TO RECEIVE PAYMENT
FOR YOUR SHARE OF THE FLSA COLLECTIVE SETTLEMENT IN
THIS CASE.

Instructions: Please complete this FLSA Settlement Claim Form and Release of Claims (the “Claim Form”) if you would like to claim your additional individual settlement allocation regarding the federal Fair Labor Standards Act (“FLSA”) claims made in this matter. As stated in the Notice of Pendency of Proposed Class Action Settlement and Final Hearing (the “Notice”), based on Defendant Cal. Del. U.S.A. Inc.’s (“Defendant”) records, you earned [GIVEN NUMBER OF GROSS WAGES] in gross wages between April 3, 2020 and [REDACTED] (the “FLSA Collective Action Period”).

Based on the Claims Administrator’s calculations, your Individual Settlement Payment is estimated to be [\$ GIVE SETTLEMENT AMOUNT], based on the percentage of your wages out of all wages paid to non-exempt employees during the FLSA Collective Action Period. .

To receive this additional Individual Settlement Payment, you MUST sign and date this Claim Form and have it postmarked by no later than [GIVE DEADLINE DATE] to the address below.

It is strongly recommended that you retain proof of your timely mailing until receipt of your Individual Settlement Payment check, should the Settlement be granted at the Final Approval Hearing.

To assist you in getting your Claim Form postmarked by [GIVE DEADLINE DATE], enclosed is a pre-printed and pre-paid return envelope. It is addressed to the Claims Administrator. When you have signed and dated this Claim Form, please place it in the pre-printed and pre-paid return envelope and mail it by [GIVE DEADLINE DATE].

If you wish to challenge the employment information included in this Claim Form, you must return it, signed and dated, together with any information which supports your position as outlined in the accompanying Notice, postmarked on or before **[GIVE DEADLINE DATE]**.

If you have lost or misplaced the pre-printed and pre-paid return envelope, you may mail your signed and dated Claim Form and any supporting information in support of a challenge to the Claims Administrator via first class mail at the following address:

[ILYM'S ADDRESS].

CLAIM FORM

Name/Address Changes, if any:

<<Claim Number>>

<<Name>>

<<Address>>

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

(_____) _____ - _____ Telephone: _____ (h)/ _____ (cell)
Home or Cell Telephone Number

SECTION 1. EMPLOYMENT INFORMATION

Defendant's business records show that between April 3, 2020 and **[REDACTED]** ("FLSA Collective Action Period"), you worked in California for Defendants as a non-exempt employee and earned \$ **[REDACTED]**. Collectively, non-exempt employees earned \$ **[REDACTED]** during the FLSA Collective Action Period. Based on the percentage of your wages out of all wages paid to

non-exempt employees during the FLSA Collective Action Period, you will receive an additional Individual Settlement Payment estimated at \$ [REDACTED], less taxes.

If you disagree with your wages earned during the FLSA Collective Action Period set forth above, please indicate below or on a separate piece of paper what you believe to be your correct earnings as a non-exempt employee in California for Defendant during the FLSA Collective Action Period. In addition, you may explain why you believe Defendant's records are mistaken, and attach all supporting documentation:

(NOTE THAT ADDITIONAL POSTAGE MAY BE NECESSARY IF YOU RETURN ADDITIONAL DOCUMENTATION IN THE ENCLOSED ENVELOPE)

SECTION 2. FLSA CONSENT TO JOIN / OPT-IN TO THE CASE

BY SUBMITTING THIS CLAIM FORM, I CONSENT TO JOIN THE COLLECTIVE IN THE FLSA PORTION OF THE *LINDSAY ORIN V. CAL. DEL. U.S.A. INC.*, AND ELECT TO PARTICIPATE IN THE SETTLEMENT AND RELEASE OF THE FLSA CLAIMS.

SECTION 3. RELEASE AND SIGNATURE

I understand that as of the date of the Order Granting Final Approval, and only after the Settlement has been fully funded by Defendant, I will release Defendant and its past, present, and future parents, subsidiaries, affiliated companies (including but not limited to, An. Del. U.S.A., and all of its subsidiaries and affiliates), agents, managing agents, employees, servants, officers, directors, owners (whether direct or indirect), general partners, limited partners, trustees, representatives, shareholders, stockholders, members, mortgagees or ground lessors, attorneys, parents, subsidiaries, equity sponsors, related companies/corporations and/or partnerships, divisions, assigns, predecessors, successors, insurers, consultants, joint venturers, joint employers, potential and/or alleged joint employers, temporary staffing agencies, dual employers, potential

and/or alleged dual employers, co-employers, potential and/or alleged co-employers, common law employers, potential and alleged common law employers, contractors, affiliates, service providers, alter-egos, potential and/or alleged alter-egos, vendors, affiliated organizations, any person and/or entity with potential or alleged to have joint liability, and all of their respective past, present and future employees, directors, officers, members, owners, agents, representatives, payroll agencies, attorneys, stockholders, fiduciaries, parents, subsidiaries, other service providers, and assigns and any and all persons and/or entities acting under, by, through or in concert with any of them (the “Released Parties”) from the FLSA claims that were alleged or that reasonably could have been alleged based on the facts alleged in the First Amended Complaint, including but not limited to claims pursuant to 29 U.S.C. sections 206 and 207, for all periods of employment in a non-exempt position in California during the FLSA Collective Action Period (the “Released Participating FLSA Collective Member Claims”).

DATE AND SIGNATURE

Dated: ____ / ____ /2024

Print Name

Signature

EXHIBIT C

GAINES & GAINES

A PROFESSIONAL LAW CORPORATION

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4550 EAST THOUSAND OAKS BOULEVARD, SUITE 100
WESTLAKE VILLAGE, CALIFORNIA 91362

PHONE (818) 703-8985
FAX (818) 703-8984

March 27, 2023

Via Certified Mail

Labor & Workforce Development Agency
By electronic submission

Cal. Del. U.S.A. Inc.
555 Madison Avenue, Suite 11D
New York, NY 10022

Defendant mailed certified # 70211970000187802977

Agent For Service of Process of Cal. Del. U.S.A. Inc.
Amanda Garcia
330 N Brand Blvd
Glendale, CA 91203

Agent mailed certified # 70211970000187802960

Re: ***Labor Code Violations of Cal. Del. U.S.A. Inc. – Compliance Letter of
California Labor Code § 2698, the Private Attorneys General Act of 2004***

Dear LWDA:

This office represents Lindsay Orin, a former non-exempt California employee of Cal. Del. U.S.A. Inc. ("Defendant"). We write this letter in compliance with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et seq.*

Our client was employed by Defendant in Southern California. Herein we set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to our client and other of its non-exempt California employees ("Aggrieved Employees").

Our client alleges that Defendant failed to properly compute bonuses, commissions, and other non-base hourly wages earned by our client and other Aggrieved Employees into their regular rate of pay for purposes of paying them meal period premiums, rest period premiums, sick pay, and overtime wages at the correct rates of pay, in violation of Labor Code §§ 226.7, 246, 510, 512, 558 and 1194 and IWC Wage Order No. 4-2001. Defendant failed to properly blend bonuses, commissions, and/or other non-base hourly wages and instead paid our client and other Aggrieved Employees meal period premiums, rest period premiums, sick pay, and overtime wages based *only* on the base hourly rate of pay, thus depriving our client and other Aggrieved Employees of all meal period premiums, rest period premiums, sick pay, and overtime wages earned. This violates Labor Code §§ 226.7, 246, 510, 512, 558, and 1194 and IWC Wage Order No. 4-2001.

Defendant failed to pay proper premium wages to our client and other Aggrieved Employees who were denied meal periods, in violation of Labor Code §§ 226.7, 512, 558, and IWC Wage Order 4-2001. Our client and other Aggrieved Employees were routinely denied, and not authorized to take, a proper, timely, uninterrupted, 30-minute meal period for every shift worked that exceeds

five hours, or a second proper, timely, uninterrupted, 30-minute meal period for every shift worked that exceeds ten hours, but were not paid proper premium wages of one hour's pay for each missed first or second meal period. Our client and Aggrieved Employees were often denied their entitled meal periods. This violates Labor Code §§ 226.7, 512, 558, and IWC Wage Order 4-2001.

Our client alleges that Defendant failed to pay proper premium wages to her and other Aggrieved Employees who were denied proper rest periods, in violation of Labor Code §§ 226.7 and 558 and IWC Wage Order No. 4-2001. Our client and Aggrieved Employees were routinely unable to take a 10-minute, off-duty rest period for every four (4) hours of work or major fraction thereof, but were not paid premium wages of one hour's pay for each missed rest period. Our client was simply denied and not authorized to take her legally entitled rest periods and was never paid proper premium wages for missed rest periods. This violates Labor Code §§ 226.7 and 558 and IWC Wage Order No. 4-2001.

Defendant failed to fully reimburse our client and other Aggrieved Employees for necessary business expenses incurred in direct consequence of the discharge of their duties, in violation of Labor Code § 2802, including, but not limited to, expenses incurred to operate their personal cellular phones. Labor Code § 2802 requires that an employer must indemnify its employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of their duties, and Defendant's failure to do so has violated this section.

Our client further alleges that Defendant failed to provide her and all other Aggrieved Employees with wage statements that fully and accurately itemized the requirements set forth in Labor Code § 226(a). Our client and other Aggrieved Employees were not paid all wages due, as stated above. As such, the wage statements provided by Defendant failed to accurately state all gross wages earned, in violation of Labor Code §§ 226(a)(1) and 226.3, total hours worked, in violation of Labor Code §§ 226(a)(2) and 226.3, net wages earned, in violation of Labor Code §§ 226(a)(5) and 226.3, and all applicable hourly rates in effect during the pay period and the corresponding numbers of hours worked at each rate, in violation of Labor Code §§ 226(a)(9) and 226.3.

Our client further alleges that Defendant failed to pay certain her and Aggrieved Employees all wages due at the separation of their employment based on the time frames required by Labor Code §§ 201 and 202. As stated above, our client and Aggrieved Employees were not paid all wages due during the course of their employment and, as a result of this failure, they were not timely paid all wages due at the separation of their employment. This violates Labor Code §§ 201-202 and is alleged on behalf of our client and Aggrieved Employees who have left their employment with Defendant.

The \$75 PAGA filing fee has been submitted to the LWDA concurrently with the transmission of this letter.

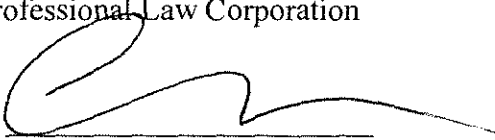
Labor & Workforce Development Agency
Cal. Del. U.S.A. Inc.
Amanda Garcia
March 27, 2023
Page 3

We invite Defendant or its attorneys to contact our office to discuss this matter, including whether an early resolution of the claims can be reached.

Very truly yours,

GAINES & GAINES
A Professional Law Corporation

By :

A handwritten signature in black ink, appearing to read 'Evan S. Gaines', written over a horizontal line.

EVAN S. GAINES

EXHIBIT D