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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
TULARE COUNTY**

PRINCESSALEXIA CHANNEL WHITE, as an
individual and on behalf of all employees
similarly situated,

Plaintiff,

v.

SGB VENTURES LLC, a Limited Liability
Company; and DOES 1 through 50, inclusive,

Defendants.

Case No.: VCU296946

[Assigned for all purposes to Hon. Gary M.
Johnson, Dept. 7]

**CLASS AND PAGA REPRESENTATIVE
ACTION**

**DECLARATION OF LILIT TUNYAN IN
SUPPORT OF PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
AND PAGA REPRESENTATIVE ACTION
SETTLEMENT**

Date: April 15, 2024
Time: 8:30 a.m.
Courtroom: Dept. 7
Judge: Hon. Gary M. Johnson

Action Filed: March 27, 2023
Trial: Not Set

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1. I am admitted, in good standing, to practice as an attorney in the State of California, the United States District Courts for the Central, Eastern and Northern Districts of California. I am the founding partner at the law firm of Tunyan Law, APC. I am a fully qualified, adult resident of the State of California, and, if called as a witness herein, I would testify truthfully to the matters set forth herein. All of the matters set forth herein are within my personal knowledge, except those matters that are stated to be upon information and belief. As to such matters, I believe them to be true. I am one of the attorneys of record for Plaintiff PRINCESSALEXIA CHANNEL WHITE (“Plaintiff”).

3. On March 27, 2023, Plaintiff filed a putative Class Action alleging the following labelled causes of action: (1) failure to pay all wages (Lab. Code §§ 204, 510, 1194, 1998); (2) failure to provide meal periods (Lab. Code §§ 226.7, 512 and Wage Order); (3) failure to provide rest periods (Lab. Code §§ 226.7 and Wage Order); (4) failure to maintain and provide accurate itemized wage statements (Lab. Code §§ 226(a) and 1174); (5) failure to indemnify necessary business expenses (Lab. Code § 2802); (6) failure to timely pay all wages, final wages and accrued vacation upon termination (Lab. Code §§ 201, 202, 203, 204 and 227.3); (7) Unfair Business Practices in violation of Bus. & Prof. Code § 17200 et seq. In the Complaint, Plaintiff sought to represent all persons that worked for Defendant in California as an hourly-paid, non-exempt employee at any time during the period beginning four years before the filing of the initial complaint and ending when Notice to the Class is sent.

Case No.: VCU296946 Page 1 White v. SGB Ventures LLC

DECLARATION OF LILIT TUNYAN IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT

1 [Lab. Code § 2699, et seq.] (“PAGA”). (“PAGA”).

2 5. The Parties have conducted formal discovery and investigation of the facts and law.
3 Such discovery and investigation have included, inter alia, interviewing class members, the exchange of
4 data and discoverable information in preparation for the mediation session. The Parties have analyzed
5 payroll and other data pertaining to Plaintiff and the Settlement Class during the relevant Class Period,
6 including but not limited to the numbers of former and current members of the Class, average
7 workweeks, and average rate of hourly pay. In addition, Defendant also provided the Class Members’
8 pay and time records for the entire Class Period and Class Members’ list and contact information and
9 documents reflecting their wage and hour policies and practices during the Class Period.

10 6. After reviewing documents regarding Defendant’s wage and hour policies and practices
11 and other information obtained during the exchange of discovery including Class Members’ pay and
12 time records, interviewing Class Members, Class Counsel were able to evaluate the probability of class
13 certification, success on the merits, and the reasonably obtainable maximum monetary exposure for all
14 claims. Class Counsel reviewed these records and prepared a damage analysis prior to mediation. Class
15 Counsel also investigated the applicable law regarding the claims and defenses asserted in the litigation.

16 7. On January 25, 2024, the Parties mediated before a mediator Hon. Patrick J. O’Hara
17 (Ret.), who is a highly experienced and well-regarded mediator for wage and hour class action litigation.
18 At the mediation, the Parties discussed at length the burdens and risks of continuing with the litigation as
19 well as the merits of the claims and defenses. The Parties have been able to reach a settlement at the
20 mediation. The Parties have reached an agreement regarding the substantive terms of a class-wide
21 settlement, pending the Parties’ agreement on a long-form class settlement agreement. The Parties then
22 signed a long form settlement agreement (“Agreement”).

23 8. Plaintiff and Class Counsel are aware of the burdens of proof necessary to establish
24 liability for the claims asserted in the Action, both generally and in response to Defendant’s defenses
25 thereto. Plaintiff and Class Counsel have also taken into account Defendant’s agreement to enter into a
26 Settlement that confers substantial relief upon the Class.

27 9. Based on the foregoing, Plaintiff and Class Counsel have determined that the Settlement
28 set forth in this Agreement is a fair, adequate, and reasonable Settlement and is in the best interests of the

Class. Solely for the purpose of settling this case, the parties agree that the requirements for establishing class action certification with respect to this class have been met and are met. If this Settlement is not approved by the Court for any reason, Defendant reserves its right to contest class certification. This Settlement, if approved by the Court, will result in the termination with prejudice of the litigation through the entry of the Judgment and the release of all Released Claims for all Class Members, including all within the class definition who have not elected to exclude themselves from the Settlement Class.

SUMMARY OF THE SETTLEMENT TERMS

10. Key provisions of the proposed settlement include the following:

- (a) Defendant agrees not to oppose certification of a Class for purposes of Settlement only (Settlement, ¶ 19);
- (b) Settlement Amount: Defendant will pay a maximum of \$130,000.00, referred to as the Gross Settlement Amount (or GSA herein), resulting in an estimated average gross payment per Class Member of approximately \$1,444.44 (Settlement, ¶ 26(c));
- (c) Class Size: approximately 90 individuals as of the date of mediation. (Tunyan Decl., ¶ 16.)
- (d) PAGA Group Size: approximately 90 individuals as of the date of mediation (Tunyan Decl., ¶ 17);
- (e) Escalator Clause: On January 25, 2024, the number of Defendant's employees during the Class Period was estimated not to exceed 90. The parties stipulate to a 20% escalation of the estimated employees' number without any increase to the Gross Settlement Amount. If the number of employees during the Class Period exceeds 20% of the estimated number of employees (i.e., exceeds 108), Defendant can either have the Class Period end on the date that the number of employees exceed 108 or increase the Gross Settlement Amount by a pro-rata dollar value equal to the number of employees in excess of 109 employees. For example, if there is a 1% increase over 20% then the Gross Settlement Amount

increases by 1% (the “Escalator Clause”). (Settlement, ¶ 26(d).)

(f) Kullar/Munoz Analysis: Plaintiff addresses the claims analysis herein, at Part V.B.3, and in more detail the Declaration of Tunyan, at Paragraph 18;

(g) No Reversion: The Settlement is a non-reversionary settlement (Settlement, ¶ 26(e));

(h) Certification: Plaintiff addresses certification requisites herein, at Part V.A., and in the Declaration of Tunyan, at Paragraphs 34-40;

(i) No Claim Form: No claim form is required (Settlement, ¶ 26(f));

(j) Class Release: The Settlement will release specified wage-and-hour claims for Class Members (those Class Members who do not opt out of the Settlement) as defined by the First Amended Complaint (Settlement, ¶ 37);

(k) PAGA Release: The Class Members will release the PAGA Claims set forth in this Action, that were identified in the Complaint and Plaintiff’s LWDA Notice Letter, regardless of whether they opt out of the class portion of the Settlement (Settlement, ¶¶ 11, 14, 15 and 37(c)(3));

(l) Release Effective Date: The Release is not active until Defendant tenders all payments required under the Settlement to the Settlement Administrator (Settlement, ¶ 37(b));

(m) Net Settlement Amount Available to the Class: After deducting Class Counsel’s attorneys’ fees and costs, service payment to Plaintiff, administration costs, and the payment to the LWDA, the remainder will be available for distribution to Class Members who do not opt out, with each Class Member receiving a share based on the number of workweeks each Class Member worked for a Defendant within the Class Period. The Net Settlement Amount is estimated to be at least \$53,166.67, resulting in an average net payment per Class Member of at least \$590.74, before any tax withholdings. (Settlement, ¶ 26(g));

(n) Tax Allocation: The amounts distributed to Class Members will be characterized as 15% alleged unpaid wages, 85% as unpaid penalties and unpaid interest, and

PAGA Settlement Payments will be allocated as 100% penalties. (Settlement, ¶ 26(k));

(o) Employer's Portion of Payroll Taxes Paid Separately: Defendant's portion of payroll taxes (e.g., FICA, FUTA, etc.) owed on any settlement payments to Class Members that constitute wages will be paid separate and apart from the GSM (Settlement, ¶ 26(h));

(p) Settlement Administrator: The notice portion of the Settlement and distribution of funds will be administered by a third-party Administrator, Phoenix Class Action Administration Solutions, and the Parties estimated that the costs of administration should not reasonably exceed \$7,000.00. Phoenix Class Action Administration Solutions' low bid for settlement administration services in the amount of \$7,000.00 was selected as the lowest bid from a competitive bidding process. (Settlement, ¶ 26(p));

(q) Class Data for Administration: The Settlement Administrator will receive the Class List within 15 calendar days of Preliminary Approval, use the NCOA database to update the Class List, and then use skip tracing on returned Notices (Settlement, ¶ 32(a));

(r) Notice: The Notice will issue within 14 days of receipt of the Class List (Settlement, ¶ 32(b)). The Notice describes how to dispute workweeks, submit and objection in writing, in person, or through an attorney, or request exclusion (Settlement, ¶ 26(s)).

(s) Notice Language: Notice will issue in English (Settlement, ¶ 26(t));

(t) Objections: Objections can be submitted in person, through an attorney, or in writing to the Settlement Administrator (Settlement, ¶ 26(x));

(u) Exclusion Requests: The procedure for exclusion requests, mailing a request to the Settlement Administrator, is the same as the procedure for submitting a writing objection (Settlement, ¶¶ 26(w) and 26(x));

(v) PAGA Allocation: From the GSA, \$10,000.00 will be allocated to settle claims

brought pursuant to the California Private Attorneys General Act, Labor Code § 2699 et seq. (“PAGA”), and seventy-five percent (75%), or \$7,500.00, will be paid to the California Labor & Workforce Development Agency. (Settlement, ¶ 9.)

(w) Notice to LWDA: Notice was provided prior to the filing of this Motion. Evidence is attached to Tunyan Declaration.

(x) Enhancement/Service Award to Plaintiff: Defendant will not oppose the application for Class Representative Service Payment of \$7,000.00 for Plaintiff, to be paid from the GSA (Settlement, ¶ 26(n));

(y) Fees and Costs: Defendant will not oppose Class Counsel’s application for fees not to exceed 33 1/3% of the GSA (\$43,333.33), and actual costs, in an amount not to exceed \$12,000.00, to be paid out of the GSA (Settlement, ¶ 26(m)).

(z) Check Void Period: Settlement checks will be valid for 180 days (Settlement, ¶ 34);

(aa) Uncashed Checks: Any settlement checks that are mailed to the Class Members and remain uncashed after 180 days of the date of issuance will be cancelled, and the moneys will be directed to the California State Controller’s Office for Unclaimed Property in the name of each Class Member who failed to cash their Settlement Payment (Settlement, ¶¶ 34-35);

(bb) Judgment Notice: Judgment will be posted on the Settlement Administrator’s website after entry (Settlement, ¶ 30);

(cc) Confidentiality Provisions: The Settlement permits Class Counsel to discuss the Settlement with Class Members (Settlement ¶ 58).

11. A true and correct copy of the JOINT STIPULATION OF CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT is attached hereto as Exhibit “1.”

THE SETTLEMENT IS FAIR, JUST AND REASONABLE

12. Plaintiff and counsel have diligently investigated the claims of the Class Members.

1 Plaintiff and Class Counsel concluded, after taking into account the disputed factual and legal issues
2 involved in this Action, the substantial risks attending further prosecution, including risks related to the
3 outcome of certification and possible summary judgment efforts, and the substantial benefits to be
4 received pursuant to the compromise and settlement of the Action as set forth in the Settlement, that
5 settlement on the terms agreed to are in the best interest of Plaintiff and the putative Class and are fair
6 and reasonable. Plaintiff's counsel brought to bear a great deal of experience with class actions in
7 negotiating the settlement of this case.

8 13. One fundamental purpose of the class action device is to promote efficiency. Resolution
9 at this time will forestall the need for additional expensive and time-consuming litigation that could very
10 well result in an outcome less satisfactory than that proposed under this settlement. But, before any other
11 consideration, we have agreed to this settlement because it is objectively reasonable. The potential for
12 resolution benefits the class members, since they do not have to wait additional years for a similar
13 recovery. The efficiency of this litigation benefits the Court, the parties and their counsel. A class-wide
14 resolution is the most realistic method for addressing the claims raised in this matter.

15 14. We have engaged in the necessary investigation in this case that made it possible for us to
16 exercise informed judgment in those aspects of the settlement process in which we were involved. The
17 exchange of time and wage data, wage and hour policy documents, and data about the composition of the
18 Class, interviewing and obtaining declarations from Class Members were sufficient to permit us counsel
19 to adequately evaluate the settlement. We had more than enough information upon which to evaluate a
20 fair and reasonable settlement amount.

21 15. We believe that the case was viable through to a trial. However, while Plaintiff asserts a
22 belief that this is a viable case for trial, we realize that there are always significant risks associated with
23 certification and trials, and those risks cannot be eliminated in this case. Continued litigation of this
24 lawsuit presented Plaintiff and Defendant with substantial legal risks and costs that were (and continue to
25 be) difficult to assess. The risks in this matter include:

- 26 • the risk that Plaintiff would be unable to establish liability for allegedly unpaid straight time
27 or overtime wages, *see Duran v. US Bank Nat'l Ass'n*, 59 Cal. 4th 1, 39 & fn. 33 (2014)
28 ("Duran"), *citing Dilts v. Penske Logistics, LLC* 2014 WL 205039 (S.D. Cal. 2014);

- the risk that Defendant’s meal and rest period policies might not ultimately support class certification or a class-wide liability finding, see *Duran*, 59 Cal. 4th at 14, n. 28 (citing Court of Appeal decisions favorable on class certification issue without expressing opinion as to ultimate viability of proposition);
- the risk that uncertainties pertaining to the ultimate legality of Defendant’s policies and practices could preclude class-wide awards of statutory penalties under Labor Code §§ 203 and 226(e);
- the risk that individual differences between Class Members could be construed as pertaining to liability and not solely to damages, see *Duran*, 59 Cal. 4th at 19;
- the risk that individual differences between Class Members could be construed as pertaining to liability and not solely to damages, see *Duran*, 59 Cal. 4th at 19;
- the risk that any civil penalties award under the PAGA could be reduced by the Court in its discretion, see Labor Code § 2699(e)(1);
- the risk that class treatment could be deemed improper as to one or more claims, except for settlement purposes;
- the risk that lengthy appellate litigation could ensue.

These risks are non-exhaustive. While we remain confident that we possess credible strategies for responding to the legal and factual risks facing them, those risks cannot be disregarded. We carefully considered the risks created by all of these uncontrollable factors when evaluating the reasonableness of this proposed settlement. This Settlement provides a benefit to the Class Members that is very reasonable in light of these particular risks.

16. The Settlement is the product of arm’s-length negotiations between the Parties occurring throughout the litigation. In light of the uncertainties of protracted litigation and the state of the law regarding the legal positions of the Parties, the settlement amount reflects the best feasible recovery for the Class Members. The settlement amount is, of course, a compromise figure. By necessity it took into account risks related to liability, damages, and the defenses asserted by Defendant. Moreover, each Class Member will be given the opportunity to opt-out of the Settlement, allowing those who feel they have claims that are greater than the benefits they can receive under this Settlement to pursue their own

claims. For the approximately 90 members of the Class, the average gross recovery is at least **\$1,444.44** per class member, and the estimated average net recovery for each Class Member is approximately **\$590.74**. Given that Defendant could challenge certification and liability, this is a significant sum to have achieved in settlement. Moreover, a Class Member who worked a greater number of weeks for Defendant will receive a larger share of the Settlement than a Class Member who worked for a shorter amount of time during the class period.

17. The Gross Settlement Amount of **\$130,000.00** is about 72% of the **\$180,751.70** estimate of risk-adjusted recovery (excluding interest) at this stage in the litigation. This assessment is based on a carefully constructed model of the current fair value of the case, using estimated risks, average wage rates, numbers of employees, and the amount of time covered by the class period. While Plaintiff would certainly have preferred to recover more (and Defendant would have preferred to pay less), this outcome is in line with a carefully constructed estimate of the current fair value of the case. On that basis, it would be unwise to pass up this settlement opportunity. My maximum calculated reasonable exposure, after removing implausible or extreme estimated recoveries, is **\$913,099.00**, *including* PAGA penalties.

- A reasonably estimated exposure for unpaid wages for the off-the clock work was calculated, with the assistance of an expert, to be approximately **\$112,948.00**. However, with the risk factor discounts for certification and liability proof, the value of that claim is estimated by Plaintiff's counsel to be approximately **\$13,553.76**, assuming certification probability of 40% and merits success at 30%.
- A reasonably estimated exposure for unpaid wages as split shift premiums was calculated, with the assistance of an expert, to be approximately **\$1,634.00**. However, with the risk factor discounts for certification and liability proof, the value of that claim is estimated by Plaintiff's counsel to be approximately **\$915.04**, assuming certification probability of 80% and merits success at 70%.
- A reasonably estimated exposure for rest break violations over the class period was calculated at **\$162,639.00**, but with chances of certification and proof of liability (50% and 40% respectively) for a risk-adjusted exposure of **\$32,527.80**.
- A reasonably estimated exposure for meal break violations over the class period was

calculated at **\$106,603.00**, with chances of certification and liability risks (50% and 40% respectively) resulting in a risk-adjusted exposure of **\$21,320.60**.

- Risk-adjusted penalty recoveries for wage statement and Labor Code § 203 penalties with chances of certification and liability risks (50% and 20% respectively) were estimated to be approximately **\$12,225.00** and **\$15,827.00**, respectively, on maximum exposures of **\$122,250.00** and **\$158,275.00**, respectively.
- A reasonably estimated exposure for unreimbursed expenses over the class period was calculated at **\$96,200.00**, with chances of certification and liability risks (80% and 70% respectively) resulting in a risk-adjusted exposure of **\$53,872.00**.
- Performing risk-adjusted valuations for all claims yields a total value in the range of **\$150,241.70**, excluding PAGA.¹ (*Id.*)
- PAGA penalties were calculated as having a maximum realistic exposure of **\$152,550.00**, but a risk adjusted value of **\$30,510.00**, after factoring in risks of reduction in penalties pursuant to Court discretion and the high risk of the inability to prove violations for all aggrieved employees.

As required under *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116 (2008) and *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles*, 186 Cal. App. 4th 399 (2010), the maximum plausible and realistic recoveries versus the current risk-adjusted value of the claims are discussed in additional detail below:

(a) Key Class Data Elements at Time of Mediation:

- 1) Class Members: approximately 90
- 2) Work Weeks: approximately 2,310
- 3) PAGA Employees: approximately 90
- 4) Gross Settlement Amount: \$130,000

¹ In a sense, it is nonsensical to assign specific percentages to future events, but it does provide a specific method for attempting to reduce the concept of “very high risk” or “high risk” to a quantifiable amount. Certification of a claim is typically a binary event. One does not obtain a 20% certification; a claim is either certified or it is not. But the current expected value is best quantified by applying a risk reduction, based on the total experience of counsel.

(b) **KULLAR/MUNOZ ANALYSIS: Unpaid Wages Due to Off-the-Clock Work**

- 1) Plaintiff's claims for unpaid wages due to off-the-clock work is based on Defendant's requirement for Plaintiff and Class Members to arrive at work earlier than their scheduled start time to make sure they are clocked in to work and ready to start work on time but refused to allow to clock in earlier than 5 minutes before the scheduled shift start time, wash heavily soiled uniforms after work, to communicate with supervisors and check schedules using their personal cell phones via downloaded application.
- 2) Defendant denies these allegations.
- 3) **Risk-adjusted Exposure Analysis:**

Calculated maximum recovery:	\$112,948.00
Estimated certification probability	40%
Estimated chance of prevailing on merits	30%
Max recovery × certification risk × chance or success on merits = Present Settlement Value	\$13,553.76

(c) **KULLAR/MUNOZ ANALYSIS: Unpaid Wages Due to Unpaid Split Shift Premiums**

- 1) Plaintiff's claims for unpaid wages due to unpaid split shift premiums is based on Defendant's requirement for Plaintiff and Class Members to work split shifts without compensating split shift premiums.
- 2) Defendant denies these allegations.
- 3) **Risk-adjusted Exposure Analysis:**

Calculated maximum recovery:	\$1,634.00
Estimated certification probability	80%
Estimated chance of prevailing on merits	70%

Max recovery × certification risk × chance or success on merits = Present Settlement Value	\$915.04
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(d) KULLAR/MUNOZ ANALYSIS: Meal Periods

- 1) Plaintiff's claims for meal break violations is based on Defendant's deficient policy not providing timing requirements for meal periods in accordance with California law, testimony of class members and analysis of the produced records showing 83.8% unique meal period violation rate over all shifts greater than five hours. Employees are entitled to meal periods of at least 30 minutes before exceeding five hours of work and to second meal periods of not less than 30 minutes before exceeding 10 hours of work. For each meal period missed or taken late an employer must pay the employee an additional one hour of compensation. Labor Code § 226.7. This additional hour of compensation is referred to as "premium pay."
- 2) Defendant maintains that meal periods were not combined with rest periods and the obligation is simply to "provide" meal periods, not to "ensure" that they are taken. *Brinker v. Superior Court*, 53 Cal. App. 4th 1004, 1034-41 (2012) (rejecting "ensure" standard). Furthermore, Defendant contends that any failure to take meal periods, or to take late meal periods, was a result of employee choice, not of any policy or practice of Defendant. Finally, Defendant asserts that Plaintiff's meal period claims would not be amenable to class treatment, since individual inquires would need to be made with respect to each specific shift that each employee missed a meal or rest period, to determine why that specific employee missed that specific meal or rest period on that specific shift.
- 3) **Risk-adjusted Exposure Analysis:**

Calculated maximum recovery:	\$106,603.00
Estimated certification probability	50%
Estimated chance of prevailing on merits	40%
Max recovery × certification risk × chance or success on merits = Present Settlement Value	\$21,320.60

(e) **KULLAR/MUNOZ ANALYSIS: Rest Breaks**

- 1) Plaintiff's claims for rest break violations is based on Defendant's deficient policy not providing timing requirements for rest periods in accordance with California law and testimony of class members. Employees are entitled to a rest period of at least 10 minutes every four hours worked, or major fraction thereof. For each rest period missed or taken late an employer must pay the employee an additional one hour of compensation. Labor Code § 226.7. This additional hour of compensation is referred to as "premium pay."
- 2) Defendant maintains that the obligation is simply to "authorize and permit" rest periods, not to "ensure" that they are taken. *Brinker v. Superior Court*, 53 Cal. App. 4th 1004, 1034-41 (2012) (rejecting "ensure" standard). Furthermore, Defendant contends that any failure to take rest breaks was a result of employee choice, not of any policy or practice of Defendant. Finally, Defendant asserts that Plaintiff's rest breaks claims would not be amenable to class treatment, since individual inquires would need to be made with respect to each specific shift that each employee missed a rest period, to determine why that specific employee missed that specific rest break on that specific shift.
- 3) **Risk-adjusted Exposure Analysis:**

Calculated maximum recovery:	\$162,639.00
Estimated certification probability	50%
Estimated chance of prevailing on merits	40%
Max recovery × certification risk × chance or success on merits = Present Settlement Value	\$32,527.80

(f) **KULLAR/MUNOZ ANALYSIS: Late Pay Penalties Under Labor Code § 203**

- 1) Labor Code § 203 provides that if an employer fails to pay an employee all wages due at termination or within 72 hours of resignation, then that employee's wages shall continue as a penalty until paid for a period of up to thirty (30) days from the date they were due. Because class members stopped working for Defendant but again were not paid their full compensation for the reasons discussed above, class members did not receive all wages due upon termination of employment.
- 2) Defendant argues that a good-faith belief in the legality of its employment practices precludes a finding that any withholding of wages was "willful." See Cal. Code Regs. § 13520 [good-faith dispute exists to a claim for waiting time penalties "when an employer presents a defense, based in law or fact which, if successful, would preclude any recovery on the part of the employee. The fact that a defense is ultimately unsuccessful will not preclude a finding that a good faith dispute did exist."].) Defendant further maintains that because of viable defenses in both law and fact that waiting-time penalties could not be awarded and, in any case, such penalties were subject to a three-year limitations period under Labor Code § 203(b) and an arbitration agreement that would bar class treatment.

3) **Risk-adjusted Exposure Analysis:**

Calculated maximum recovery:	\$158,275.00
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Estimated certification probability	50%
Estimated chance of prevailing on merits	20%
Max recovery × certification risk × chance of success on merits = Present Settlement Value	\$15,827.00

(g) **KULLAR/MUNOZ ANALYSIS: Wage Statement Violations**

- 1) Plaintiff also alleged a cause of action under Labor Code § 226(a). That section states that an employer must provide an accurate itemized wage statement twice a month or each time wages are paid, whichever is the more frequent. Failure to do so entitles employees to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000). *See* Labor Code § 226(e).
- 2) Defendant contends that Labor Code § 226(e) penalties are not automatic. Rather, the employee must show (1) that he or she “suffered injury” from the employer’s failure to provide compliant wage statements, *see Elliot v. Spherion Pacific Work, LLC*, 572 F.Supp.2d 1169, 1181 (2008) (applying California law) (holding employee was not entitled to penalties because no injury was shown), and (2) Defendant’s noncompliance was “knowing and intentional.” Defendant contends that class members suffered no injury from any failure to issue compliant wage statements and, furthermore, that any noncompliance was not knowing and intentional. Further, because the damages for this cause of action are penalties, the statute of limitations only runs from one year prior to the filing of the original complaint. *See* Code Civ. Proc. § 340. Moreover, Defendant maintains that Plaintiff’s derivative claim for wage statement ‘penalties would fail for the same reasons that Plaintiff’s underlying claims would fail. The parties discussed these issues,

and in light of these and other considerations Class Counsel factored in a reduction of liability and damages for this cause of action.

3) **Risk-adjusted Exposure Analysis:**

Calculated maximum recovery:	\$122,250.00
Estimated certification probability	50%
Estimated chance of prevailing on merits	20%
Max recovery × certification risk × chance or success on merits = Present Settlement Value	\$12,225.00

18. KULLAR/MUNOZ ANALYSIS: Unreimbursed Expenses Under Labor Code § 2802

- 1) Plaintiffs also alleged a cause of action under Labor Code § 2802 for failure to reimburse all necessary expenses. Under Labor Code § 2802, “an employer shall indemnify his or her employee for all necessary expenditures... incurred by the employee in direct consequence of the discharge of his or her duties.” Lab. Code § 2802. Plaintiff’s claims for unreimbursed expenses are based upon Defendant’s requirement for Plaintiff and Class Members to use their personal cellular telephones to download and use applications called “When I work”, “Slack”, “Crumbl” to check their work schedules as well as to communicate with their supervisors for work purposes and Defendant’s requirement to use their own vehicles to drive to nearby stores to purchase groceries.
- 2) Defendant contends that most employees did not incur significant expenses.

3) **Risk-adjusted Exposure Analysis:**

Calculated maximum recovery:	\$96,200.00
Estimated certification probability	80%
Estimated chance of prevailing on merits	70%
Max recovery × certification risk × chance or success	\$53,872.00

on merits = Present Settlement Value

(b) QUASI- KULLAR/MUNOZ ANALYSIS: PAGA

- 1) The Labor Code Private Attorneys General Act, Labor Code § 2699 *et seq.*, allows plaintiffs to obtain civil penalties on behalf of herself and other class members for Defendant’s violation of any provision of the Labor Code enumerated under Labor Code § 2699.5. Where civil penalties are provided in the statute, those civil penalties are recoverable; where no civil penalties are recoverable, Labor Code § 2699(f) establishes civil penalties of one (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation. Pursuant to Labor Code § 2699(i), seventy-five (75) percent of the penalties recovered must be allocated to the Labor and Workforce Development Agency (LWDA), with the remaining twenty-five (25) percent allocated to the affected employees. The limitations period is one year prior to the filing of the complaint.
- 2) The provisions of the Labor Code potentially triggering PAGA penalties in this case include but are not limited to Labor Code §§ 203, 226(a), 226.7, and 510. Defendant asserted that if PAGA penalties were mandatory, an employer’s PAGA liability would be huge because of the possibility of collecting multiple civil penalties for a single violation, and thus such penalties would almost always dwarf the damages available under the causes of action proper. However, PAGA penalties are not mandatory but permissive. Labor Code § 2699(e)(2) states that “a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.” *See also Thurman v. Bayshore Transit Management, Inc.*,

203 Cal. App. 4th 1112, 1135 (2012) [affirming reduction of PAGA penalties].) Defendant here maintains that they have a strong argument that it would be unjust to award maximum PAGA penalties.

- 3) Furthermore, PAGA penalties are also completely derivative of each and every other claim. Finally, under *Amaral v. Cintas Corp.*, 163 Cal. App. 4th 1157(2008), it can be argued that penalties under PAGA could, at best, be awarded only at the rates obtainable for initial violations under the applicable statutes, because Defendant had never been notified of the alleged violations. *Id.*, at 1208, 1209.

4) **Risk-adjusted Exposure Analysis:**

Calculated maximum recovery:	\$152,550.00
Discount reduction factor for risk of Court reduction and uncertainty of proof for all aggrieved employees	20%
Max recovery × risk reduction = Present Settlement Value	\$30,510.00

With the assistance of Class Counsel’s retained damages expert, Class Counsel estimated Defendant’s maximum total exposure on the PAGA claim at approximately **\$152,550.00**. This number presupposes underlying claims are proven at a plausible rate and that the Court awards the full base penalties for each. Class Counsel then applied discounts in light of the countervailing arguments with regard to the other causes of action, and the Court’s power to award “a lesser amount than the maximum civil liability.” Accordingly, due to the speculative nature of a valuation for this claim, a discount of **80%** was applied to account for the difficulty of prevailing on this claim.

- (c) **Kullar Summary:** Indulging the most optimistic estimates and improbably favorable outcomes, the maximum reasonable recovery is estimated to be

approximately **\$913,099.00**, including PAGA. The settlement amount is about **14%** of that amount. The calculated current settlement value is **\$180,751.70** (calculated by adding the risk-adjusted amounts in the charts above together), and the settlement is **72%** of the current risk-adjusted settlement value. The bottom line is that the settlement is about **14%** of the *maximum* plausible recovery for the 90 Class Members, and it is a reasonable settlement, given that the full amount is very unlikely to be recovered.

19. This result here is fully supportable as reasonable. First, it is important to recognize the wilfulness finding required for Labor Code §§ 203 and 226 is challenging to establish. Second, rest break and meal period claims have been challenging to certify for many years, even after Brinker. Many risks are eliminated through settlement. And, with respect to those risks, certification rates in California are **lower** than conventional wisdom holds. See, e.g., H. Scott Leviant, *Second Interim Report on class actions in California sheds new light on certification* (February 19, 2010), www.thecomplexlitigator.com, available at <http://www.thecomplexlitigator.com/post-data/2010/2/19/second-interim-report-on-class-actions-in-california-sheds-n.html>; see also, *Findings of the Study of California Class Action Litigation, 2000-2006*, available at <http://www.courtinfo.ca.gov/reference/documents/class-action-lit-study.pdf> (finding, at page 5, and in Table 9, at page 15, that only 21.4% of all class actions were certified either as part of a settlement **or** as part of a contested certification motion). Here, the estimated certification probabilities are **above** the average rate at which cases were certified in California over the study years, based upon data available through the California Courts websites. In sum, well *under* 20% of all cases filed as proposed class actions are ultimately certified by way of a *contested* motion. Since the recovery is roughly 11% of the maximum theoretical recovery (estimated to be approximately \$1,956,364.29, *including* PAGA), it meets the expected outcome under that metric. It would also be appropriate to evaluate the result by examining only the premium wages at issue (approximately \$487,619.10, *with no risk reduction*), excluding penalties and interest.² This Settlement achieves the goals of the litigation.

² The exclusion of interest and penalties from the fairness evaluation is proper because, first, PAGA penalties are discretionary (see Lab. Code § 2699(e)(2) (the court in its discretion “may award a lesser

1 20. To the best of my knowledge, there are no other like claims asserted or filed by Class
2 Members. To the best of my knowledge, no Class Member has refrained from bringing an action with
3 claims similar to those raised in the Action, whether in reliance on the Action or otherwise, and who thus
4 might be prejudiced by dismissal of the Action.

5
6 THE EXPERIENCE OF CLASS COUNSEL

7 21. I am a founding partner of Tunyan Law, APC and has been engaged in the practice of
8 employment and labor law for more than four years and focused exclusively on plaintiffs' employment
9 law and wage-and-hour class actions and more than twenty-four years in practice of law in general. I
10 have handled hundreds of wage-related class actions.

11 22. Prior to establishing my own practice, I was an associate attorney at Moon & Yang, APC and
12 Mahoney Law Group, APC. Since I was admitted to the California Bar, my practice has focused mainly
13 on labor and employment class action lawsuits involving California and federal labor laws. Along with
14 those firm's other attorneys I have successfully settled more than 50 class action and PAGA matters
15 during that time span and was routinely appointed lead or co-lead class counsel in courts in California
16 including by way of motion for class certification.

17 23. I received my Juris Doctorate from the State Yerevan University and my LL.M. from
18 University of Minnesota Law School. Prior to moving to California and starting to practice law in
19 California I practiced law in Armenia for about twenty years as a licensed attorney. I have been general
20 counsel and head of legal department for big telecommunication and financial corporations in Armenia
21 for the last 12 years prior to moving to California. I managed corporate legal departments and corporate
22 legal and regulatory affairs and handled complex litigation matters as well as complex transactions for
23 many years.

24 24. I am a current member of the California Employment Lawyers Association (CELA) and
25
26 amount than the maximum civil penalty amount specified by this part...”), and, second, courts evaluate
27 the strength of a proposed settlement without taking potential penalties or interest into consideration. *See*
28 *Rodriguez v. West Publishing Corp.*, 563 F.3d 948, 955 (9th Cir. 2000); *see also Miller v. CEVA*
Logistics U.S.A., Inc., 2015 WL 729638, at *7 (E.D. Cal. Feb. 19, 2015) (court utilized calculation of a
defendant's exposure exclusive of interest and penalties to determine whether the settlement fell within
the range of possible approval).

1 the California Consumer Attorneys Association of Los Angeles (CAALA). I have been an active
2 member of the State Bar of California in good standing.

3 25. I am experienced in prosecuting employment matters, particularly class actions, and I focused
4 a substantial percentage of my practice on wage, hour, and working conditions violations. In addition to
5 the present case, I represented plaintiffs and the class members and have extensively worked on many
6 wage-and-hour class cases and have been appointed as class or PAGA counsel along with other counsel
7 and co-counsel for wage-and-hour class action lawsuits in various counties throughout California such as:

8 *Oregel v. Diablo Range Framing, Inc.*, Contra Costa County Superior Court, Case N C23-00697,
9 *Gonzalez v. RV Retailer San Diego, LLC, et al.*, Riverside County Superior Court, Case N
10 CVRI2301403, *Evans, et al. v. Downtown Women's Center*, Los Angeles County Superior Court,
11 Case N 22STCV06578 (class certification motion granted in part); *Sanchez v. Anodizing Industries,*
12 *Inc.*, Los Angeles County Superior Court, Case N 21STCV30722; *Godoy v. Intertrade Industries,*
13 *LTD*, Orange County Superior Court, Case No. 30-2020-01151921-CU-OE-CXC; *Fuentes v. Actron*
14 *Manufacturing Inc.*, Los Angeles Superior Court, Case N 20STCV31099; *Gonzalez v. Community*
15 *Health Systems, Inc.*, San Bernardino County Superior Court, Case N CIVDS2015678; *Rodriguez v.*
16 *Progress Lighting, Inc. et al.*, San Bernardino County Superior Court, Case N CIVDS2023894;
17 *Castillo v. Gibson Overseas, Inc.*, San Bernardino Superior Court, Case N CIVDS2022537;
18 *Mumphrey v. People's Care Northern California, Inc. et al.*, San Joaquin County Superior Court,
19 Case N STK-CV-UOE-2019-0016397; *Ochoa v. Orlando Spring Corp*, Los Angeles Superior Court,
20 Case N 20STCV343129; *Findley v. USC, et al.*, Los Angeles Superior Court, Case N
21 20STCV47290; *Maldonado v. Techmer PM, LLC*, Los Angeles Superior Court, Case N
22 20STCV21918; *Huerta v. IRS*, Los Angeles Superior Court, Case N 20STCV09163; *Mata v.*
23 *Marukai Corporation*; Los Angeles Superior Court, Case N 20STCV00959; *Tapia v. Home &Body*;
24 Orange County Superior Court, Case N 30-2020-01155185-CU-OE-CXC; *Ruvalcaba v. Quinn*
25 *Group, Inc.*, Los Angeles Superior Court, Case N 20STCV41323; *Bravo v. FIDM*, Los Angeles
26 Superior Court, Case N 19STCV25338; *Lomeli v. Plaskolite et al.*, Los Angeles Superior Court,
27 Case N 21STCV14611; *Alcantar v. Classic Salads LLC*, Santa Cruz County Superior Court, Case N
28 21CV002309; *Casas v. Freedom Solar Services, et al.*, Los Angeles Superior Court, Case N

1 21STCV20233; *Serrano v. Barstow Community Hospital*, San Bernardino Superior Court, Case N
2 CIVDS2006967; *Lopez v. Fairway Staffing Services*, et al., Los Angeles Superior Court, Case N
3 21STCV26640; *Linden v. Marugame Udon USA, LLC*, Los Angeles Superior Court, Case No.
4 20STCV00728; *Salter v. U.S. Reports*, et al., Los Angeles Superior Court, Case N 19STCV30384;
5 *Perez v. Torn & Glasser, Inc.*, Los Angeles Superior Court, Case N 21STCV43614; *Gomez v. Arya*
6 *Ice Cream Distributing Co., Inc*, Los Angeles Superior Court, Case N 21STCV31170; *Herrera v.*
7 *Coastal Construction & Lumber*, Santa Cruz County Superior Court, Case N 22CV394683; *Garcia*
8 *v. San Jose Water Company*, Santa Clara County Superior Court, Case No. 22CV396328; *Ramirez v.*
9 *Partners Personnel Management Services LLC*, Los Angeles Superior Court, Case N
10 21STCV31253; *Ramirez v. Merrill Gardens LLC*, Eastern District Court of California, Case N1:22-
11 cv-00542-DAD-SAB; *Garcia v. Tri-Valley Plastering, Inc.*, Fresno County Superior Court, Case N
12 22CECG00591; *Garcia v. South Valley Companies, Inc.*, Kern County Superior Court, Case N
13 BCV-22-100465; *Morales v. Wiseguys Custom Home Theater, LLC*, San Diego Superior Court, Case
14 N37-2019-00070151-CU-OE-CTL.

15 26. Artur Tunyan is another partner and attorney at Tunyan Law, APC. He received his Juris
16 Doctorate from the State Yerevan University and his LL.M. from the American University of Armenia
17 and University of Illinois Chicago, School of Law. Prior to moving to California and starting to practice
18 law in California he practiced law in Armenia for about twenty-five years. He oversaw international
19 donor-funded projects for the judiciary and managed public-private partnership initiatives in sectors such
20 as energy, banking, finance, and aviation. He managed complex transactions and litigation matters for
21 many years.

22 27. My current contingent billing rate is consistent with my practice area, legal market and
23 accepted hourly rates considering also that I practiced law in another country for additional 20 years
24 which brings a total of almost 25 years of experience practicing law. The 2023-2024 Adjusted Laffey
25 Matrix states that an attorney with 4 to 7 years experience can reasonably charge \$538 per hour. See
26 <http://www.laffeymatrix.com/see.html>.

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31. In the past four years, I have settled many wage-and-hour class actions. Just as the Court in *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66, n.11 (2008) observed, it has been my experience, that attorney fee awards of one-third of a common settlement fund are the rule, rather than the exception. Here, Class Counsel agrees that they will seek no more than one third of the settlement amount in fees. This is consistent with common practice, consistent with Ninth Circuit practice, consistent with California law approving the percentage of the fund method to award fees from a common fund, *Laffitte v. Robert Half Intern. Inc.*, 1 Cal. 5th 480, 503 (2016), and not inappropriate in light of the many hours expended by attorneys and paralegals performing work for Plaintiff before and after the filing of this matter. That work includes:

Case No.: VCU296946 Page 23 *White v. SGB Ventures LLC*

DECLARATION OF LILIT TUNYAN IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT

- (b) Investigation of the matter and exploring the corporate structure of Defendant;
- (c) Legal research and investigation regarding the Defendant's practices at numerous points in the litigation;
- (d) Preparation of multiple drafts of the original class action complaint and finalization and filing of the original class action complaint;
- (e) Review of an amended complaint that added Plaintiff's PAGA claim, and finalization of that complaint;
- (f) Conducting formal discovery;
- (g) Extensive "meet and confer" including preparing a detailed "meet and confer" letter regarding Defendant's discovery responses;
- (h) Drafting joint statements and joint stipulations;
- (i) Review of payroll and time data;
- (j) Interviewing class members and collecting declarations;
- (k) Extensive "meet and confer" with Defendant's counsel and working with administrator regarding *Belaire-West* process and obtaining class list;
- (l) Analysis of the audit results of the records produced by Defendant and preparation of a damages model with the aid of a statistics expert;
- (m) Communicating with Plaintiff who requested updates or other information regarding this matter;
- (n) Research and preparation of the mediation brief;
- (o) Attendance at mediation;
- (p) Drafting, negotiating, and reviewing multiple drafts of the Settlement and attachments; and
- (q) Preparation of the initial motion for preliminary approval and multiple revisions thereafter.

32. I anticipate that Class Counsel will spend an additional 45 hours on this matter, appearing at the hearing of preliminary approval, answering class member calls, working with the administrator to finalize documents in mailing format, conferring with counsel over any notice issues, drafting the final

1 approval motion and motion for fees and costs, appearing at the final approval hearing, and resolving any
2 post-approval issues that may arise, and appearing at a final accounting hearing. Class Counsel has also
3 incurred costs in this matter that will be detailed at the time final approval is sought. Class Counsel has
4 agreed to a cap on recoverable costs of \$12,000, and if total incurred costs exceed the cap, Class Counsel
5 will request no more than the agreed-upon cap.

6
7 THE CONTRIBUTION OF PLAINTIFF AND THE REASONABLENESS OF THE REQUESTED
8 INCENTIVE AWARDS

9 33. Here, Plaintiff seeks an Enhancement Payment of up to **\$7,000.00**. This amount is very
10 reasonable given the risks undertaken by Plaintiff for involvement in the Action. Taking the risk of filing
11 a lawsuit against an employer deserves recognition, especially in light of the settlement achieved by
12 Plaintiff. Additionally, Plaintiff was actively involved in the litigation and settlement negotiations of this
13 Action, expending considerable effort in advancing the interests of the Class. Plaintiff provided
14 information including witness information to counsel before the filing of this matter; assisted with
15 discovery and the settlement process (which included conferring with counsel during the preparation of
16 Plaintiff's mediation brief); and, regularly conferred with counsel regarding the case whenever questions
17 arose. I estimate that Plaintiff contributed dozens of hours of time to the prosecution of this matter.
18 Plaintiff's Declaration also confirms that Plaintiff was an active participant in the filing and settlement of
19 this case.

20
21 THE THIRD-PARTY ADMINISTRATOR

22 34. The parties have agreed that administration will be handled by a third-party administrator.
23 In counsel's experience as class counsel in similar wage-and-hour actions with a similar number of
24 employees, Phoenix Class Action Administration Solutions is fully capable of administering the
25 settlement at a competitive and reasonable cost and should be approved by the Court to administer the
26 settlement notice process. Phoenix Class Action Administration Solutions was selected because it
27 submitted a low bid in the amount of **\$7,000.00** for administration services. Phoenix Class Action
28 Administration Solutions has also provided a declaration confirming its experience and its

1 implementation of measures designed to protect Class Member data and Class Settlement funds.

2
3 CLASS CERTIFICATION

4 35. The class is ascertainable by objective criteria. The Class Members are: All individuals
5 employed by Defendant in California and classified as “non-exempt” at any time during the Class
6 Period (the “Class Period” is August 12, 2022 through the date upon which the Court grants
7 preliminary approval of this Settlement). Class period starts from August 22, 2022 when Defendant
8 started its operation. “Settlement Class Members” are those Class Members who do not submit timely
9 exclusion requests to the Settlement Administrator. (Settlement, ¶¶ 3-4.)

10 36. The class is sufficiently numerous. Based upon Defendant’s records, Defendant
11 represented that there are approximately 90 Class Members as of the date of mediation. Plaintiff’s
12 counsel believes that the data is reliable.

13 37. Plaintiff is typical of the Class. Plaintiff was an employee of Defendant. Plaintiff
14 worked during the class period. Plaintiff’s claims are typical of the claims of the Class proposed in this
15 settlement. Like other class members, Plaintiff experienced work under policies and procedures
16 impacting wage and hour compliance. No unique defenses applicable to Plaintiff have been identified
17 that do not also exist as to other Class Members.

18 38. Common *issues* exist. Here, Class Members have shared a common interest in
19 determining whether Defendant violated wage and hour requirements under state and related federal
20 law, including the following issues: i. Whether or not Defendant paid proper wages to the Class; ii.
21 Whether or not Defendant provided meal periods to the Class; iii. Whether or not Defendant provided
22 rest periods to the Class; iv. Whether or not Defendant paid compensation timely upon separation of
23 employment to former Class Members; v. Whether or not Defendant paid compensation timely
24 throughout Class Members’ employment; vi. Whether or not Defendant provided accurate itemized
25 wage statements to the Class; vii. Whether or not waiting-time penalties are available to the Class for
26 violation of California Labor Code § 203; viii. Whether or not Defendant reimbursed for necessary
27 business expenses pursuant to California Labor Code § 2802; ix. Whether or not Defendant engaged in
28 unlawful or unfair business practices affecting the Class in violation of California Business and

1 Professions Code §§ 17200-17208; and x. Whether or not Plaintiff and the Class are entitled to
2 penalties pursuant to PAGA.

3 39. From our review of the documentation provided, we determined that for purposes of
4 these claims, Defendant's policies and practices are either identical, or sufficiently similar, to raise the
5 same questions of liability, and applied to all Class Members. Because Class Members would have to
6 prove the same issues of law and fact to prevail, and because their potential legal remedies are identical,
7 it would be preferable to resolve all Class Members' claims by means of the Settlement than to require
8 each Class Member to litigate his or her individual claims. Therefore, common questions predominate
9 over any questions that may be unique to individual Class Members, and class-wide settlement is
10 superior to any other method of resolution.

11 40. My Declaration, in Paragraphs above, summarizes the firm's experience that establishes
12 its adequacy to represent the Class. Plaintiff's counsel has no known conflicts of interest with absent
13 Class Members. Plaintiff has demonstrated, through participation in this action, a willingness to serve
14 as a representative for the Class. Plaintiff has no known conflicts of interest with absent Class
15 Members and has agreed to place the class's interests above Plaintiff's own. Plaintiff's actions also
16 demonstrate adequacy.

17 41. By consolidating all of these potential individual actions into one proceeding, this
18 Court's use of the class action device enables it to manage this litigation in a manner that serves the
19 economics of time, effort and expense for the litigants and the judicial system. Absent class treatment,
20 similarly-situated employees with small but potentially meritorious claims for damages would, as a
21 practical matter, have no means of redress because of the time, effort and expense required to prosecute
22 individual actions. Moreover, in the context of settlement, superiority concerns are almost non-
23 existent, since case management is controlled and a methodology for trial need not be identified.

24 25 DISTRIBUTION OF SETTLEMENT FUNDS IN TWO INSTALLMENT PAYMENTS

26 42. Given Defendant's cashflow issues a settlement funding in eighteen installment payments
27 starting long before final approval of this settlement, i.e. from February 23, 2024 and ending on July 23,
28 2025, and distribution of settlement funds in two installment payments, i.e. first distribution within

1 fifteen days after final approval and the second distribution within six months after the first distribution,
2 results in a substantial benefit to all Class Members and poses far less risk than pursuing the matter
3 further in litigation, which could result in a smaller settlement amount and less benefit to Class Members
4 if Defendant's financial condition worsens. (See Declaration of Cali Sorsen concurrently filed with
5 approval motion).

6
7 EXHIBITS

8 43. As noted above, a true and correct copy of the JOINT STIPULATION OF CLASS AND
9 PAGA REPRESENTATIVE ACTION SETTLEMENT is attached hereto as **Exhibit "1."** The
10 Settlement includes Exhibit A (the "Notice").

11 44. Attached hereto as **Exhibit "2"** is a true and correct copy of the submission of the
12 settlement to the Department of Industrial Relations, through its online submission portal.
13

14 PAGA SETTLEMENT NOTIFICATION TO DIR

15 45. Counsel for Plaintiff provided notice of the requested approval of the PAGA settlement
16 through the online submission portal.
17

18 I declare under penalty of perjury, under the laws of the State of California, that the foregoing is
19 true and correct. Executed this 15 day of March 2024, at Glendale, California.
20

21 

22 _____
23 LILIT TUNYAN, "Declarant"
24
25
26
27
28

Exhibit “1”

Lilit Tunyan (SBN 329351)
ltunyan@tunyanlaw.com
Artur Tunyan (SBN 349174)
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Facsimile: (559) 584-3348

Attorneys for Defendant SGB VENTURES LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF TULARE

PRINCESSALEXIA CHANNEL WHITE, as an individual and on behalf of all employees similarly situated,

Plaintiff,

v.

SGB VENTURES LLC, a Limited Liability Company; and DOES 1 through 50, inclusive,

Defendants.

Case No.: VCU296946

[Assigned for all purposes to Hon. Gary M. Johnson, Dept. 7]

JOINT STIPULATION OF CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT

Action Filed: March 27, 2023
Trial: Not Set

JOINT STIPULATION OF CLASS AND PAGA REPRESENTATIVE ACTION
SETTLEMENT

This Joint Stipulation of Class and PAGA Representative Action Settlement ("Joint Stipulation of Settlement" or "Settlement" or "Agreement") is made and entered into by and between Plaintiff PRINCESSALEXIA CHANNEL WHITE, individually, and on behalf of all others similarly situated, ("Plaintiff" or "Class Representative"), and Defendant SGB VENTURES LLC ("Defendant"). Plaintiff and Defendant are collectively referred to herein as "the Parties."

THE PARTIES STIPULATE AND AGREE as follows:

DEFINITIONS

1. For purposes of this Settlement, "**Complaint**" refers to the operative complaint, which is the First Amended Complaint, filed on May 30, 2023.

2. For purposes of this Settlement, this matter, entitled *White v. SGB Ventures LLC*, Case No. VCU296946, is referred to herein as the "**Action**."

3. For purposes of this Settlement, the "**Class Period**" is August 12, 2022, the date Defendant began operations, through the date the Court grants preliminary approval of this settlement.

4. For purposes of this Settlement, the "**Class**" or "**Class Members**" consist of: All non-exempt employees of Defendant who worked in California during the Class Period. "**Settlement Class Members**" are those Class Members who do not submit timely exclusion requests to the Settlement Administrator. Defendant's best estimate is that the Class included approximately 90 individuals on January 25, 2024.

5. For purposes of this Settlement, "**Class Counsel**" means TUNYAN LAW, APC.

6. For purposes of this Settlement, "**Covered Workweeks**" means the number of weeks a Class Member worked for Defendant in California during the Class Period.

7. For purposes of this Settlement, "**Response Deadline**" means the date sixty (60) days after the Settlement Administrator initially mails the Notice to Settlement Class Members and the last date on which Settlement Class Members may submit a request for exclusion or written objection to the Settlement. In the case of a re-mailed Notice, the Response Deadline will be the later of 60 calendar days after initial

mailing or 14 calendar days from re-mailing. The Response Deadline may be extended only as expressly described herein.

8. For purposes of the Settlement, “**Defendant’s Counsel**” means KAHN, SOARES & CONWAY, LLP.

9. For purposes of this Settlement, “**PAGA Allocation**” means the amount that the Parties have agreed to allocate to resolution of the claim for violation of the Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, “PAGA”). The Parties have agreed that the PAGA Allocation will be \$10,000.00 from the Gross Settlement Amount. Pursuant to PAGA, Seventy Five Percent (75%), or \$7,500.00, of the PAGA Allocation will be paid to the LWDA (“PAGA Penalty Payment”), and Twenty Five Percent (25%), or \$2,500.00, of the PAGA Allocation will be included in the Net Settlement Amount for PAGA Employees (“**PAGA Settlement Payment**”).

10. For purposes of this Settlement, “**PAGA Period**” means the period between August 12, 2022 through the date the Court grants preliminary approval of this settlement.

11. For purposes of this Settlement, “**PAGA Employee**” means all Class Members that worked at any time during the PAGA Period. PAGA Employees cannot opt out of the settlement of the PAGA claim.

12. For purposes of this Settlement, “**PAGA Pay Periods**” means the number of pay periods each PAGA Employee worked during the PAGA Period.

13. For purposes of this Settlement, “**PAGA Representative**” means Plaintiff.

14. For purposes of this Settlement, “**Released PAGA Claims**” means all claims asserted through California Labor Code §§ 2698, *et seq.*, that were identified by the PAGA Representatives in the Notice to the LWDA and are alleged in the Complaint. Plaintiff’s Notice to the LWDA is attached hereto as **Exhibit “A”**.

15. For purposes of this Settlement, “**Released PAGA Claims Period**” means the period between August 12, 2022 through the date the Court grants preliminary approval of this settlement.

16. For purposes of this Settlement, “**Settlement Payments**” means all of the payments to Settlement Class Members (the “**Settlement Class Payments**”) and all of the payments to the PAGA Employees (the “**PAGA Settlement Payment**”).

STIPULATED BACKGROUND/RECITALS

17. On March 27, 2023, Plaintiff filed a putative Class Action alleging the following labelled causes of action: (1) failure to pay all wages (Lab. Code §§ 204, 510, 1194, 1998); (2) failure to provide meal periods (Lab. Code §§ 226.7, 512 and Wage Order); (3) failure to provide rest periods (Lab. Code §§ 226.7 and Wage Order); (4) failure to maintain and provide accurate itemized wage statements (Lab. Code §§ 226(a) and 1174); (5) failure to indemnify necessary business expenses (Lab. Code § 2802); (6) failure to timely pay all wages, final wages and accrued vacation upon termination (Lab. Code §§ 201, 202, 203, 204 and 227.3); (7) Unfair Business Practices in violation of Bus. & Prof. Code § 17200 et seq. On May 30, 2023, Plaintiff filed his First Amended Complaint adding the eighth case of action for civil penalties under the Labor Code Private Attorneys General Act of 2004 [Lab. Code § 2699, et seq.] (“PAGA”). (The “Action.”).

18. The parties agree that Plaintiff satisfied the administrative exhaustion requirement that is a prerequisite to filing a claim for Civil Penalties under the Labor Code Private Attorneys General Act of 2004 [Lab. Code § 2699, et seq.] (“PAGA”) by submission of the notice to the LWDA and Defendant on March 24, 2023.

19. Solely for purposes of settling this case, the Parties and their respective counsel stipulate and agree that the requisites for establishing class certification with respect to the Class Members have been met and are met. More specifically, the Parties stipulate and agree that:

- (a) The Class is ascertainable and so numerous as to make it impracticable to join all Class Members.
- (b) There are common questions of law and fact including, but not limited to, the following:
 - 1) Whether or not Defendant paid proper wages to the Class;
 - 2) Whether or not Defendant provided meal periods to the Class;
 - 3) Whether or not Defendant provided rest periods to the Class;
 - 4) Whether or not Defendant paid compensation timely upon separation of employment to former Class Members;
 - 5) Whether or not Defendant paid compensation timely throughout Class

Members' employment;

- 6) Whether or not Defendant provided accurate itemized statements to the Class;
- 7) Whether or not waiting-time penalties are available to the Class for violation of California Labor Code § 203;
- 8) Whether or not Defendant maintained requisite records;
- 9) Whether or not Defendant paid proper meal period pay or rest period pay to the Class; and,
- 10) Whether or not Defendant engaged in unlawful or unfair business practices affecting the Class in violation of California Business and Professions Code §§ 17200-17208.

- (c) Plaintiff's claims are typical of the claims of the Class Members.
- (d) Plaintiff and Class Counsel will fairly and adequately protect the interests of the Class.
- (e) The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications, which would establish incompatible standards of conduct.
- (f) With respect to the Class, questions of law and fact common to the members of the Class predominate over any questions affecting any individual member in such Class, and that a class action is superior to other available means for the fair and efficient adjudication of the controversy.

20. Should, for whatever reason, the Settlement not become effective, the facts alleged in the Stipulated Background/Recitals paragraphs 17–19 included herein, as to class certification, shall have no bearing on and shall not be admissible in connection with whether the Class Members and/or the Class Claims should be certified in a non-Settlement context in this Action or in any other lawsuit. Defendant expressly reserves its right to oppose class certification in this or any other action should this Settlement not become effective.

21. Defendant denies any liability or wrongdoing of any kind whatsoever associated with the

1 claims alleged in the Complaint, and Defendant further denies that, for any purpose other than settling this
2 lawsuit, the action is appropriate for class or representative treatment. With respect to Plaintiff's claims,
3 Defendant denies all of the allegations and contends, among other things, that Plaintiff and the Class
4 Members have been paid proper wages, have been provided meal periods, have been provided rest periods,
5 have been paid timely wages upon separation of employment, and have been provided with accurate
6 itemized wage statements. Defendant contends, among other things, that it has complied at all times with
7 the California Labor Code and the applicable Wage Orders of the Industrial Welfare Commission.
8 Furthermore, with respect to all claims, Defendant contends that it has complied at all times with the
9 California Business and Professions Code.

10 22. It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge
11 all disputes and claims arising from or related to the Complaint.

12 23. Class Counsel has conducted a thorough investigation into the facts of this Action,
13 including conducting formal discovery, an extensive review of relevant documents, interview of class
14 members and has diligently pursued an investigation of the claims of the Class and PAGA claims against
15 Defendant. In response to formal discovery requests Defendant produced class members' contact list,
16 Defendant's written policies and class members' time and payroll records for the entire Class Period. Class
17 Counsel reviewed the produced by Defendant time and pay records and prepared exposure analysis with
18 the assistance of an expert. Class Counsel also interviewed class members regarding claims in this Action
19 and collected declarations. Based on its own independent investigation and evaluation, Class Counsel is of
20 the opinion that the Settlement with Defendant for the consideration and on the terms set forth in this Joint
21 Stipulation of Settlement is fair, reasonable, adequate and is in the best interest of the Class and PAGA
22 employees in light of all known facts and circumstances, including the risk of significant delay, the risk
23 the Class will not be certified by the Court, defenses asserted by Defendant, and numerous potential
24 appellate issues. Class Representative is also of the opinion that this Settlement is fair, reasonable and is
25 in the best interests of Class Members in light of her understanding of the facts and claims, the risk of
26 significant delay, additional litigations costs and the risk of uncertainty with class certification and trial if
27 litigation continues. Defendant and Defendant's Counsel also agree that the Settlement is fair and in the
28 best interest of the Class.

24. The Parties agree to cooperate and take all steps necessary and appropriate to obtain preliminary and final approval of this Settlement.

25. The Parties agree to stay all proceedings in the Action, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval hearing to be conducted by the Court.

PRIMARY TERMS OF SETTLEMENT

26. NOW THEREFORE, in consideration of the mutual covenants, promises and agreements set forth herein, the Parties agree, subject to the Court's approval, as follows:

(a) It is agreed by and among the Settlement Class, PAGA Employees, and Defendant that this case and any claims, damages, or causes of action arising out of the disputes which are the subject of this case, be settled and compromised as between the Settlement Class, PAGA Employees, and Defendant, subject to the terms and conditions set forth in this Settlement and the approval of the Court.

(b) Effective Date: The "Effective Date" of the Settlement means the date by which both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

(c) Gross Settlement Amount: Defendant's maximum total payment under the Settlement, including all attorney's fees and costs, the Service Payment to the named Plaintiff, the costs of settlement administration, the PAGA Allocation, and any other payments provided by this Settlement, is **One Hundred Thirty Thousand Dollars (\$130,000.00)** ("Gross Settlement Amount"), subject to the Escalator Clause and except that, to the extent that any portions of the Class Members' Settlement Payments constitute wages, Defendant will be separately

1 responsible for any employer payroll taxes required by law, including the employer
2 FICA, FUTA, and SDI contributions.

3 (d) Escalator Clause: On January 25, 2024, the number of Defendant's
4 employees during the Class Period was estimated not to exceed 90. The parties
5 stipulate to a 20% escalation of the estimated employees' number without any
6 increase to the Gross Settlement Amount. If the number of employees during the
7 Class Period exceeds 20% of the estimated number of employees (i.e., exceeds
8 108), Defendant can either have the Class Period end on the date that the number
9 of employees exceed 108 or increase the Gross Settlement Amount by a pro-rata
10 dollar value equal to the number of employees in excess of 109 employees. For
11 example, if there is a 1% increase over 20% then the GSA increases by 1% (the
12 "Escalator Clause").

13 (e) Non-reversionary Settlement: No portion of the Gross Settlement Amount will
14 revert to Defendant.

15 (f) No Claims Required: Class Members will not be required to submit a claim to
16 receive their Settlement payment.

17 (g) Net Settlement Amount: The Net Settlement Amount shall be calculated by
18 deducting from the Gross Settlement Amount (\$130,000.00) the following sums,
19 subject to approval by the Court: (1) attorney's fees (not to exceed 33 and 1/3% of
20 the Gross Settlement Amount, or \$43,333.33); (2) reasonable litigation costs (not
21 to exceed \$12,000.00); (3) the Service Payment to Plaintiff in the amount of
22 \$7,000.00; (4) the PAGA Penalty Payment in the amount of \$7,500.00 (which is
23 75% of the PAGA Allocation); and (5) costs of settlement administration (not to
24 exceed \$7,000). Settlement Payments to the Class Members and PAGA
25 Employees will be calculated by the Settlement Administrator and paid out of the
26 Net Settlement Amount as set forth below.

27 (h) Payroll Taxes and Required Withholdings: To the extent that any portions of the
28 Settlement Class Members' Settlement Payments constitute wages, Defendant will

be separately responsible for any **employer** payroll taxes required by law, including the employer FICA, FUTA, and SDI contributions. Except for any employer payroll taxes, it is understood and agreed that Defendant's maximum total liability under this Settlement shall not exceed the Gross Settlement Amount. The Settlement Administrator will calculate and submit the Defendant's employer share of payroll taxes after advising Defendant of the total amount owed, in aggregate, as employer-side payroll taxes and receiving a lump sum payment from Defendant in that amount when the Gross Settlement Amount is delivered to the Settlement Administrator.

- (i) Settlement Class Payments (Excludes PAGA Payments): Settlement Class Payments will be paid out of the Net Settlement Amount. Each Settlement Class Member (i.e., those Class Members who do not opt out of the Class Settlement, as defined above) will be paid a pro-rata share of the Net Settlement Amount, less the PAGA Settlement Payments totalling \$2,500.00, as calculated by the Settlement Administrator. The pro-rata share will be determined by comparing the individual Settlement Class Member's Covered Workweeks employed during the Class Period in California to the total Covered Workweeks of all the Settlement Class Members during the Class Period as follows:
$$\frac{[\text{Workweeks worked by a Settlement Class Member}]}{[\text{Sum of all Covered Workweeks worked by all Settlement Class Members}]} \times [\text{Net Settlement Amount} - \text{all PAGA Settlement Payments}] = \text{individual Settlement Payment for a Settlement Class Member.}$$
 Settlement Class Payments in the appropriate amounts will be distributed by the Settlement Administrator by mail to the Settlement Class Members. Uncashed, unclaimed or abandoned checks, shall be transmitted to the California Controller's Office, as set forth below.
- (j) PAGA Payments: PAGA Settlement Payments will be paid out of the Net Settlement Amount. Each PAGA Employee will be paid a pro-rata share of the PAGA Employees' PAGA Settlement Payment, as calculated by the Settlement

1 Administrator. Class Members will not be permitted to exclude themselves from
2 this portion of the Settlement. The pro-rata share will be determined by comparing
3 the individual PAGA Employees' PAGA Pay Periods during the PAGA Period to
4 the total PAGA Pay Periods of all the PAGA Employees during the PAGA Period
5 as follows: [PAGA Pay Periods worked by a PAGA Employee] ÷ [Sum of all
6 PAGA Pay Periods worked by all PAGA Employees] × [PAGA Settlement
7 Payment to Employees, i.e. \$2,500.00] = individual PAGA Employee's portion of
8 the PAGA Settlement Payment. PAGA Settlement Payments to PAGA
9 Employees in the appropriate amounts will be distributed by the Settlement
10 Administrator by mail to the PAGA Employees at the same time Settlement Class
11 Payments issue to the Settlement Class. Uncashed, unclaimed or abandoned
12 checks, shall be transmitted to the California Controller's Office, as set forth below.
13 The LWDA's PAGA Penalty Payment will issue to the LWDA at the same time
14 Settlement Payments issue to the Settlement Class.

15 (k) Allocation of Settlement Payments: The Parties have agreed that Settlement Class
16 Payments will be allocated as follows: 15% to wages, 85% to penalties and interest.
17 The PAGA Settlement Payment shares to PAGA Employees will be entirely
18 allocated to penalties. Appropriate federal, state and local withholding taxes will
19 be taken out of the wage allocations, and each Class Member will receive an IRS
20 Form W-2 with respect to this portion of the Settlement Payment. The employer's
21 share of payroll taxes and other required withholdings will be paid as set forth
22 above, including but not limited to the Defendant's FICA and FUTA contributions,
23 based on the payment of claims to the Class Members. IRS Forms 1099 will be
24 issued to each Class Member reflecting the payments for penalties and interest.
25 Class Members are responsible to pay appropriate taxes due on the Settlement
26 Payments they receive. To the extent required by law, IRS Forms 1099 and W-2
27 will be issued to each Class Member with respect to such payments. All PAGA
28 Settlement Payments will be allocated as 100% penalties.

1 (l) Settlement Payments Do Not Give Rise to Additional Benefits: All Settlement
2 Payments to individual Class Members shall be deemed to be paid to such Class
3 Member solely in the year in which such payments actually are received by the
4 Class Member. It is expressly understood and agreed that the receipt of such
5 Settlement Payments will not entitle any Class Member to additional compensation
6 or benefits under any company bonus, contest or other compensation or benefit
7 plan or agreement in place during the period covered by the Settlement, nor will it
8 entitle any Class Member to any increased retirement, 401(k) benefits or matching
9 benefits or deferred compensation benefits. It is the intent that the Settlement
10 Payments provided for in this Settlement are the sole payments to be made by
11 Defendant to the Class Members, and that the Class Members are not entitled to
12 any new or additional compensation or benefits as a result of having received the
13 Settlement Payments (notwithstanding any contrary language or agreement in any
14 benefit or compensation plan document that might have been in effect during the
15 period covered by this Settlement).

16 (m) Attorney's Fees and Costs: Subject to approval by the Court, Defendant will not
17 object to Class Counsel's application for attorney's fees not to exceed 33 and 1/3%
18 of the Gross Settlement Amount (\$43,333.33) and reimbursement of litigation
19 costs and expenses not to exceed \$12,000.00. Approved attorney's fees and
20 litigation costs shall be paid at the same time Settlement Payments issue to the
21 Settlement Class.

22 (n) Service Payment/Release by Class Representative: Subject to Court approval, and
23 in exchange for a general release, Defendant will not object to Class Counsel's
24 application for a payment of \$7,000.00 to Plaintiff for service as a Class
25 Representative ("Service Payment"). It is understood that the Service Payment is
26 in addition to the individual Settlement Payment to which a Class Representative
27 is entitled to along with the other Class Members.

28 In exchange for the Service Payment in an amount as approved by the Court,

1 Plaintiff, individually and on behalf of herself only, agrees to release Defendant
2 and Releasees from any and all claims she may have against Releasees based on
3 any conduct or events occurring up to the Effective Date of the Settlement,
4 whether those claims are known or unknown, except for claims that may not be
5 released as a matter of law. Plaintiff represents and agrees that she has read and
6 fully understands the statutory language of section 1542 of the Civil Code of the
7 State of California and on that basis expressly and specifically waives all rights
8 under said statute, which reads as follows:

9 "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
10 THAT THE CREDITOR OR RELEASING PARTY DOES NOT
11 KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT
12 THE TIME OF EXECUTING THE RELEASE AND THAT, IF
13 KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
14 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR
15 OR RELEASED PARTY."

16 Plaintiff waives and relinquishes any right or benefit which she has had or may
17 have under Section 1542 of the Civil Code of the State of California or any
18 similar provision of the statutory or non-statutory law of any other jurisdiction,
19 to the full extent that she may lawfully waive all such rights and benefits
20 pertaining to the subject matter of this Settlement Agreement.

21 The Parties understand that the General Release does not release any claims that
22 they cannot lawfully release. It is also understood and agreed by Defendant that
23 by this release Plaintiff is not waiving unemployment and/or any state disability
24 insurance benefits pursuant to the terms of applicable state law, workers'
25 compensation claims, or any rights which are not subject to waiver as a matter
26 of law.

- 27 (o) Defendant or the Settlement Administrator will issue an IRS Form 1099 for the
28 Service Payment to the Plaintiff. The Plaintiff will be individually responsible for
correctly characterizing this compensation on personal income tax returns for tax
purposes and for paying any taxes on the amounts received. Plaintiff agrees not

1 to opt out or object to the Service Payment as the Class Representative.

2 (p) Settlement Administrator: The Settlement Administrator will be Phoenix Class
3 Action Administration Solutions. Settlement Administration Costs are estimated
4 not to exceed \$7,000.

5 (q) Funding of Settlement Account: Defendant will fund the settlement in
6 eighteen (18) equal monthly installments of Seven Thousand Two Hundred
7 Twenty-Two Dollars and Twenty-Two Cents (\$7,222.22) commencing on
8 February 23, 2024, and ending on July 23, 2025, with each payment due on
9 or before the twenty third (23) day of each month. Payments shall be made
10 to the Defendant's attorney's Client Trust Account before the final approval
11 of the Settlement and will be made to the Settlement Administrator after the
12 final approval of the Settlement. Defendant's counsel will transfer the
13 Settlement funds accumulated in its account to the Settlement Administrator
14 within three (3) days after the Effective Date. Both Defendant's counsel and
15 the Settlement Administrator shall maintain Settlement payments on an
16 interest-bearing account at a federally insured banking institution. Late
17 payments shall be subject to a five (5) percent penalty. However, for
18 purposes of the Settlement, Defendant is not in default if Defendant pays
19 \$43,333.33 every six (6) months until paid in full, rather than monthly
20 payments. If the Court does not approve the Settlement, Defendant's
21 attorney or the Settlement Administrator will return all installment
22 payments made by Defendant within three (3) business days of the Court's
23 Order denying the Settlement approval.

24 (r) Distribution and Mailing of Settlement Payments: Gross Settlement
25 Amount will be distributed by the Settlement Administrator in two
26 installments: 1. the first distribution payment within fifteen (15) days after
27 the Effective Date ("First Distribution"), and 2. the second distribution
28 payment within six (6) months after the First Distribution ("Second
Distribution") or earlier if Defendant has paid the Gross Settlement Amount

1 in full. The Settlement Administrator shall mail checks for the First
2 Distribution in the following order of priority from the First Distribution:
3 (i) full payment of the Service Payment to Class Representative; (ii) full
4 payment of LWDA PAGA Payment; (iii) full payment of all Individual
5 PAGA Payments; (iv) partial payment in the amount of one half (50%) of
6 the Administration Expenses Payment; (v) partial payment in the amount of
7 one half (50%) of the Class Counsel costs, and (vi) partial payment of
8 Individual Class Payments in the amount of the remainder of the
9 accumulated Settlement funds as of the date of the First Distribution after
10 deduction of the payments provided in subclauses (i)-(v). The Settlement
11 Administrator shall mail checks for the Second Distribution in the following
12 order of priority from the Second Installment: (i) partial payment in the
13 amount of the remainder of Individual Class Payments, (ii) partial payment
14 in the amount of the remaining half (50%) of the Administration Expenses
15 Payment, (iii) partial payment in the amount of the remaining half (50%) of
16 the Class Counsel costs, and (iv) full payment of Class Counsel Fees.

- 17 (s) Notice of Settlement: Each Class Member will be mailed a notice setting forth the
18 material terms of the proposed Settlement, along with instructions about how to
19 object or request exclusion from the proposed class action Settlement ("Notice").
20 For each Class Member, there will be pre-printed information on the mailed Notice,
21 based on Defendant's records, stating the Class Member's Covered Workweeks
22 during the Class Period and the estimated total Settlement Payment under the
23 Settlement, including the Settlement Class Payment and the PAGA Settlement
24 Payment that will be distributed irrespective of any exclusion request. The pre-
25 printed information based on Defendant's records shall be presumed to be correct.
26 A Class Member may dispute the pre-printed information on the Notice as to his
27 or her Covered Workweeks during the Class Period. Class Members must submit
28 any dispute regarding the information on the Notice as to his or her Covered

Workweeks within the Response Deadline.

- (t) Settlement Notice Language: The Notice will issue in English.
- (u) Class Members Cannot Exclude Themselves from the Released PAGA Claims:
Class Members submitting a request for exclusion will nevertheless receive their pro-rata share of the PAGA Settlement Payment. If the Court approves the compromise of the PAGA Claim, all Class Members are bound by the Court's resolution of the PAGA Claim. Plaintiff shall serve a notice of settlement on the California Labor and Workforce Development Agency at or before the time Plaintiff files the motion for preliminary approval.
- (v) Resolution of Workweek Disputes: If a Class Member disputes the accuracy of Defendant's records used to calculate Covered Workweeks, the Parties' counsel and the Settlement Administrator will review Defendant's records and any information or documents submitted by the Class Member in an attempt to resolve the dispute informally. If the dispute cannot be resolved informally by the Parties' counsel and the Settlement Administrator, the dispute, and all documents pertaining to the dispute, will be submitted to the Court for final resolution. The Class Member must submit information or documents supporting his or her position to the Settlement Administrator prior to the expiration of the Response Deadline. Information or documents submitted after the expiration of the Response Deadline will not be considered by the Settlement Administrator, unless otherwise agreed to by the Parties.
- (w) Right of Class Member to Request Exclusion from the Settlement: Any Class Member may request to be excluded from the Class by returning a request for exclusion to the Settlement Administrator within the Response Deadline. A request for exclusion must clearly and unequivocally state a desire to be excluded from the Class, with a statement comparable to the following:

"I WANT TO BE EXCLUDED FROM THE CLASS IN THE WHITE V. SGB VENTURES LLC CLASS ACTION LAWSUIT, PENDING IN TULARE COUNTY SUPERIOR COURT CASE NO. VCU296946."

1 No specific wording is required to state a request for exclusion, so long as it is clear
2 and unequivocal. Any request for exclusion must include the name, address,
3 telephone number, the last four digits of the Class Member's Social Security
4 Number or Employee ID (to confirm identity and make certain that only persons
5 requesting exclusion are removed from the settlement) and signature. Any such
6 request must be made in accordance with the terms of the Notice, and the Notice
7 will advise Class Members of these requirements. Any Class Member who timely
8 requests exclusion in compliance with these requirements (i) shall not have any
9 rights under this Settlement other than a right to receive a pro-rata share of the
10 portion of the PAGA payment allocated to the Class Members if the Class Member
11 is also PAGA Employee; (ii) shall not be entitled to receive any Settlement
12 Payments under this Settlement other than as stated in (i) in this paragraph; and (iii)
13 shall not be bound by this Settlement or the Court's Order and Final Judgment
14 other than as it applies to the PAGA Claim.

- 15 (x) Right of Settlement Class Member to Object to The Settlement: Any Class
16 Member may object to the Settlement. To object, the Class Member may (1)
17 appear in person (including through an audio or video call appearance as allowed
18 by the Court) at the Final Approval Hearing to explain any objection, (2) have an
19 attorney object for the Class Member, or (3) submit a simple written brief or
20 statement of objection to the Settlement Administrator. If any Class Member
21 chooses to submit a written objection, the written objection should contain
22 sufficient information to confirm the identity of the objector and the basis of the
23 objection, including (1) the full name of the Class Member; (2) the signature of the
24 Class Member; (3) the grounds for the objection; and (4) the case and number, and
25 (5) be postmarked within the Response Deadline to permit adequate time for
26 processing and review by the Parties of the written statement or objection. Class
27 Counsel shall ensure that any written objections are transmitted to the Court for the
28 Court's review (either by Class Counsel or as an attachment to declaration from

1 the Settlement Administrator). Regardless of the form, an objection alone will not
2 satisfy the requirement that a Settlement Class Member must either make a timely
3 complaint in intervention before final judgment or by filing a motion to set aside
4 and vacate the class judgment under Code of Civil Procedure § 663 to have
5 standing to appeal entry of judgment approving this Settlement, as is required under
6 the California Supreme Court decision of *Hernandez v. Restoration Hardware*, 4
7 Cal. 5th 260 (2018). A Class Member who does not object prior to or at the Final
8 Approval Hearing, will be deemed to have waived any objections and will be
9 foreclosed from making any objections (whether at the Final Approval Hearing, by
10 appeal, or otherwise) to the Settlement. If the objecting Class Member does not
11 formally intervene in the action or move to set aside any judgment and/or the Court
12 rejects the Class Member's objection, the Class Member will still be bound by the
13 terms of this Agreement. Class Counsel and Defendant's Counsel may, at least
14 five (5) calendar days (or some other number of days as the Court shall specify)
15 before the final approval hearing, file responses to any written objections submitted
16 to the Court.

- 17 (y) Opt-in to Release Under Fair Labor Standards Act: Settlement Class Members will
18 be advised that they will opt-in to a settlement of claims for unpaid compensation
19 under the Fair Labor Standards Act ("FLSA") by cashing or otherwise depositing
20 the check for their Settlement Class Payment. This will be set forth in the Notice.

21 **THE SETTLEMENT ADMINISTRATOR'S PRIMARY DUTIES**

22 27. Subject to the Court's approval, and subject to reconsideration by the Parties after a
23 competitive bidding process, the Parties have agreed to the appointment of Phoenix Class Action
24 Administration Solutions to perform the customary duties of Settlement Administrator. The Settlement
25 Administrator will mail the Notice in English, to the Class Members.

26 28. The Settlement Administrator will independently review the Covered Workweeks
27 attributed to each Class Member and will calculate the estimated amounts due to each Class Member and
28 the actual amounts due to each Settlement Class Member in accordance with this Settlement. The

1 Settlement Administrator shall report, in summary or narrative form, the substance of its findings. The
2 Settlement Administrator shall be granted reasonable access to Defendant's records in order to perform its
3 duties.

4 29. In accordance with the terms of this Settlement, the Settlement Administrator will issue
5 and send out the Settlement Payment checks to the Class Members. Tax treatment of the Settlement
6 Payments will be as set forth herein, and in accordance with state and federal tax laws. All disputes relating
7 to the Settlement Administrator's performance of its duties shall be referred to the Court, if necessary,
8 which will have continuing jurisdiction over the terms and conditions of this Settlement until all payments
9 and obligations contemplated by this Settlement have been fully carried out.

10 30. The Settlement Administrator will post the Settlement Agreement, the court orders
11 granting preliminary and final approval of the Settlement and final judgment approving the Settlement on
12 the Settlement Administrator's website for a period of not less than 90 calendar days after the final
13 judgment is entered. The address of that website will be included in the Notice.

14 **ATTORNEY'S FEES AND COSTS**

15 31. In consideration for resolving this matter and in exchange for the release of all claims by
16 the Class Members, including Plaintiff, and subject to approval by the Court, Defendant will not object to
17 Class Counsel's application for attorney's fees not to exceed 33 and 1/3% of the Gross Settlement Amount
18 (\$43,333.33 of \$130,000.00) and litigation costs not to exceed \$12,000.00. The amounts set forth above
19 will cover all work performed and all fees and costs incurred to date, and all work to be performed and all
20 fees and costs to be incurred in connection with the approval by the Court of this Settlement and
21 administration of the Settlement. Should the Court approve a lesser amount(s) of attorney's fees and/or
22 attorneys' costs, the difference between the lesser amount(s) and the maximum amount set forth above
23 shall be added to the Net Settlement Amount.

24 **THE NOTICE PROCESS**

25 32. A Notice in approximately the form attached hereto as **Exhibit "B"**, and as approved by
26 the Court, shall be sent by the Settlement Administrator to the Class Members by first class mail. Any
27 returned envelopes from this mailing with forwarding addresses will be utilized by the Settlement
28 Administrator to forward the Notices to the Class.

1 (a) Within 15 calendar days from the date of preliminary approval of this Settlement
2 by the Court, Defendant shall provide to the Settlement Administrator a class
3 database containing the following information for each Class Member: (1) name;
4 (2) last known address; (3) social security number; and (4) dates of employment at
5 Defendant's location in California. This database shall be based on Defendant's
6 payroll and other business records and shall be provided in a format acceptable to
7 the Settlement Administrator. Defendant agrees to consult with the Settlement
8 Administrator prior to the production date to ensure that the format will be
9 acceptable to the Settlement Administrator. The Settlement Administrator will run
10 a check of the Class Members' addresses against those on file with the U.S. Postal
11 Service's National Change of Address List; this check will be performed only once
12 per Class Member by the Settlement Administrator. Absent mutual written
13 agreement of counsel for the Parties or Court order, the Settlement Administrator
14 will keep this database confidential and secure and use it only for the purposes
15 described herein, and will return this database to Defendant upon final approval of
16 the settlement or destroy electronic records containing the database after the
17 Settlement is final and all payments are distributed as required under this
18 Agreement. However, Plaintiff's Counsel shall be entitled to review anonymized
19 data showing the workweeks worked by each Class Member, with Class Member
20 identity concealed through use of an employee number or number assigned by the
21 Settlement Administrator.

22 (b) Within 14 calendar days after the Class database is provided to the Settlement
23 Administrator, the Settlement Administrator will mail the Notices to the Class
24 Members by First Class United States mail.

25 (c) Notices returned to the Settlement Administrator as non-deliverable on or before
26 the initial Response Deadline shall be resent to the forwarding address, if any, on
27 the returned envelope. A returned Notice will be forwarded by the Settlement
28 Administrator any time that a forwarding address is provided with the returned

1 mail. If there is no forwarding address, the Settlement Administrator will do a
2 computer search for a new address using the Class Member's social security
3 number or other information. In any instance where a Notice is re-mailed, that
4 Class Member will have until the extended Response Deadline as described above.
5 A letter prepared by the Settlement Administrator will be included in the re-mailed
6 Notice in that instance, stating the extended Response Deadline if different than the
7 original Response Deadline. Upon completion of these steps by the Settlement
8 Administrator, Defendant and the Settlement Administrator shall be deemed to
9 have satisfied their obligations to provide the Notice to the affected Class Member.
10 The affected Class Member shall remain a member of the Settlement Class and
11 shall be bound by all the terms of the Settlement and the Court's Order and Final
12 Judgment.

- 13 (d) Class Counsel shall provide to the Court, at least 25 calendar days prior to the final
14 approval hearing, or such other date as set by the Court, a declaration by the
15 Settlement Administrator of due diligence and confirming mailing of the Notices.

16 **DISPOSITION OF SETTLEMENT PAYMENTS AND UNCASHED CHECKS**

17 33. As set forth above, each Class Member will have until the expiration of the applicable
18 Response Deadline to submit to the Settlement Administrator any challenge or dispute to the Class
19 Member's Covered Workweek information on the Notice. No disputes will be honored if they are
20 submitted after the Response Deadline, unless the Parties mutually agree to accept the untimely dispute.
21 Each Class Member is responsible to maintain a copy of any documents sent to the Settlement
22 Administrator and a record of proof of mailing.

23 34. The Settlement Administrator shall cause the Settlement Payments to be mailed to the
24 Settlement Class Members and PAGA Employees as provided herein. Settlement Class Payments and
25 PAGA Payments may be combined into one check. Settlement Payment checks shall remain valid and
26 negotiable for 180 calendar days from the date of their issuance. Settlement Payment checks will
27 automatically be cancelled by the Settlement Administrator if they are not cashed by the Class Member
28 within that time, and the Class Member's relevant claims will remain released by the Settlement.

1 Settlement Payment checks which have expired will not be reissued.

2 35. Funds from uncashed or abandoned Settlement Payment checks, based on a 180-day void
3 date, shall be transmitted to the California State Controller's Office for Unclaimed Property in the name
4 of each Class Member who failed to cash their Settlement Payment check prior to the void date.

5 36. Upon completion of its calculation of Settlement Payments, the Settlement Administrator
6 shall provide Class Counsel and Defendant's Counsel with a report listing the amounts of all payments to
7 be made to Class Members (to be identified anonymously by employee number or other identifier). A
8 Declaration attesting to completion of all payment obligations will be provided to Class Counsel and
9 Defendant's Counsel and filed with the Court by Class Counsel.

10 **RELEASE BY THE CLASS**

11 37. Upon the final approval by the Court of this Settlement and Defendant's payment of all
12 sums due pursuant to this Settlement, and except as to such rights or claims as may be created by this
13 Settlement, the Class Representatives, the Class and each Class Member who has not submitted a valid
14 and timely request for exclusion as to claims other than the PAGA claim, will release claims as follows:

15 (a) **Identity of Released Parties.** The released parties are Defendant and any parent,
16 subsidiary, affiliate, predecessor or successor, franchisor and all past, present, and
17 future agents, assigns, employees, members, managers, officers, directors, insurers
18 and attorneys (collectively "**Releasees**").

19 (b) **Date Release Becomes Effective.** The Released Claims will be released upon the
20 later of (1) the Settlement's Effective Date, or (2) the satisfaction of Defendant's
21 obligation to provide to the Settlement Administrator a sum in the amount required
22 to satisfy all required payments and distributions pursuant to this Settlement and
23 the Order and Judgment of final approval. Class Members will not release the
24 Released Claims or Released PAGA Claims until both the Effective Date of the
25 Settlement has occurred, **and** Defendant has paid all amounts owing under the
26 Settlement.

27 (c) **Claims Released by Settlement Class Members.** Each and every Class Member,
28 himself and each of their heirs, assigns and successors, unless he or she has

1 submitted a timely and valid Request for Exclusion (which will not effectuate an
2 opt-out from the release of Released PAGA Claims), hereby releases Releasees
3 from the following claims for the entire Class Period:

- 4 1) any and all claims stated in the Plaintiff's First Amended Complaint, or that
5 could have been stated based on the facts alleged in the First Amended
6 Complaint, including but not limited to state wage and hour claims
7 (including all claims under the California Labor Code and Industrial
8 Welfare Commission Wage Orders) for unpaid wages, minimum wage,
9 overtime, meal periods, rest periods, wage statement violations, interest,
10 penalties, and attorney's fees, waiting time penalties, withholding from
11 wages and the related provisions of the California Labor Code and
12 violations of California Unfair Competition Law (Cal. Bus. & Prof. Code
13 §§ 17200, et seq.) ("Released Claims"),
- 14 2) as to any Class Member who cashes their Settlement Payment, the signing
15 and negotiation of that check shall serve as the Class Member's consent to
16 join the action for purposes of releasing claims arising under the Fair Labor
17 Standards Act that are related to the claims stated in the Complaint,
18 implicitly or explicitly; and,
- 19 3) in addition, as to *all* Class Members employed during the Released PAGA
20 Claims Period, whether requesting exclusion from the Settlement or not,
21 claims arising under the Private Attorneys General Act of 2004, Labor
22 Code § 2698 et seq., to the extent asserted in Plaintiff's administrative
23 exhaustion letter submitted to the LWDA (**Exhibit A**) and the First
24 Amended Complaint in this matter (i.e., the Released PAGA Claims).

- 25 (d) If, notwithstanding this Settlement Agreement, a claim or cause of action is brought
26 or asserted by or on behalf of Plaintiff and/or any member of the Settlement Class
27 based on the Released Claims, the Parties agree that the payment of Individual
28 Settlement Payments to an eligible Class Member who has not opted out from this

1 Settlement in compliance with the deadlines and requirements of this Settlement
2 Agreement shall constitute full satisfaction of Defendant's liability with respect to
3 any Released Claims relating to that eligible Class Member within the Class Period.

4 **DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL**

5 38. The Parties shall submit this Joint Stipulation of Class Action Settlement to the Court in
6 support of Plaintiff's unopposed motion for preliminary approval for determination by the Court as to its
7 fairness, adequacy, and reasonableness. Upon execution of this Joint Stipulation of Class and PAGA
8 Representative Action Settlement, the Parties shall apply to the Court for the entry of an order:

- 9 (a) Scheduling a final approval and fairness hearing on the question of whether the
10 proposed Settlement, including payment of attorney's fees and costs, and the Class
11 Representative's service payment, should be finally approved as fair, reasonable,
12 and adequate as to the members of the Class;
- 13 (b) Certifying a Class for settlement purposes;
- 14 (c) Approving as to form and content the proposed Notice;
- 15 (d) Directing the mailing of the Notice;
- 16 (e) Preliminarily approving the Settlement, including Class and PAGA claims, subject
17 only to the objections of Class Members as to the Class Settlement and final review
18 by the Court;
- 19 (f) Conditionally appointing Plaintiff and Class Counsel as representatives of the
20 proposed Class Members; and,
- 21 (g) Appointing Phoenix Class Action Administration Solutions as the Settlement
22 Administrator, and order the Settlement Administrator to issue Notices as outlined
23 above.

24 39. Defendant and its their counsel agree to cooperate to obtain approval of the Settlement,
25 pursuant to the terms set forth herein.

26 **DUTIES OF THE PARTIES FOLLOWING FINAL COURT APPROVAL**

27 40. In conjunction with the hearing of a motion for final approval by the Court of the
28 Settlement provided for in this Joint Stipulation of Settlement, Class Counsel will provide to Defendant's

Counsel for review and approval and then submit to the Court a proposed final order and judgment containing provisions sufficient to accomplish the following:

- (a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;
- (b) Approving Class Counsel's application for an award of attorney's fees and costs;
- (c) Approving the Service Payment to the Class Representative;
- (d) Adjudging the Settlement Administrator has fulfilled its initial notice and reporting duties under the Settlement.
- (e) Adjudging Plaintiff and Class Counsel may adequately represent the Final Settlement Class for the purpose of entering into and implementing the Agreement;
- (f) Entering a final judgment in the action as to all PAGA and Class Claims and related issues;
- (g) Adjudging that notwithstanding the submission of a timely request for exclusion, Class Members are still bound by the settlement and release of the Released PAGA Claims or remedies under the Judgment pursuant to *Arias v. Superior Court*, 46 Cal. 4th 969 (2009), as requests to be excluded from the Settlement do not apply to the Released PAGA Claims, and further affirms that the State's claims for civil penalties pursuant to PAGA are also extinguished;
- (h) Directing the posting of the settlement documents provided in Paragraph 30 and final judgment on a website maintained by the Settlement Administrator for a period of not less than 90 calendar days after entry of final judgment.

Any revised final judgments will also be provided to Defendant's Counsel for review and approval before they are submitted to the Court.

NULLIFICATION AND TERMINATION

41. This Settlement will be null and void if any of the following occur: (a) the Court should for any reason fail to certify a class for settlement purposes; (b) the Court should for any reason fail to preliminarily or finally approve of this Settlement in the form agreed to by the Parties, other than adjustments made to the attorney's fees and costs or granting of Service Payment or settlement money

1 distribution terms; (c) the Court should for any reason fail to enter the final judgment; (d) the final judgment
2 is reversed, modified, or declared or rendered void; or (e) the Settlement does not become final for any
3 other reason.

4 42. If 40% or more of the Class Members opt out of this Settlement, then Defendant in its sole
5 discretion may terminate, nullify and void this Settlement. The Settlement Administrator shall provide
6 Defendant's Counsel with the information necessary to effectuate this provision on a regular basis, but no
7 less frequently than on a monthly basis. To terminate this Settlement under this paragraph, Defendant's
8 Counsel must give Plaintiff's Counsel written notice, by facsimile, e-mail, or mail, no later than five (5)
9 days prior to the date of the Final Approval Hearing. If this option is exercised by Defendant, Defendant
10 shall be solely responsible for the costs incurred by the Settlement Administrator for the settlement
11 administration.

12 43. In the event this Settlement is nullified or terminated as provided above: (i) this Settlement
13 shall be considered null and void, (ii) neither this Settlement nor any of the related negotiations or
14 proceedings shall have any force or effect and no party shall be bound by any of its terms, and (iii) all
15 Parties to this Settlement shall stand in the same position, without prejudice, as if the Settlement had been
16 neither entered into nor filed with the Court.

17 **PARTIES' AUTHORITY**

18 44. The signatories hereto hereby represent that they are fully authorized to enter into this
19 Settlement and bind the Parties hereto to the terms and conditions thereof.

20 **MUTUAL FULL COOPERATION**

21 45. The Parties agree to fully cooperate with each other to accomplish the terms of this
22 Settlement including, but not limited to, execution of such documents and taking such other action as
23 reasonably may be necessary to implement the terms of this Settlement. The Parties to this Settlement
24 shall use their best efforts, including all efforts contemplated by this Settlement and any other efforts that
25 may become necessary by order of the Court, or otherwise, to effectuate this Settlement and the terms set
26 forth herein. As soon as practicable after execution of this Settlement, Class Counsel shall, with the
27 assistance and cooperation of Defendant and Defendant's Counsel, take all necessary steps to secure the
28 Court's preliminary and final approval of this Settlement.

NO PRIOR ASSIGNMENTS

46. The Parties and their respective 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 rights herein released and discharged except as set forth herein.

NO ADMISSION OF LIABILITY

47. Nothing contained herein, nor the consummation of this Settlement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant. Defendant denies all the claims and contentions alleged by the Plaintiff in this case. The Defendant has entered into this Settlement solely with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses.

ENFORCEMENT ACTIONS

48. The Parties agree that following entry of the Final Approval Order and Judgment, this Agreement shall be enforceable by the Court and the Court shall retain exclusive and continuing jurisdiction of the Action over all parties and the Class Members to interpret and enforce the terms, conditions, and obligations of the Agreement pursuant to California Code of Civil Procedure section 664.6. In the event that one or more of the Parties to this Settlement institutes any legal action or other proceeding against any other party or parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful party or parties shall be entitled to recover from the unsuccessful party or parties reasonable attorney's fees and costs, including expert witness fees incurred in connection with any enforcement actions.

NOTICES

49. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed as follows:

Class Counsel:

Counsel for Defendant:

Lilit Tunyan

Rissa A. Stuart

ltunyan@tunyanlaw.com
Artur Tunyan
atunyan@tunyanlaw.com
TUNYAN LAW, APC
535 N. Brand Blvd., Suite 285
Glendale, California 91203
Telephone: (323) 410-5050

rstuart@kschanford.com
David W. Kahn
dkahn@kschanford.com
KAHN, SOARES & CONWAY, LLP
219 N. Douty Street
Hanford, CA 93230
Telephone: (559) 584-3337
Facsimile: (559) 584-3348

CONSTRUCTION

50. The Parties hereto agree that the terms and conditions of this Settlement are the result of lengthy, intensive arms-length negotiations between the Parties, and this Settlement shall not be construed in favor of or against any party by reason of the extent to which any party or his, her or its counsel participated in the drafting of this Settlement.

CAPTIONS AND INTERPRETATIONS

51. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision hereof. Each term of this Settlement is contractual and not merely a recital.

MODIFICATION

52. This Settlement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

INTEGRATION CLAUSE

53. This Settlement contains the entire agreement between the Parties relating to the Settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a party or such party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

WAIVER OF APPEALS

54. The Parties agree to waive appeals and to stipulate to class certification for purposes of implementing this Settlement only, with the exception that Class Counsel retains the right to appeal the amount awarded as attorney's fees.

1 **BINDING ON ASSIGNS**

2 55. This Settlement shall be binding upon and inure to the benefit of the Parties hereto and
3 their respective heirs, trustees, executors, administrators, successors and assigns.

4 **CLASS COUNSEL SIGNATORIES**

5 56. It is agreed that because the members of the Class are so numerous, it is impossible or
6 impractical to have each member of the Class execute this Settlement. The Notice will advise all Class
7 Members of the binding nature of the Released Claims and Released PAGA Claims, and the release shall
8 have the same force and effect as if this Settlement were executed by each member of the Class.

9 **COUNTERPARTS**

10 57. This Settlement may be executed in counterparts and by electronic or facsimile signatures,
11 and when each party has signed and delivered at least one such counterpart, each counterpart shall be
12 deemed an original, and, when taken together with other signed counterparts, shall constitute one
13 Settlement, which shall be binding upon and effective as to all Parties.

14 **CONFIDENTIALITY & PUBLIC COMMENT**

15 58. The Class Representative and Class Counsel shall only disclose matters of public record
16 other than to Class Members, who may receive information about the Settlement that is not in the public
17 record after the Court has preliminarily approved the Settlement. Other than as to Class Members or as
18 expressly allowed below, the Parties and attorneys will keep the settlement confidential until the filing of
19 the motion for preliminary approval of the class settlement. Thereafter, the Parties agree to make no
20 comments to the media or otherwise publicize the terms of the Settlement, other than in court filings. Prior
21 to preliminary approval, the Class Representative is prohibited from discussing the terms or the fact of the
22 settlement with third parties other than (1) a spouse, (2) accountants or lawyers as necessary for tax
23 purposes, or (3) Class Members.

24 **FINAL JUDGMENT**

25 59. The Parties agree that, upon final approval of the Settlement, final judgment of this Action
26 will be made and entered in its entirety. The final judgment may be included in the Order granting Final
27 Approval of the Settlement.

28 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint

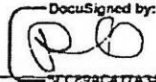
1 Stipulation of Class Action Settlement between Plaintiff and Defendant as set forth below:

2 IT IS SO STIPULATED.

3
4 **Plaintiff & Class Representatives:**

5 Dated: 2/26/2024 | 10:35 AM PST

By:

DocuSigned by:


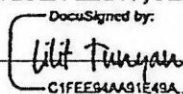
PRINCESSALEXIA CHANNEL WHITE

7
8 **Plaintiff's Counsel:**

9 Dated: 2/26/2024 | 10:35 AM PST

TUNYAN LAW, APC

By:

DocuSigned by:

C1FEE944G1E49A...

Lilit Tunyan
Artur Tunyan

Attorneys for Plaintiff PRINCESSALEXIA
CHANNEL WHITE

13
14 **Defendant:**

15 Dated: 3/7/2024

SGB VENTURES LLC

By:

Calic Arlin Sorensen

Print Name


Signature

Managing Member SGB Ventures LLC

Title

21 **Defendant's Counsel:**

22 Dated: 3/8/24

KAHN, SOARES & CONWAY, LLP


Rissa A. Stuart
David W. Kahn

Attorneys for Defendant SGB VENTURES LLC

Exhibit “A”



TUNYAN LAW

Lilit Tunyan, Esq.
1336 Rossmoyne Avenue,
Glendale, CA 91207
Tel: (323) 410-5050
ltunyan@tunyanlaw.com

March 24, 2023

VIA ONLINE SUBMISSION

Labor & Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
PAGAFilings@dir.ca.gov

VIA CERTIFIED MAIL

Return Receipt Requested

Agent for Service of Process for
SGB Ventures LLC
Legalzoom.com, Inc.
101 N. Brand Boulevard, 11th Floor
Glendale, CA 91203

VIA CERTIFIED MAIL

Return Receipt Requested

SGB Ventures LLC
5127 W Noble Avenue
Visalia, CA 93277

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2698 ET SEQ.**

Re: *Princessalexia Channel White v. SGB Ventures LLC dba Crumbl Cookies Visalia*

To Whom It May Concern:

Please be advised that my office has been retained by Princessalexia Channel White ("Plaintiff") to pursue a Labor Code Private Attorney General Act (PAGA) representative action (Cal. Lab. Code §§ 2699, *et seq.*) against her former employer SGB Ventures LLC dba Crumbl Cookies Visalia ("Defendant"). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which Plaintiff alleges Defendant engaged in with respect to Plaintiff and all of Defendant's aggrieved employees.

Plaintiff wishes to pursue a PAGA representative action on behalf of herself as an aggrieved employee, on behalf of the State of California, and on behalf of all other current and former aggrieved employees who worked for Defendant in California as an hourly paid, non-exempt employee at any time within the applicable statutory period (hereafter, the “Aggrieved Employees”).

Plaintiff and the Aggrieved Employees of Defendant suffered the Labor Code violations described below.

Factual Background Regarding Plaintiff's Employment with Defendant

Defendant owns and operates an industry, business, and establishment within the State of California, including Tulare County. As such, Defendant is subject to the California Labor Code and the Wage Orders issued by the Industrial Welfare Commission (“IWC”).

Plaintiff worked for Defendant as a manager and assistant manager from approximately June 2022 to August 2022, primarily in Tulare County. Defendant classified Plaintiff as non-exempt from overtime. During the time period that Plaintiff was employed by Defendant, Plaintiff typically worked 7 days per week, and over 10 hours each workday.

Throughout Plaintiff's employment, Defendant committed numerous labor code violations under state law. As discussed below, Plaintiff's experience working for Defendant was typical and illustrative.

Failure to Pay for All Hours Worked, Including Overtime

Under California law, an employer must pay for all hours worked by an employee. “Hours worked” is the time during which an employee is subject to the control of an employer and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight (8) hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

Pursuant to relevant Industrial Welfare Commission Order Section 2 (n) split shift means a work schedule, which is interrupted by non-paid non-working periods established by the employer, other than bona fide rest or meal periods. Section 4(c) also provides that when an employee

works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to the minimum wage for that workday.

Throughout the time period involved in this case, Defendant maintained a policy and practice of failing to pay Plaintiff and the Aggrieved Employees for all hours worked (including minimum wages, straight time wages and overtime wages). Defendant regularly used a system of time rounding in a manner that resulted, over a period of time, in failing to compensate Plaintiff and the Aggrieved Employees properly for all the time they have actually worked, even though the realities of Defendant's operations are such that it is possible, practical, and feasible to count and pay for work time to the minute. Accordingly, Defendant frequently paid Plaintiff and the Aggrieved Employees less than all their work time. Some of this unpaid work also should have been paid at the overtime rate. Throughout the statutory period Defendant also failed to pay Plaintiff and the Aggrieved Employees the proper double time rate when Plaintiff and the Aggrieved Employees worked more than 12 hours in one workday. Throughout the statutory period Defendant also required Plaintiff and the Aggrieved Employees to work split shifts but refused to pay split shift premiums. Throughout the statutory period, Defendant also maintained a policy and practice of requiring Plaintiff and the Aggrieved Employees to perform work "off-the-clock". During the statutory period Defendant required Plaintiff and the Aggrieved Employees to work after clocking out from work uncompensated. In maintaining a practice of not paying all wages owed, Defendant failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked. In doing so, Defendant also failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including overtime.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Defendant wrongfully failed to provide Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendant regularly required Plaintiff and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, continuous and uninterrupted, duty-free meal period for every five hours of work, or without compensating Plaintiff and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Defendant did not

adequately inform Plaintiff and the Aggrieved Employees of their right to take a meal period by the end of the fifth hour of work, or, for shifts greater than 10 hours, by the end of the tenth hour of work. Moreover, Defendant did not have adequate written policies or practices providing meal periods for Plaintiff and the Aggrieved Employees, nor did Defendant have adequate policies or practices regarding the timing of meal periods. Plaintiff and the Aggrieved Employees would often times miss their meal periods, have interrupted or short meal periods. Plaintiff and the Aggrieved Employees have never been authorized or taken their second or third meal periods. Defendant also failed to record meal periods during some period of time in violation of California law requirements. Accordingly, Defendant's policy and practice was to not provide meal periods to Plaintiff and the Aggrieved Employees in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s). Defendant, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for meal periods and that were not provided.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit breaks of 10 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Thus, for example, if an employee's work time is 6 hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Defendant, however, wrongfully failed to authorize and permit Plaintiff and the Aggrieved Employees to take timely and duty-free rest periods. Defendant regularly required Plaintiff and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendant authorizing and permitting them to take a 10 minute, continuous and uninterrupted, rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees for rest periods that were not authorized or permitted. Defendant did not adequately inform Plaintiff and the Aggrieved Employees of their right to take a rest period. Moreover, Defendant did not have adequate policies or practices permitting or authorizing rest periods for Plaintiff and the Aggrieved Employees, nor did Defendant have adequate policies or practices regarding the timing of rest periods. Defendant did not schedule rest periods every 4 hours or a major fraction. Plaintiff and the Aggrieved Employees have never been authorized to take second, third or fourth rest breaks. Accordingly, Defendant's policy and

practice was for Plaintiff and the Aggrieved Employees to work through rest periods and to not authorize or permit them to take any rest periods.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Defendant, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for rest periods and that they were not authorized and permitted to take.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Maintain Accurate Records of Hours Worked

Plaintiff seeks penalties under Labor Code § 1174(d). Pursuant to Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Defendant, however, failed to maintain accurate records of hours worked and all meal periods taken or missed by Plaintiff and the Aggrieved Employees.

Defendant's failure to provide and maintain records required by the Labor Code IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendant's records. Therefore, Plaintiff and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendant. As a direct result, Plaintiff and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendant to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Defendant's knowing failure to comply with the Labor Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 1174.5 for failing to maintain accurate records of hours worked and meal periods.

Failure to Reimburse and Indemnify Expenses

California Labor Code § 2802 requires employers to reimburse employees for their necessary expenditures and losses incurred in direct consequence of the discharge of their duties or of their obedience to directions of the employer.

Throughout the statutory period, Defendant wrongfully required Plaintiff and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendant without reimbursement, which included the usage of personal cell phones and vehicles for work. Plaintiff and the Aggrieved Employees were required to use their personal cell phones to download and use work related applications. Plaintiff and the Aggrieved Employees were required to wear a uniform but were not reimbursed for washing and maintaining the uniforms. Plaintiff was also required to work from home but was not reimbursed for her home computer, internet and home office. Plaintiff and the Aggrieved Employees incurred these substantial expenses as a direct result of performing their job duties for Defendant, and Defendant have failed to indemnify Plaintiff and the Aggrieved Employees for these employment-related expenses.

Failure to Timely Pay All Wages at Termination

Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

Within the applicable statute of limitations, the employment of Plaintiff and many other Aggrieved Employees ended, i.e. was terminated by quitting or discharge, and the employment of others will be. However, during the relevant time period, Defendant failed, and continues to fail to pay Plaintiff and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendant's employ. These unpaid wages include wages for unpaid work time (including minimum and straight time wages), missed meal periods, and missed rest periods.

Defendant's conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

Accordingly, Plaintiff and the Aggrieved Employees are entitled to recover from Defendant their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to 30 days maximum pursuant to Labor Code § 203.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. Lab. Code § 226(e)(2)(B)(iii).

The statute further provides: “An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.” Lab. Code § 226(e)(1).

Defendant intentionally and willfully failed to provide employees with complete and accurate wage statements. The deficiencies include, among other things, the failure to correctly identify hourly rates, the failure to correctly list gross wages earned, and the failure to list the true net wages earned, including wages for meal periods that were not provided in accordance with California law, wages for rest periods that were not authorized and permitted to take in accordance with California law, and correct wages earned for all hours worked.

As a result of Defendant violating Labor Code § 226, Plaintiff and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights.

Accordingly, Plaintiff and similarly Aggrieved Employees are entitled to recover from Defendant the greater of their actual damages caused by Defendant’ failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding \$4,000 dollars per employee.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

Failure to Pay All Earned Wages Twice Per Month

Based on its failure to pay Plaintiff and the Aggrieved Employees for all wages as discussed above, Defendants also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. Lab. Code § 204(a). The requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period. Lab. Code § 204(d).

Throughout the statute of limitations period applicable to this cause of action, employees were also entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for hours worked. However, during all such times, Defendant systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Defendant, all wages for all rest periods not authorized and permitted by Defendant, and all wages for all hours worked. As a result, Defendant owe employees the legally required wages for unpaid wages, and Plaintiff and the Aggrieved Employees suffered damages in those amounts.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Failure to Provide One Day of Rest in Seven

Labor Code § 551 provides that every person employed in any occupation of labor is entitled to one day's rest in seven. Additionally, Labor Code § 552 prohibits employers from requiring employees to work more than six consecutive days without a day of rest. Defendant scheduled Plaintiff and the Aggrieved Employees to work six (6) or more hours per day and more than seven (7) consecutive days in a workweek in violation of Labor Code requirements.

Failure to Pay All Accrued Vacation Wages at Termination

Labor Code § 227.3 requires employers to pay employees for all unused vested vacation time at their final rate of pay upon termination of their employment.

During the statutory period, Defendant maintained a policy and practice of failing to pay Plaintiff and the Aggrieved Employees the correct amount of vacation pay owed at the termination of employment. For instance, when Plaintiff's employment with Defendant terminated, she was owed vacation wages at her true final wage rate on her final pay check from Defendant even though she had accrued unused vacation time. On information and belief, Defendant's failure to pay Plaintiff the correct amount of vacation pay was not a single, isolated incident, but was instead part of Defendant's policy and practice that applied to the Aggrieved Employees.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to pay all accrued vacation wages at termination.

Action for Civil Penalties Under PAGA

In light of the above, Plaintiff alleges that Defendant violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

1. Labor Code § 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages and overtime wages;
2. Labor Code § 226.7, 512 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing to authorize and permit rest periods;
4. Labor Code § 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;
5. Labor Code § 2802 by failing to reimburse and indemnify employees for expenses and losses in the direct consequence and discharge of their duties;
6. Labor Code § 227.3 by failing to pay all vacation wages at termination;
7. Labor Code §§ 201 to 203 by willfully failing to pay all wages owed at termination;
8. Labor Code § 226 by failing to provide accurate itemized wage statements; and
9. Labor Code § 204 by failing to pay all earned wages two times per month.
10. Labor Code § 551 by failing to provide one day of rest in seven.

Therefore, on behalf of all Aggrieved Employees, Plaintiff seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, 2802, and 2699(f)(2).

Plaintiff has placed Defendant on notice by mailing a certified copy of this correspondence to its corporate address and address of the agent for service, as indicated on the first page.

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Plaintiff becomes aware of additional compensation owed or losses incurred by Plaintiff or by any other aggrieved employee of Defendant or any additional facts, Plaintiff expressly reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action to the complaint which will relate back to the date of this letter.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Lilit Tunyan", with a stylized flourish at the end.

Lilit Tunyan, Esq.
Partner
TUNYAN LAW, APC

Exhibit “B”

NOTICE OF PROPOSED CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT

White v. SGB Ventures LLC.
Tulare County Superior Court Case No. VCU296946

A court authorized this Notice. This is not a solicitation by a lawyer. You are not being sued.

IF YOU ARE OR WERE A NON-EXEMPT EMPLOYEE OF SGB VENTURES LLC dba CRUMBL VISALIA ("DEFENDANT") WHO WORKED IN CALIFORNIA AT ANY TIME BETWEEN AUGUST 12, 2022 AND ----- (THE "CLASS PERIOD"), THIS PROPOSED CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS.

Why should you read this Notice?

A proposed settlement (the "Settlement") has been reached in a class and PAGA action lawsuit entitled *White v. SGB Ventures LLC*, Tulare County Superior Court Case No. VCU296946 (the "Action"). The purpose of this Notice of Proposed Class and Private Attorneys General Act of 2004 ("PAGA") Representative Action Settlement ("Notice") is to briefly describe the Action and to inform you of your rights and options in connection with the Action and the proposed Settlement. The proposed Settlement will resolve all claims in the Action.

YOUR ESTIMATED PAYMENT FROM THIS SETTLEMENT: Your estimated Individual Settlement Payment is <<Estimated Payment>>, which includes your payment from the Class settlement in the estimated amount of <<Estimated Individual Settlement Class Payment>> and, because you [ARE/ARE NOT] also a member of the PAGA Employee group, your payment from the PAGA settlement in the estimated amount of <<Estimated Individual PAGA Settlement Payment>>.

A hearing concerning final approval of the proposed Settlement will be held before Hon. Gary M. Johnson on <<FA DATE>>, at <<FA TIME>>, in Department 7 of Tulare County Superior Court, 221 South Mooney Boulevard, Visalia, CA 93291, to determine whether the Settlement is fair, adequate and reasonable. As a Settlement Class Member, you are eligible to receive an individual Settlement Payment under the Settlement and will be bound by the release of claims described in this Notice and the Settlement Agreement filed with the Court, unless you timely request to be excluded from the Settlement.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
DO NOTHING – GET MONEY	If you do nothing, you will be considered a "Settlement Class Member" in the Settlement and will receive settlement benefits as explained more fully below. You will also give up rights to pursue a separate legal action against Defendant for the Released Claims asserted in the Action as explained more fully below.
EXCLUDE YOURSELF FROM THE SETTLEMENT. DEADLINE TO EXCLUDE YOURSELF: <<RESPONSE DEADLINE>>	You have the option to pursue separate legal action against Defendant about the claims in the Action. If you choose to do so, you must exclude yourself, in writing, from the Settlement by completing and submitting the request to be excluded. As a result, you will not receive any benefits under the Settlement (other than based on the PAGA Claim). Request for Exclusion forms must be submitted by <<RESPONSE DEADLINE>>.
OBJECT TO THE SETTLEMENT. DEADLINE TO SUBMIT WRITTEN OBJECTIONS: <<RESPONSE DEADLINE>>	To object to the Settlement, you may mail a written explanation of why you don't like the Settlement to the Settlement Administrator by submitting the objection in writing, appear at the Final Approval Hearing, or hire an attorney at your expense to object for you. This option is available only if you do <u>not</u> exclude yourself from the Settlement. Do <u>not</u> submit a request for exclusion if you wish to object. <i>Written</i> objections must be submitted by <<RESPONSE DEADLINE>>.

Who is affected by this proposed Settlement?

The Court has certified, for settlement purposes only, the following class (the "Class"):

All non-exempt employees of Defendant who worked in California during the Class Period. The "Class Period" is August 12, 2022 through -----.

According to Defendant's records, you are a member of the settlement class ("Class Member"). PAGA Employees will automatically receive their *pro rata* share of the \$2,500 allocated from the PAGA Allocation to PAGA Employees, cannot opt-out of the release of PAGA Claims, and will be bound by the release of the PAGA Claims even if they opt-out of the Settlement. Defendant's records indicate you [ARE/ARE NOT] also a PAGA Employee who worked in the State of California at any time during the PAGA Period of August 22, 2022 through -----.

What is this case about?

In the Action, Plaintiff Princessalexia Channel White ("Plaintiff") alleges on behalf of herself and the Class that Defendant: (1) failed to pay all wages; (2) failed to provide meal periods; (3) failed to authorize and permit rest periods; (4) failed to timely pay all wages at termination; (5) failed to furnish accurate itemized wage statements; (6) violated California's Unfair Competition Law, California Business and Professions Code § 17200 *et seq.*; and (7) violated provisions of the Labor Code giving rise to civil penalties under the Labor Code Private Attorneys General Act of 2004 [Lab. Code § 2699, *et seq.*]. Plaintiff seeks unpaid wages, actual, consequential and incidental losses and damages, special damages, liquidated damages, injunctive relief, declaratory relief, statutory penalties, civil penalties under PAGA, restitution, interest, attorneys' fees, and costs.

Defendant denies all liability and is confident that it has strong legal and factual defenses to these claims, but it recognizes the risks, distractions, and costs associated with litigation. Defendant contends that its conduct is and has been lawful at all times relevant and that Plaintiff's claims do not meet the requirements for class certification.

This Settlement is a compromise reached after good faith, arm's length negotiations between Plaintiff and Defendant (the "Parties"), through their attorneys, and is not an admission of liability on the part of Defendant. Both sides agree that this Settlement is fair, adequate and reasonable. Plaintiff also believes this Settlement is in the best interests of all Class Members.

The Court has not ruled on the merits of Plaintiff's claims or Defendant's defenses.

Who are the attorneys representing the Parties?

The attorneys representing the Parties in the Action are:

Class Counsel

Lilit Tunyan

ltunyan@tunyanlaw.com

Artur Tunyan

atunyan@tunyanlaw.com

TUNYAN LAW, APC

535 N. Brand Blvd., Suite 285

Glendale, California 91203

Telephone: (323) 410-5050

Defendant's Counsel

Rissa A. Stuart

rstuart@kschanford.com

David W. Kahn

dkahn@kschanford.com

KAHN, SOARES & CONWAY, LLP

219 N. Douty Street

Hanford, CA 93230

Telephone: (559) 584-3337

Facsimile: (559) 584-3348

What are the Settlement terms?

Subject to final Court approval, Defendant will pay \$130,000 (the "Gross Settlement Amount") for: (a) Individual Settlement Payments to Settlement Class Members; (b) the Court-approved Class Representative Service Payment to Plaintiff in the amount of \$7,000; (c) the Court-approved attorney's fees and costs to Class Counsel ("Class Counsel's Fees and Expenses") (\$43,333.33 in fees and up to \$12,000.00 in costs to be requested); (d) payment to the Labor and Workforce Development Agency ("LWDA") for alleged PAGA penalties (the "PAGA Penalty Payment") (\$7,500 of a total of \$10,000 PAGA settlement to be paid to LWDA and \$2,500 to be paid to PAGA Employees); and (e) payment to the Settlement Administrator for settlement administration services ("Administrative Expenses") (estimated to be no more than \$7,000).

Individual Settlement Payments. Class Members who do not timely and properly request to be excluded from the Settlement (the "Settlement Class Members") will receive a share of the Net Settlement Amount, and Class

Members who are also PAGA Employees will receive a share of the \$2,500 from the PAGA Settlement allocated to PAGA Employees (the "PAGA Settlement Payment"), regardless of the request exclusion from the Settlement (the total payment to a Class Member is their "Individual Settlement Payment").

The "Net Settlement Amount" will be calculated by deducting from the Gross Settlement Amount the Class Counsel's Fees and Expenses, the Class Representative's Service Payment, the PAGA Penalty Payment, and the Administrative Expenses. Payments by Defendant from the Net Settlement Amount will be included in the Settlement Payments to each Settlement Class Member (the "Settlement Class Payments") and each PAGA Employee (the "PAGA Settlement Payments").

The Settlement Class Payment shall be divided among all Settlement Class Members on a *pro rata* basis based upon the total number of work weeks worked by each Settlement Class Member during the Class Period. The portion of the Net Settlement Amount paid to a Settlement Class Member = Net Settlement Amount (minus \$2,500 set aside for all PAGA Settlement Payment) $\times$ the work weeks worked by a Settlement Class Member $\div$ the work weeks worked by all Settlement Class Members.

The PAGA Settlement Payment shall be divided among all PAGA Employees on a *pro rata* basis based upon the total number of pay periods worked by each PAGA Employee during the PAGA Period. The portion of the PAGA Settlement Payment paid to a PAGA Employee = \$2,500 $\times$ the pay periods worked by a PAGA Employee (during the PAGA Period) $\div$ the pay periods worked by all PAGA Employees (during the PAGA Period).

Your estimated Individual Settlement Payment is <<Estimated Settlement Payment>> and the number of work weeks you worked during the Class Period based on your hire and/or termination dates is <<Work Weeks>>. You may seek to dispute the number of your workweeks. Such challenges must: (i) be in writing; (ii) state your full name; (iii) include a statement that you are seeking to challenge your estimated Individual Settlement Payment set forth in this Class Notice; (iv) state the number of work weeks you believe you have worked during the Class Period; and (v) be mailed to the Settlement Administrator with a postmark date on or before <<RESPONSE DEADLINE>> (the "Response Deadline") at:

You must produce documentary evidence supporting your contention. Defendant's records will be presumed correct unless you prove otherwise by credible evidence. The Settlement Administrator and the Parties will attempt to resolve all work week disputes with you informally. If they cannot resolve your work week dispute with you informally, the dispute will be submitted by the Parties to the Court for final resolution. **REMINDER:** If you believe your estimated Settlement Payment is incorrect because your work weeks (the number of weeks you worked within the Class Period) are wrong, your deadline to dispute this is <<RESPONSE DEADLINE>>.

For tax reporting purposes, the payments to Class Members will be allocated 15% as wages, 85% as penalties and as interest. All PAGA Settlement Payments will be allocated as 100% penalties. The wage portion of the Individual Settlement Payments shall be subject to the withholding of applicable local, state, and federal taxes, and the Settlement Administrator shall deduct applicable employee-side payroll taxes from the wage portion of the Individual Settlement Payments. The portion of the Individual Settlement Payments allocated as civil penalties and interest shall be classified as other miscellaneous income and reported on IRS Form 1099-MISC if required by governing tax laws. Any taxes owed on that other miscellaneous income will be the responsibility of Class Members receiving those payments. The employer's share of any payroll taxes will be separately paid by Defendant.

All checks for Individual Settlement Payments paid to Class Members will remain valid and negotiable for one hundred eighty (180) days from the date of the checks' issuance and shall thereafter automatically be void if not claimed or negotiated by a Class Member within that time. Any Individual Settlement Payment that is not claimed or negotiated by a Class Member within one hundred eighty (180) days of issuance shall be transmitted to the California State Controller's Office to be held as unclaimed property in the name of each check recipient who is the payee of the check. In such event, the Settlement Class Members and PAGA Employees shall nevertheless remain bound by the Settlement.

The "Effective Date" of the Settlement means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Class Members objects to the Settlement, the day after the

deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

Payments to Settlement Class Members and PAGA Employees will be issued in two installments: 1. the first distribution payment within fifteen (15) days after the Effective Date ("First Distribution"), and 2. the second distribution payment within six (6) months after the First Distribution ("Second Distribution") or earlier if Defendant has paid the Gross Settlement Amount in full.

PLEASE BE PATIENT AND UPDATE THE SETTLEMENT ADMINISTRATOR WITH YOUR NEW ADDRESS IF YOU MOVE AFTER RECEIVING THIS NOTICE OR YOU RECEIVED THIS NOTICE AS FORWARDED MAIL.

None of the Parties or their attorneys make any representations concerning the tax consequences of this Settlement or your participation in it. Class Members should consult with their own tax advisors concerning the tax consequences of the Settlement. Class Counsel is unable to offer advice concerning the state or federal tax consequences of payments to any Class Member.

What claims are being released by the proposed Settlement?

Upon the final approval by the Court of this Settlement and Defendant's payment of all sums due pursuant to this Settlement, and except as to such rights or claims as may be created by this Settlement, the Class Representative, the Class and each Class Member who has not submitted a valid and timely request for exclusion as to claims other than the PAGA claim, will release claims as follows:

(a) Identity of Released Parties. The released parties are Defendant and any parent, subsidiary, affiliate, predecessor or successor, and all agents, employees (current and former), officers, directors, insurers and attorneys (collectively "Releasees").

(b) Date Release Becomes Effective. The Released Claims will be released upon the later of (1) the Settlement's Effective Date, or (2) the satisfaction of Defendant's obligation to provide to the Settlement Administrator a sum in the amount required to satisfy all required payments and distributions pursuant to this Settlement and the Order and Judgment of final approval. Class Members will not release the Released Claims or Released PAGA Claims until both the Effective Date of the Settlement has occurred, and Defendant has paid all amounts owing under the Settlement.

(c) Claims Released by Settlement Class Members. Each and every Class Member, on behalf of himself and each of their heirs, assigns and successors, unless he or she has submitted a timely and valid Request for Exclusion (which will not effectuate an opt-out from the release of Released PAGA Claims), hereby releases Releasees from the following claims for the entire Class Period:

1) any and all claims stated in the Plaintiff's First Amended Complaint, or that could have been stated based on the facts alleged in the First Amended Complaint, including but not limited to state wage and hour claims (including all claims under the California Labor Code and Industrial Welfare Commission Wage Orders) for unpaid wages, minimum wage, overtime, meal periods, rest periods, wage statement violations, interest, penalties, and attorney's fees, waiting time penalties, withholding from wages and the related provisions of the California Labor Code and violations of California Unfair Competition Law (Cal. Bus. & Prof. Code §§ 17200, et seq.) ("Released Claims");

2) as to any Class Member who cashes their Settlement Payment, the signing and negotiation of that check shall serve as the Class Member's consent to join the action for purposes of releasing claims arising under the Fair Labor Standards Act that are related to the claims stated in the Complaint, implicitly or explicitly; and,

3) in addition, as to all Class Members employed during the Released PAGA Claims Period, whether requesting exclusion from the Settlement or not, claims arising under the Private Attorneys General Act of 2004, Labor Code § 2698 et seq., to the extent asserted in Plaintiff's administrative exhaustion letter submitted to the LWDA (Settlement Exhibit A) and the First Amended Complaint in this matter (i.e., the Released PAGA Claims).

No Class Member employed during the Released PAGA Claims Period can request exclusion from the settlement of the PAGA Claim. If you are a Class Member, and this Settlement is approved, you will release the PAGA Claim even if you timely and properly submit a Request for Exclusion form. The PAGA Employees are bound by the release of the PAGA Claims regardless of whether they cash their PAGA Payment Check.

What are my options in this matter?

You have two options under this Settlement, each of which is further discussed below. You may: (A) remain in the Class and receive an Individual Settlement Payment; or (B) exclude yourself from the Settlement. If you choose option (A), you may also object to the Settlement, as explained below.

If you remain in the Class, you will be represented at no cost by Class Counsel. Class Counsel, however, will not represent you for purposes of making objections to the Settlement. If you do not exclude yourself from the Settlement, you will be subject to any Judgment that will be entered in the Action, including the release of the Released Claims as described above.

OPTION A. Remain in the Class. If you wish to remain in the Class and be eligible to receive an Individual Settlement Payment, **you do not need to take any action.** By remaining in the Class and receiving settlement monies to resolve your class claims, you consent to the release of the Released Claims as described above.

Any amount paid to Settlement Class Members will not count or be counted for determination of eligibility for, or calculation of, any employee benefits (for example, vacations, holiday pay, retirement plans, non-qualified deferred compensation plans, etc.), or otherwise modify any eligibility criteria under any employee pension benefit plan or employee welfare plan sponsored by Defendant, unless otherwise required by law.

Objecting to the Settlement: If you believe the proposed Settlement is not fair, reasonable, or adequate in any way and you have selected to remain in the Class, you can ask the Court to deny approval of the Settlement by submitting an objection. You can't object to the release of the PAGA Claim or object to the PAGA Settlement Payment. You can't ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no additional settlement payments will be sent out and the Action will continue. If that is what you want to happen, you must object.

You may object to the Settlement in writing or by appearing at the Final Approval Hearing, either in-person or through your attorney. If you appear through your own attorney, you are responsible for paying that attorney. You may appear and orally object regardless of whether you submitted a written objection. Written objections should be sent to the Settlement Administrator at _____, _____. The written objection in any form should contain sufficient information to confirm your identity and the basis of the objection, including: (1) your full name; (2) the grounds for the objection; (3) your signature; (4) the case and number (*White v. SGB Ventures LLC*, Tulare County Superior Court Case No. VCU296946); and (5) be postmarked on or before <<RESPONSE DEADLINE>> and submitted to the Settlement Administrator at the address listed above. You can also hire an attorney at your own expense to represent you in your objection. The Parties shall file responses to any written objections before the Final Approval Hearing. Regardless of whether you object in writing, the Court may, in its sole discretion, permit you to state any objections you may have at the Final Approval Hearing. **Even if you submit an objection, you will be bound by the terms of the Settlement, including the release of Released Claims as set forth above, unless the Settlement is not finally approved by the Court.**

If you wish to attend the Final Approval Hearing remotely schedule request a remote appearance via the link provided in the Court's website <https://www.tulare.courts.ca.gov/online-services/request-remote-hearings> . You will need to use the Case Number for this case (VCU296946). If you wish to attend the Final Approval Hearing in person, you can attend it at Tulare County Superior Court, 221 South Mooney Boulevard, Visalia, CA 9329.

Regardless of the form, an objection, alone will not satisfy the requirement that a Class Member must formally intervene and become a party of record in the action to appeal a Judgment entered following an Order finally approving this Settlement, as is required under the California Supreme Court decision of *Hernandez v. Restoration Hardware*, 4 Cal. 5th 260 (2018).

OPTION B. Request to Be Excluded from the Class and Receive No Money from the Class Action Portion of the Settlement (PAGA Employees Still Will Receive Their Share of the PAGA Employee Payment). You may not seek exclusion from the PAGA portion of this Settlement. However, if you do not want to be part of the Class Settlement, you must complete and return the request for exclusion form to the Settlement Administrator at ----- . In order to be valid, your request for exclusion form must be signed and include your name, address, telephone number, the last four digits of your social security number or Employee ID (to confirm your identity and make certain that only persons requesting exclusion are removed from the settlement).

Your Request for Exclusion form (to remove you from the Class Settlement) must postmarked on or before <<RESPONSE DEADLINE>>. If you do not submit a Request for Exclusion form on time (as evidenced by the

postmark), your request to be excluded from the Settlement will be rejected, you will be deemed a Settlement Class Member, and you will be bound by the release of Released Claims as described above and all other terms of the Settlement. If you submit a Request for Exclusion form by the deadline to request exclusion, you will have no further role in the Action as it relates to the Class claims. You will not be able to complain to the Court about any aspect of the Class Settlement and any written objection to the Class Settlement would not be considered valid. **You will not be entitled to any benefit, including money,** as a result of the Action and Settlement, except for any payment you may be received from the PAGA portion of this Settlement.

IMPORTANT: DO NOT SUBMIT A REQUEST FOR EXCLUSION FORM IF YOU WISH TO BE INCLUDED IN THE CLASS SETTLEMENT AND RECEIVE YOUR SHARE OF THE MONEY AVAILABLE TO YOU AS PART OF THE SETTLEMENT.

What is the next step in the approval of the Settlement?

The Court will hold a Final Approval Hearing regarding the fairness, reasonableness and adequacy of the proposed Settlement, the plan of distribution, Class Counsel's Fees and Expenses, the Class Representative Service Payment, the Administrative Expenses, and the PAGA Allocation on <<FINAL APPROVAL HEARING DATE & TIME>>, in Department 7 of the Tulare County Superior Court, 221 South Mooney Boulevard, Visalia, CA 9329. As described above, if you wish to attend the Final Approval Hearing remotely schedule request a remote appearance via the link provided in the Court's website <https://www.tulare.courts.ca.gov/online-services/request-remote-hearings>. You will need to use the Case Number for this case (VCU296946). You are not required to attend the Final Approval Hearing to receive an Individual Settlement Payment.

If the Court grants Final Approval of the Settlement, the Order granting Final Approval and entering a Judgment, the Settlement Agreement will be posted on a website by the Settlement Administrator for a period of at least 90 days following the entry of that Order in the Court record. That website is: <<website>>.

How can I get additional information?

This Notice summarizes the Action and the basic terms of the Settlement. More details are in the Joint Stipulation of Class and PAGA Representative Action Settlement attached to the Declaration of Lilit Tunyan in Support of Plaintiff's Motion for Preliminary Approval. The Joint Stipulation of Class and PAGA Representative Action Settlement and all other records relating to the lawsuit are available for inspection and/or copying at the Civil Records Office of the Tulare County Superior Court. You may also request a copy of the Settlement Agreement from Class Counsel by using the contact information in this notice.

You may also view documents filed in this case, including the complete Settlement and case documents, on the Court's website at: <https://online.tulare.courts.ca.gov/?q=Home>. You may need the case number to access and view case documents (VCU296946) NOTE: If you choose to access documents online, the Court will charge you a fee for access. Class Counsel can provide you with copies of the settlement documents at no charge.

PLEASE DO NOT CONTACT THE COURT FOR INFORMATION REGARDING THIS SETTLEMENT.

Exhibit “2”

STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

On the date indicated below, I served the document described as: **DECLARATION OF LILIT TUNYAN IN SUPPORT OF PLAINTIFF’S MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT** on the interested parties in this action by sending a true copy thereof to interested parties as follows and as stated on the attached service list:

Jeffery C. Long
Jeffery.Long@llg-law.com
Teresa Boyd
teresa.boyd@llg-law.com
Shawn C. Loorz
shawn.loorz@llg-law.com
Star Smith
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Madeline Mulky
madeline.mulky@llg-law.com
Holly Marquard
holly.marquard@llg-law.com
Christina Nelson
christina.nelson@llg-law.com
LEVANGIE LAW GROUP
2969 Prospect Park Drive, Suite 125
Rancho Cordova, CA 95670
Telephone: (916) 443-4849
Defendant DIABLO RANGE FRAMING, INC.

[✓] **BY ELECTRONIC SERVICE:** Based on an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service addresses listed above via electronic mail. I did not receive an error message.

Executed on March 15, 2024, at Glendale, California.

Thurs

Signature