

MELMED LAW GROUP P.C.
Jonathan Melmed (SBN 290218)
jm@melmedlaw.com
Laura Supanich (SBN 314805)
lms@melmedlaw.com
Maria Burciaga (SBN 334545)
mb@melmedlaw.com
1801 Century Park East, Suite 850
Los Angeles, California 90067
Phone: (310) 824-3828
Fax: (310) 862-6851

Attorneys for Plaintiff, the Putative Class, and the Aggrieved Employees

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

FRANCISCO RODRIGUEZ, an individual, on
behalf of himself, the State of California, as a
private attorney general, and on behalf of all
others similarly situated,

Plaintiff,

v.

LAND SERVICES LANDSCAPE
CONTRACTORS, INC., a California
Corporation; and DOES 1 TO 50,

Defendants.

Case Number: 23CV028674

**Declaration of Jonathan Melmed in Support
of Plaintiff's Motion for Preliminary
Approval of Class Action Settlement**

*[Notice of Motion and Motion for Preliminary
Approval of Class Action Settlement,
Declaration of Francisco Rodriguez, and
[Proposed] Order filed concurrently herewith]*

Date: February 11, 2025
Time: 10 a.m.
Dept.: 23
Judge: Hon. Michael Markman

Reservation ID: 804846745465

Complaint Filed: March 2, 2023
Trial Date: None Set

DECLARATION OF JONATHAN MELMED

I, Jonathan Melmed, declare and state as follows:

1. I am an attorney licensed to practice law before this court and the federal and state courts of California. I am over 18 years of age. I have personal knowledge of the facts set forth in this declaration and if called upon to testify, could and would testify competently thereto.

2. I am a founding shareholder in the law firm of Melmed Law Group P.C. (“Class Counsel” or “Plaintiff’s Counsel”) who serve as the attorneys of record for Plaintiff Francisco Rodriguez (“Plaintiff”) and the proposed settlement class (the “Class” or “Class Members”) in the above-captioned matter.

3. I am submitting this declaration in support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement (“Motion for Preliminary Approval”). All terms used herein have the meaning given in the Motion for Preliminary Approval, unless otherwise defined. A true and correct copy of the *Stipulation of Class Settlement and Release of Claims* (“Settlement Agreement”) entered into between Plaintiff and Defendant Land Services Landscape Contractors, Inc. (“Defendant”) is attached hereto as **Exhibit A**, which includes the *Notice of Proposed Class Action and PAGA Settlement* (“Class Notice”). (Plaintiff and Defendant are collectively referred to herein as the “Parties”). Counsel for the Plaintiff has reviewed the Settlement Agreement and notice to ensure they are consistent. A bid for the costs of settlement administration from the proposed settlement administrator Apex Class Action Administration is attached as **Exhibit B**. The Settlement Agreement, in its entirety, is incorporated herein by reference.

The Parties and the Putative Class

4. After comprehensive arm’s-length settlement discussions with experienced defense counsel, the Parties entered into the Settlement Agreement resolving the claims of the putative Class Members and Aggrieved Employees. The Settlement Agreement seeks to fully release and discharge Defendant from the claims brought against it in this matter. The Settlement Agreement contemplates a non-reversionary maximum settlement amount of \$150,000 (“Maximum Settlement Fund”) to be paid to the Class of approximately 132 individual Class Members, as that Class is defined in the Motion for Preliminary Approval.

1 5. I believe that, because the settlement is fair and reasonable, was negotiated at arm's
2 length between counsel following extensive investigation and discovery and was reached after
3 participation in a full-day mediation, it should be preliminarily approved.

4 6. I have no knowledge of the existence of any conflicting interests between my firm and
5 any of its attorneys, on the one hand, and Plaintiff or any other Class Member, on the other. I and the
6 attorneys at my firm have vigorously prosecuted this action and have the financial resources to handle
7 this case.

8 7. On information and belief, Defendant is commercial landscaping company based in
9 Fremont, California. During the Class and PAGA periods, Plaintiff was employed by Defendant as an
10 hourly worker in the position of a landscaper until his termination on or about February 9, 2023.

11 *Procedural History, Discovery, and Mediation*

12 8. On March 2, 2023, Plaintiff submitted a letter to the California Labor and Workforce
13 Development Agency ("LWDA") to notify the LWDA, pursuant to PAGA, of Plaintiff's intent to seek
14 civil penalties against Defendant for violations of Labor Code sections 201, 202, 203, 204, 210, 226,
15 226.3, 226.7, 256, 510, 512, 1174, 1174.5, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199,
16 2802, 2084 and others that may be applicable; and California Industrial Welfare Commission ("IWC")
17 Wage Orders 5-2001 and/or 16-2001, and others that may be applicable (the "Applicable Wage
18 Order"). (Cal. Code of Regs., tit. 8, § 11140; The letter attached Plaintiff's original complaint and
19 incorporated the original complaint by reference, and thus sought penalties for claims identical to
20 those alleged in the case. For the Court's reference, a copy of Plaintiff's letter to the LWDA is attached
21 as **Exhibit C** to the concurrently filed with this declaration.

22 9. Also on March 2, 2023, Plaintiff commenced this action by filing a class action
23 complaint alleging causes of action against Defendant for **(1)** failure to pay all minimum wages for all
24 hours worked in violation of Labor Code sections 1194 and 1194.2, and the Applicable Wage Order;
25 **(2)** failure to pay all overtime wages in violation of Labor Code sections 510, 1197, and 1198, and the
26 Applicable Wage Order; **(3)** failure to provide compliant rest periods and pay missed rest period
27 premiums in violation of Labor Code section 226.7 and the Applicable Wage Order; **(4)** failure to
28 provide compliant meal periods and pay missed meal period premiums in violation of Labor Code

1 sections 226.7 and 512, and the Applicable Wage Order; **(5)** failure to maintain accurate employment
2 records in violation of Labor Code section 1174; **(6)** failure to pay timely wages during employment
3 in violation of Labor Code sections 204, 210; **(7)** failure to pay all wages earned and unpaid at
4 separation in violation of Labor Code sections 201, 202, and 203; **(8)** failure to indemnify all necessary
5 business expenditures in violation of Labor Code Section 2802; **(9)** failure to provide complete and
6 accurate wage statements in violation of Labor Code sections 226 and 226.3; **(10)** deceptive,
7 fraudulent, or otherwise unlawful business practices based on the foregoing in violation of California’s
8 Unfair Competition Law (Bus. & Prof. Code, §§ 17200–17210); and **(11)** penalties pursuant to PAGA
9 for violations of California Labor Code Sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 256, 510,
10 512, 1174, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2804, and other provisions
11 of the Labor Code.

12 10. On April 17, 2023, Defendant filed an Answer to the Complaint, in which Defendant
13 denied each and every cause of action in the Complaint.

14 11. On December 5, 2023, defense counsel contacted Plaintiff counsel expressing
15 uncertainty regarding Defendant’s financial condition. The Parties thereafter agreed to attend
16 mediation with Judge Mitchel R. Goldberg (“Judge Goldberg”) on April 22, 2024. Judge Goldberg
17 spent approximately 20 years of service on the U.S. Bankruptcy Court, 9th Circuit, Central District of
18 California, where he presided over and mediated all types of bankruptcy and non-bankruptcy related
19 issues including class actions. Judge Goldberg now mediates privately with Judicate West
20 (<https://www.judicatewest.com/adr/mitchel-goldberg>).

21 12. Prior to the mediation, Plaintiff’s counsel conducted significant informal discovery.
22 Discovery, investigation, and prosecution have included, among other things, numerous telephonic
23 conferences with Plaintiff; inspection and analysis of hundreds of pages of documents, including
24 Defendant’s financial documents, including Defendant’s relevant policies and employee handbook
25 and other information produced by Plaintiff and Defendant; analysis of work-related data from a
26 sample of Class Members and Aggrieved Employees; an analysis of the legal positions taken by
27 Defendant; investigation into the viability of class treatment of the claims asserted in the action;
28 analysis of potential class-wide damages, including information sufficient to understand Defendant’s

1 potential defenses to Plaintiff's claims; research of the applicable law with respect to the claims
2 asserted in the Operative Complaint and the potential defenses thereto; and assembling and analyzing
3 of data for calculating damages.

4 13. Among other key pieces of information, Plaintiff's counsel requested in its informal
5 discovery letter the wage statements and time records for a statistically significant sample size of Class
6 Members during the Class Period. The Parties agreed on, and Defendant produced a 24.2% sampling
7 of randomly-selected employees, which Plaintiff's counsel determined would provide a statistically
8 significant sample size with a high-degree of confidence for Plaintiff's expert's statistical analysis.
9 This sampling included payroll records and timesheets for the Class Members' shifts during the Class
10 Period. From these records, Plaintiff's expert was able to carefully craft a damages model for each of
11 the categories of alleged claims for which the data would reflect violations. Defendant also produced
12 a significant amount of financial documents to allow the mediator to adequately analyze its financial
13 position.

14 14. After a full-day mediation on April 22, 2024, the Parties reached the broad terms of a
15 settlement on behalf of Plaintiff, the Putative Class, and the Aggrieved Employees. After further
16 negotiation, the Parties executed the long-form Settlement Agreement now before the Court for
17 approval.

18 15. Prior to and during mediation, the Parties exchanged further information and discussed
19 all aspects of the case, including the risks and delays posed by additional litigation, the risks to both
20 Parties for proceeding with a motion for class certification, along with the evolving legal landscape
21 and evidentiary challenges to establishing respective claims and defenses. These were contentious
22 issues because of the factual and legal complexity of the case. However, the Parties were able to reach
23 a settlement, which was memorialized in a memorandum of understanding ("MOU").

24 Summary of the Parties' Claims and Defenses

25 16. In the operative Complaint, Plaintiff, individually and on behalf of the putative Class
26 alleges causes of actions for: **(1)** failure to pay all minimum wages (Labor Code §§ 1194, 1194.2,
27 1197); **(2)** failure to pay all overtime wages (Labor Code §§ 510); **(3)** failure to provide rest periods
28 and pay missed rest period premiums (Labor Code § 226.7 and the applicable IWC Wage Orders); **(4)**

1 failure to provide meal periods and pay missed meal period premiums (Labor Code §§ 512, 226.7 &
2 the applicable IWC Wage Orders); **(5)** failure to maintain accurate employment records in violation
3 of Labor Code section 1174; **(6)** failure to pay wages timely during employment in violation of Labor
4 Code sections 204, 210; **(7)** failure to pay all wages earned and unpaid at separation in violation of
5 Labor Code sections 201, 202, and 203; **(8)** failure to indemnify all necessary business expenditures
6 in violation of Labor Code section 2802; **(9)** failure to furnish accurate itemized wage statements in
7 violation of Labor Code sections 226 and 226.3; **(10)** deceptive, fraudulent, or otherwise unlawful
8 business practices based on the foregoing in violation of California’s Unfair Competition Law (Bus.
9 & Prof. Code, §§ 17200–17210); and **(11)** statutory penalties based on the foregoing pursuant to
10 PAGA (Lab. Code, §§ 201-2804).

11 17. Labor Code § 1197 states the California requirement that employees must be paid at
12 least the minimum wage fixed by the Commission, and any payment of less than the minimum wage
13 is unlawful. Similarly, Labor Code § 1194 entitles “any employee receiving less than the legal
14 minimum wage...to recover in a civil action the unpaid balance of the full amount of this minimum
15 wage.” Further, the IWC Wage Order obligates employers to pay each employee minimum wages for
16 all hours worked.

17 18. These minimum wage standards apply to each hour employees worked for which they
18 were not paid. Therefore, an employer’s failure to pay for any particular hour of time worked by an
19 employee is unlawful, even if averaging an employee’s total pay over all hours worked, paid or not,
20 results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135
21 Cal.App.4th 314, 324.

22 19. Here, Plaintiff alleged that Defendant failed to fully conform its pay practices to the
23 requirements of the law during the relevant statutory periods. Plaintiff alleged that the Class Members
24 were not compensated for all hours worked including, but not limited to, all hours they were subject
25 to the control of Defendant and/or suffered or permitted to work under the California Labor Code and
26 the Applicable Wage Orders.

27 20. Labor Code section 510 states, “[e]ight hours of labor constitutes a day’s work. Any
28 work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek

1 and the first eight hours worked on the seventh day of work in any one workweek shall be compensated
2 at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in
3 excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of
4 pay for an employee.”

5 21. Plaintiff alleged that he and the Class worked certain hours for which they were not
6 paid, working at least one hour of overtime every week. However, no overtime compensation was
7 paid at all to Plaintiff and the Class. However, Plaintiff alleged that Defendant failed to properly pay
8 all overtime hours worked to Plaintiff and the Class. Specifically, Plaintiff alleged that Defendant
9 maintained a practice of only recording and paying eight hours a shift, despite Plaintiff and Class
10 Members working beyond the scheduled shifts.

11 22. Further, Plaintiff asserted that Defendant failed to include additional, nondiscretionary
12 compensation in calculating the Class Members’ regular rate of pay. Thus, Plaintiff alleged that he
13 and the Class only received overtime compensation based on their base hourly wage, and not based
14 on their regular rate of pay.

15 23. Pursuant to the IWC Wage Order, an employer must authorize and permit all employees
16 to take ten (10) minute duty free rest periods for every major fraction of four hours worked. Labor
17 Code § 226.7 provides “an employer shall not require an employee to work during a meal or rest or
18 recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order
19 of the Industrial Welfare Commission (“IWC”). See *Augustus v. ABM Security Services, Inc.* (2016)
20 2 Cal. 5th 257, 269 (concluding that “during rest periods employers must relieve employees of all
21 duties and relinquish control over how employees spend their time.”).

22 24. Here, Plaintiff alleged that Defendant failed to authorize or permit Plaintiff and the Class
23 Members to take duty-free rest periods of not less than ten (10) minutes for every major fraction of
24 four (4) hours worked. Specifically, Plaintiff alleged that due to the demands of the job, Defendant
25 failed to authorize or permit Plaintiff and the Class Members to take rest periods at any time during
26 the course of their employment.

1 25. In addition to failing to authorize and permit compliant rest periods, Plaintiff and the
2 Class were not compensated with one (1) hour's-worth of pay at their regular rate of compensation
3 when they were not provided with a compliant rest period in accordance with Labor Code § 226.7(b).

4 26. Under California Labor Code Section 512 and the IWC Wage Order, no employer shall
5 employ any person for a work period of more than five (5) hours without providing a meal period of
6 not less than thirty (30) minutes. During this meal period of not less than thirty (30) minutes, the
7 employee is to be completely free of the employer's control and must not perform any work for the
8 employer. If the employee does perform work for the employer during the thirty (30) minute meal
9 period, the employee has not been provided a meal period in accordance with the law. Also, the
10 employee is to be compensated for any work performed during the thirty (30) minute meal period.
11 Finally, an employer may not employ an employee for a work period of more than ten (10) hours a
12 day without providing the employee with another meal period of not less than thirty (30) minutes.

13 27. Here, Plaintiff alleged that Defendant failed to provide Plaintiff and the Class Members
14 compliant meal periods due to the demands of the job. Further, Plaintiff estimates that at least 50% of
15 shifts did not include a recorded meal period.

16 28. In addition to failing to authorize and permit compliant meal periods, Plaintiff alleged
17 that he and the Class Members were not compensated with one (1) hour's worth of pay at their regular
18 rate of compensation when they were not provided with a compliant meal period in accordance with
19 Labor Code § 226.7.

20 29. Labor Code section 1174 states, "[e]very person employing labor in this state shall...
21 [k]eep, at a central location in the state or at the plants or establishments at which employees are
22 employed, payroll records showing the hours worked daily by and the wages paid to, ..., employees
23 employed at the respective plants or establishments." The "Records" section of the applicable IWC
24 Wage Order states that every employer shall keep accurate information with respect to each one of its
25 employees, including time records showing when the employee begins and ends each work period and
26 meal period, total hours worked in the payroll period and applicable rates of pay, and total wages paid
27 each payroll period.
28

1 30. Further, Labor Code section 1174.5 imposes a civil penalty of \$500 for an employer's
2 failure to maintain accurate and complete records. This civil penalty is in addition to the civil penalty
3 of \$100 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code section
4 2699 for a violation of Labor Code section 1174(d).

5 31. Here, Plaintiff argued that Defendant violated these requirements by failing to
6 accurately record employee hours worked including, but not limited to, Defendant's failure to record
7 the proper beginning and end of each work period and each meal period taken, the applicable rates of
8 pay, and the wages paid.

9 32. Labor Code § 204 expressly requires employers who pay employees on a weekly,
10 biweekly, or semimonthly basis to pay all wages "not more than seven calendar days following the
11 close of the payroll period."

12 33. Here, Plaintiff alleged that due to Defendant's failure to pay to Plaintiff and the Class
13 minimum wage and overtime compensation and meal and rest period premiums as described above,
14 Defendant failed to timely pay its employees within seven calendar days following the close of payroll
15 in accordance with Labor Code § 204 on a regular and consistent basis. *See Parson v. Golden State*
16 *FC, LLC*, 2016 U.S. Dist. LEXIS 58299, 2016 WL 1734010, at *3-5 (N.D. Cal. May 2, 2016) (finding
17 after *Ling vs. P.F. Chang's China Bistro, Inc.* that a failure to pay rest period premiums can support
18 claims under Labor Code §§ 203 and 204).

19 34. Due to Defendant's faulty policies described above, Plaintiff argued that he and the
20 Class whose employment with Defendant concluded were not compensated for each and every hour
21 worked or at the appropriate rate.

22 35. Plaintiff alleged that, as a result of Defendant's failure to pay Plaintiff and the Class for
23 meal and rest period premiums, and failure to pay all minimum and overtime wages, Defendant has
24 violated and continues to violate Labor Code section 203. Labor Code section 203 provides "if an
25 employer willfully fails to pay ... any wages of an employee who is discharged or who quits, the
26 wages of the employee shall continue as a penalty..." for up to 30 days. (Lab. Code § 203; *Mamika v.*
27 *Barca* (1998) 68 Cal.App.4th 487, 492).

1 36. Due to Defendant's faulty policies described above, Plaintiff argued that he and the
2 Class whose employment with Defendant concluded were not compensated for each and every hour
3 worked or at the appropriate rate. Additionally, Plaintiff alleged that Defendant failed to pay all Class
4 Members for meal and rest period premiums and all unpaid minimum and overtime wages, whose
5 sums were certain, at the time of termination or within seventy-two (72) hours of their resignation and
6 have failed to pay those sums for thirty (30) days thereafter.

7 37. Plaintiff argued that he and the Class incurred necessary business expenses because
8 Defendant provided only a t-shirt for uniform and broken goggles. As a result, Plaintiff asserted that
9 he and the Class were required to pay out of their pocket for boots, work pants, and gloves.

10 38. Plaintiff argued that Defendant's policies and/or practices require and expect, and/or
11 with Defendant's knowledge thereof permit, Plaintiff and the Class to use their personal equipment
12 for work related purposes without reimbursement in full by Defendant for such expenses. To the
13 contrary, Plaintiff argued that although he and the Class used their personal equipment for necessary
14 work-related purposes to perform their job duties with the knowledge of and/or acquiescence of
15 Defendant, Defendant did not reimburse Plaintiff and the Class in any amount for any such expenses
16 incurred.

17 39. Labor Code § 226(e) provides that an employee is entitled to recover \$50 for initial day
18 period in which a violation of Labor Code §226 occurs and \$100 for each subsequent pay period, not
19 to exceed \$4,000.00, as well as an award of costs and reasonable attorneys' fees, for all such pay
20 periods.

21 40. An employee suffering injury as a result of a knowing and intentional failure by an
22 employer to comply with Labor Code § 226(a) is entitled to recover the greater of all actual damages
23 or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars
24 (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty
25 of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorneys'
26 fees." *Id.* § 226(e).

27 41. Plaintiff argued that due to Defendant's failure to provide Plaintiff and the Class with
28 lawful off-duty meal and rest periods and/or pay meal and rest period premiums, and failure to pay

1 minimum and overtime wages, the wage statements issued by Defendant did not indicate the correct
2 amount of gross wages earned, total hours worked, net wages earned, or the applicable hourly rates in
3 effect during the pay period and the corresponding number of hours worked at each hourly rate in
4 violation of Labor Code § 226(a)(1), (2), (5) and (9).

5 42. Plaintiff contended that by committing the above-described Labor Code violations,
6 Defendant engaged in unlawful, unfair, and/or fraudulent business practices in violation of Cal. Bus.
7 & Profs. Code §§ 17200-17210 and is liable for restitution to the Plaintiff and the Class. Moreover,
8 this cause of action lengthens the statute of limitations of the Class's claims to four years preceding
9 the filing of the Complaint.

10 43. Here, Plaintiff alleged that, by virtue of the allegations that Defendant failed to properly
11 pay Plaintiff and the Class their wages as described above, Defendant was liable for restitution in the
12 same amount of the unlawfully withheld wages described above. Because the relief sought under
13 Plaintiff's UCL claims—namely, in the form of restitution for unpaid wages—was coterminous with
14 Plaintiff's other claims, Plaintiff believed that the UCL allegations did not materially change
15 Plaintiff's analysis of Defendant's exposure.

16 44. The Private Attorney General Act of 2004 ("PAGA" - Labor Code §§ 2699-2699.5)
17 allows an aggrieved employee to bring suit against an employer for violations of most Labor Code
18 provisions. Suits brought under PAGA do not affect the employee's right to recover other remedies
19 under state or federal law. *See* Labor Code § 2699(g); *Caliber Bodyworks, Inc. v. Superior Court*, 134
20 Cal. App. 4th 365, 375 (2005). Wherever the Labor Code gives the Labor and Workforce Development
21 Agency discretion to assess a civil penalty, a court is authorized to exercise the same discretion. Labor
22 Code § 2699(e)(1). The statute of limitations for PAGA suits is one year. An employee who prevails
23 in an action brought under PAGA is entitled to an award of reasonable attorneys' fees and costs. The
24 penalties available under PAGA are those provided in the underlying Labor Code provision that is
25 violated or, if no penalty is listed, those provided by PAGA itself. Where the Labor Code does not
26 provide for a penalty, PAGA establishes a civil penalty of \$100 for each aggrieved employee per pay
27 period for the initial violation and \$200 for each aggrieved employee per pay period for each
28 subsequent violation. Labor Code § 2699(f). For any civil penalties collected under PAGA, seventy-

1 five percent of the penalties are distributed to the LWDA for enforcement and education, and twenty-
2 five percent is distributed to the aggrieved employees.

3 45. Plaintiff alleged that by virtue of each of Defendant's foregoing Labor Code violations,
4 Plaintiff and the Class are, in addition to other remedies, entitled to civil penalties under PAGA. This
5 cause of action opens Defendant to additional penalties for the Labor Code violations, in addition to
6 attorneys' fees and costs.

7 46. In ascertaining Defendant's exposure for this claim, Plaintiff considered several
8 important cases. First, courts to consider the issue have refused to "stack" PAGA penalties, severely
9 limiting the recoverable PAGA penalties. (See *Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th
10 504, 529 [approving PAGA penalty reduction to \$5 per pay period]; accord *Atempa v. Pedrazzani*
11 (2018) 27 Cal.App.5th 809.)

12 47. Plaintiff alleged that by virtue of each of Defendant's foregoing Labor Code violations,
13 Plaintiff and the Class are, in addition to other remedies, entitled to civil penalties under PAGA. This
14 cause of action opens Defendant to additional penalties for the Labor Code violations, in additions to
15 attorneys' fees and costs.

16 48. Defendant denied and continues to deny generally the claims and contentions alleged in
17 the Complaint.

18 49. ***First***, and perhaps **most significantly**, Defendant indicated that it was facing severe
19 financial challenges that could preclude it from paying any class wide settlement or award. At
20 mediation, Defendant provided numerous financial documents to the mediator. At mediation, the
21 mediator and Plaintiff's counsel spent significant time reviewing Defendant's produced financial
22 documents and recognized the very real risk that Defendant's severe financial challenges can
23 potentially preclude Defendant from paying a class wide settlement or award. In fact, the Parties
24 jointly decided that Judge Mitchell Goldberg was one of the few mediators in California with the
25 skillset to mediate this case. Specifically, Judge Goldberg's experience mediating class action cases,
26 coupled with his experience on the federal bankruptcy court, allowed him to analyze this case from
27 the perspective of the substantive merits, but also with a scrutinizing eye toward Defendant's tax
28 returns, financial statements, debt obligations, credit applications, profit / loss materials and balance

1 sheets. **The Parties do not dispute that Defendant has little resources to resolve these claims.**

2 Plaintiff's counsel took Defendant's financial position into account when coming towards a fair
3 valuation of Plaintiff's claims discussed below.

4 50. ***Second***, Defendant argued that it did, in fact, pay the Class Members for all hours
5 worked. Defendant also argued that there were multiple individualized liability issues related to this
6 claim. Defendant argued that there would be significant variation between the Employees in terms of
7 what off-the-clock hours were actually worked. Defendant further argued that separate, highly-
8 individualized determinations would be needed to ascertain whether the Employees did in fact engage
9 in off-the-clock work and whether Defendant had actual or constructive knowledge of off-the-clock
10 work performed. Thus, Defendant concluded that the individualized inquiries necessary to determine
11 liability and damages would render any class action unmanageable.

12 51. ***Third***, Defendant argued that it properly paid all overtime hours owed. Further,
13 Defendant argued that any additional pay was discretionary, and thus not required to be incorporated
14 into the employees' regular rate of pay.

15 52. ***Fourth***, Defendant argued that Plaintiff and Class Members were provided with
16 compliant rest periods; therefore, Defendant argued it did not maintain an unlawful rest period policy
17 and Plaintiff's claim was entirely without merit. Defendant further argued Plaintiff's evidence was
18 purely testimonial and that Defendant intended to challenge this claim should the case proceed to trial.
19 Thus, whether Class Members missed their rest periods would turn on individualized issues and
20 therefore present significant difficulty in obtaining class certification.

21 53. ***Fifth***, Defendant argued that Plaintiff and Class Members were provided with compliant
22 meal breaks. Defendant further argued that any late or missed meal periods were, at most, sporadic
23 such that even if Plaintiff succeeded in arguing that Defendant did not sufficiently inform its
24 employees of their right to take meal and rest breaks, the resulting inquiries are entirely individual and
25 would overwhelm any class-wide questions.

26 54. ***Sixth***, Defendant argued that PAGA penalties would be limited. Defendant argued that
27 even if Plaintiff prevailed, the recoverable penalties under PAGA are minimal. First, courts to consider
28 the issue have refused to "stack" PAGA penalties. *See Carrington v. Starbucks Corporation* (Cal. Ct.

1 App. Nov. 27, 2018) No. D072392 (published Dec. 19, 2018) (approving PAGA penalty reduction to
2 \$5 per pay period); accord *Atempa v. Pedrazzani* (2018) 27 Cal.App.5th 809. Moreover, Defendant
3 argued that Plaintiff is not entitled to recover PAGA penalties at the subsequent violation rate of \$200
4 per pay period. California’s appellate courts have held that “[u]ntil the employer has been notified that
5 it is violating a Labor Code provision (whether or not the commissioner or court chooses to impose
6 penalties), the employer cannot be presumed to be aware [of the violation]” and therefore, until a
7 Court or the Commissioner issues a finding of a violation, the initial \$100 violation rate applies for
8 each pay period in which the alleged violation occurred. *Amaral v. Cintas Corp.* No. 2 (2008) 163
9 Cal.App.4th 1157, 1209; accord *Amalgamated Transit Union Local 1309 v. Laidlaw Transit Service,*
10 *Inc.* (S.D. Cal. Aug. 10, 2009) 2009 WL 2448430, at *9 (“[u]nder California law, courts have held
11 that employers are not subject to heightened penalties for subsequent violations unless and until a
12 court or commissioner notifies the employer that it is in violation of the Labor Code”). Thus,
13 Defendant argued that even if the Plaintiff was able to establish any violation of the Labor Code, the
14 PAGA penalties assessed for these violations will be computed at the \$100 rate, as opposed to the
15 \$100 per pay period rate at maximum, and there is a likelihood that a further reduction of the penalty
16 to \$5 per pay period as approved in Carrington would apply given Defendant’s compliance with the
17 Labor Code as discussed above. Defendant further argued that even if Plaintiff was able to recover
18 some PAGA penalties on behalf of other aggrieved employees, courts frequently use their discretion
19 under Section 2699(e)(2) to significantly reduce PAGA penalties where such penalties would be
20 unjust, arbitrary and improper. (See, e.g., *Stuart v. RadioShack Corp.* (N.D. Cal. 2009) 641 F. Supp.
21 2d 901, 902–03; *Hernandez v. BCI Coca-Cola Bottling Co.* (C.D. Cal. Apr. 12, 2012) 2012 WL
22 12272348, at *2, judgment entered, 2012 WL 12092593 (C.D. Cal. May 9, 2012), and aff’d, 554 F.
23 App’x 661 (9th Cir. 2014).) Defendant maintains that given their good faith attempts to comply with
24 the Labor Code, and de minimis defenses, this Court would exercise its discretion to substantially
25 reduce any PAGA penalties if it were to find Defendant liable for any of Plaintiff’s claims. See also,
26 Labor Code §§ 203, 2699(e)(2); *Thurman v. Bayshore Transit Mgmt., Inc.* (2012) 203 Cal.App.4th
27 1112, 1135 (affirming reduction of PAGA penalties for wage statement violations from \$2,800,000 to
28 \$500,000, because “the aggrieved employees suffered no injury” as a result of the violations, the

1 defendants “were not aware” their wage statements violated the law, and the defendants “took prompt
2 steps to correct all violations once notified.”); *Fleming v. Covidien, Inc.* (C.D. Cal. Aug. 12, 2011, No.
3 (OPX)) 2011 WL 7563047, at *4 (reducing PAGA penalties from \$2.8 million to \$500,000).

4 55. ***Seventh***, Defendant asserted that any violations of the Labor Code were unintentional,
5 and that Plaintiff would have difficulty proving willfulness or intentionality for penalty purposes,
6 including claims for civil penalties under PAGA and claims for waiting time penalties. Defendant
7 further argued that Plaintiff would be unable to prove “injury” for purposes of recovering penalties
8 under Labor Code 226(e).

9 56. In considering these risks and others, as well as the time, expense and cost of litigation,
10 trial and appeals, the Parties agreed that Settlement was appropriate, and that the Settlement here is
11 fair and reasonable.

12 Unpaid Minimum Wages

13 Due to Defendant’s unlawful policy of failing to pay Plaintiff and the Class for 5 minutes per
14 shift, Plaintiff estimated that 5 minutes per shift remained unpaid, resulting in a total of 4,993.7 unpaid
15 hours. When multiplied by the average hourly rate of \$20.02, this results in a total of **\$99,973.87** owed
16 in unpaid wages.

17 Unpaid Overtime Wages

18 Plaintiff estimates that approximately 13,027 hours were worked by the Class Members and
19 were not compensated. As such, Plaintiff’s estimated underpayment for overtime is an absolute
20 maximum of **\$391,200.81** (\$30.03 overtime rate x 13,027 overtime hours worked).

21 Rest Period Claims

22 Plaintiff estimates that at least 50% of shifts did not include a rest period, for a total of 29,962
23 shifts for which a rest period premium is still owed. Plaintiff estimates Defendant’s maximum
24 exposure for its rest period violations is **\$599,839.24** (29,962 shifts x \$20.02 per hour).

25 Meal Period Claims

26 Plaintiff estimates that at least 50% of shifts did not include a meal period, for a total of
27 approximately 29,962 shifts for which a meal period premium is still owed. Plaintiff estimates
28 Defendant’s maximum exposure for its meal period violations is **\$599,839.24** (29,962 shifts x \$20.02

1 per hour).

2 Unreimbursed Expenses

3 Plaintiff estimates he and the Class Members are owed approximately \$50.00 for unreimbursed
4 business expenses, for a total of **\$6,600.00** (132 x \$50.00).

5 Wage Statement Penalties

6 Plaintiff calculated that there were approximately 2,506 pay periods during the applicable
7 statutory period for this claim. Since 84 of these are initial (\$50 penalty for a total of \$4,200) and 2,422
8 are subsequent (\$100 penalty for a total of \$242,200), there is a grand total of **\$246,400.00**.

9 Waiting Time Penalties

10 Defendant represented that there were 69 former employees owed waiting time penalties. Thus,
11 Plaintiff's counsel estimated that Defendant's exposure for this claim is **\$331,531.20** (69 former
12 employees x 30 days x 8 hours x \$20.02) in waiting time penalties.

13 PAGA Penalties

14 Plaintiff estimated approximately 2,506 pay periods within the applicable PAGA period.
15 Assuming arguendo that all of the PAGA pay periods are "initial," then Defendant's exposure for
16 PAGA penalties is at least \$100 x 2,506, which would yield an absolute maximum exposure of
17 **\$250,600.00**.

18 The Maximum Settlement Fund

19 57. In coming to a determination that this settlement is fair and reasonable and in the best
20 interests of the Class, Plaintiff took the following factors into consideration: *First*, the risk of the Court
21 determining Defendant had compliant meal and rest period policies. *Second*, Plaintiff recognized that
22 certification of the meal and rest break claims may prove challenging given Defendant's defense that
23 individualized inquiries would predominate. Plaintiff ascribed a realistic settlement value of these
24 claims at 8% of the maximum value given the risks of (1) Defendant's severe financial condition, (2)
25 not certifying the class, and (3) not being able to establish (if the class is certified) damages on a
26 classwide basis. *Third*, the risk that Defendant could implement a *Pick-Up Stix* strategy, whereby it
27 would enter into individual settlement agreements with each of the Class Members. *Fourth*, Plaintiff
28

1 took into account that this Court may not find the requisite willfulness to award penalties, and that this
2 Court may exercise its discretion to reduce (or perhaps not award any) PAGA penalties.

3 58. Defendant also asserted that any violations of the Labor Code were unintentional, and
4 that Plaintiff would have difficulty proving willfulness or intentionality for penalty purposes,
5 including claims for civil penalties under PAGA and claims for waiting time penalties. Defendant
6 further argued that Plaintiff would be unable to prove “injury” for purposes of recovering penalties
7 under Labor Code 226(e).

8 59. If Defendant prevailed on any of these defenses, the Claims of the Class would be worth
9 **nothing** or substantially less. Thus, given the total potential recovery, and the risks involved, a
10 settlement of \$150,000.00, is an excellent one. Further, the recovery for the Settlement is an immediate
11 one, whereas litigation and appeals could result in years of litigation without any recovery to the Class.

12 60. As explained above, the issues in this case were hotly contested—both legally and
13 factually. While Plaintiff continues to believe in the merits of the case, Defendant argued that it fully
14 complied with California’s wage and hour laws, and thus faced minimal exposure, if any. Therefore,
15 the Maximum Settlement Fund of \$150,000 is an excellent result and within the zone of
16 reasonableness for all parties.

17 61. The Maximum Settlement Fund in the Settlement Agreement was reached only after the
18 case was thoroughly investigated by Plaintiff’s counsel. As explained above, Plaintiff’s counsel
19 reviewed, among other key pieces of information, the records of a 24.2% sampling of randomly-
20 selected employees, which Plaintiff’s counsel determined would provide a statistically significant
21 sample size with a high-degree of confidence for Plaintiff’s expert’s statistical analysis. This sampling
22 included payroll records and timesheets for the Class Members’ shifts during the Class Period.
23 Plaintiff’s counsel also conducted a detailed examination of Defendant’s relevant policies to inform
24 Plaintiff’s counsel’s analysis of Defendant’s potential exposure. From these records, Plaintiff’s expert
25 was able to carefully craft a damages model for each of the categories of alleged claims for which the
26 data would reflect violations. In total, Plaintiff’s counsel and Plaintiff’s expert reviewed hundreds of
27 pages of documents prior to agreeing to settle the case.
28

1 62. These documents, along with the other investigation and discovery described above,
2 were sufficient to allow counsel to act intelligently in reaching the Settlement Agreement and
3 determining that the Maximum Settlement Amount was adequate. (*Dunk v. Ford Motor Co.* (1996)
4 48 Cal.App.4th 1794, 1802.) Indeed, after a thorough review of all available evidence in the case,
5 Plaintiff's counsel have concluded that the Maximum Settlement Fund represents an excellent result
6 for the Class.

7 63. The estimated 132 Class Members will enjoy monetary recovery amounting to an
8 average recovery per class member of approximately \$246.21 net and an approximate maximum
9 recovery of \$515.87 net.

10 64. The Settlement Agreement was negotiated at arm's length between counsel using a
11 professional and well-respected third-party neutral. Counsel for both parties were thoroughly familiar
12 with the complex legal and factual questions at issue in this litigation. The Settlement Agreement is a
13 product of intensive negotiations, supported by investigation and direct exchanges of information
14 through informal discovery, during the course of settlement negotiations, including a full-day
15 mediation. Although Plaintiff and his counsel believed the class claims had merit and there was a
16 possibility of certifying the class and claims, they recognized the potential risk, expense, and
17 complexity posed by litigation, such as unfavorable decisions on class certification, summary
18 judgment, at trial and/or on the damages awarded, and/or on an appeal that can take several more years
19 to litigate. The resulting Settlement Agreement was based on calculations, risk assessment, and non-
20 collusive negotiations. It takes the risks identified above and others into account in arriving at the non-
21 reversionary Maximum Settlement Fund of \$150,000.00.

22 65. From Class Counsel's review of the facts, strengths, and weaknesses of the case, the
23 risks and delays posed by further litigation, including Defendant's severe financial condition, and
24 Class Counsel's own prior litigation experience, Class Counsel believe that the recovery for each Class
25 Member is fair and reasonable taking into consideration the amounts received in other wage and hour
26 class actions, the risks inherent in this type of litigation, and the reasonable tailoring of each Class
27 Member's claims to the settlement award he or she will receive.
28

1 66. I believe that the causes of action, allegations, and contentions asserted in the action
2 have merit, and that there was significant possibility of certifying the claims as a class action. I also
3 recognize and acknowledge, however, the expense and delay of continued lengthy proceedings
4 necessary to prosecute the action against Defendant through class certification, summary judgment
5 trial, and through appeals. Moreover, I have taken into account the uncertain outcome and the risk of
6 any litigation, the risk of continued litigation in complex actions such as this, as well as the difficulties
7 and delays inherent in such litigation, the potential risks of not obtaining certification of the action as
8 a class action, and the risk of no recovery as well as ongoing, substantial additional expenditures of
9 time and resources. If settlement were not achieved, continued litigation of the claims would take
10 substantial time and possibly confer no benefit on Class Members. By contrast, the settlement will
11 yield a prompt, certain, and substantial recovery for Class Members, which also benefits the Parties
12 and the Court. I was also mindful of Defendant's numerous factual and legal defenses to the claims
13 alleged and the very real risk of legislative retroactive preemption.

14 67. In coming to an evaluation of a reasonable settlement, I needed to take into account the
15 possibility of unfavorable decisions on class certification, summary judgment, or at trial on the merits
16 or damages awarded, or on an appeal that would all take several more years to litigate, the risk of
17 Plaintiff not prevailing on one or more of the underlying claims due to factors such as Defendant's
18 ability to distinguish this case from existing cases, the risk that a court may not award waiting time
19 penalties based on difficulties in establishing bad faith, and the transaction costs and time of litigation.

20 68. Class Counsel believes that the Settlement Agreement confers substantial benefits on
21 the Class Members and that an independent review of the Settlement Agreement by the Court in the
22 approval process will confirm this conclusion. Based on our own independent investigation and
23 evaluation, Class Counsel has determined that the Settlement Agreement is fair and reasonable and is
24 in the best interests of the Class Members.

25 69. The Settlement Agreement was the product of extensive arm's length negotiations,
26 which took place prior to, and during, an all-day mediation before renowned wage and hour mediator
27 Judge Goldberg. Though cordial and professional, the settlement negotiation was adversarial and non-
28 collusive in nature. The settlement reached is the product of substantial effort by the parties and their

1 counsel. Although Plaintiff and his counsel believed that there was a possibility of certifying the
2 claims, they recognized the potential risk, expense, and complexity posed by litigation.

3 70. The resulting Settlement was based on calculations, risk assessment, and non-collusive
4 negotiation. The resulting settlement takes those risks and others into account in arriving at the non-
5 reversionary Maximum Settlement Fund of \$150,000.00.

6 71. I thoroughly investigated and evaluated the factual and legal strengths and weaknesses
7 of this case before reaching the settlement. As described above, the settlement was reached after
8 extensive investigation and research, thorough calculations and risk evaluation, substantial exchanges
9 of documents, a thorough evaluation of data for the Class Members, and an exchange of information
10 required to evaluate Defendant's defenses, including Defendant's financial position. The settlement
11 came only after the case was thoroughly investigated by Plaintiff's Counsel.

12 72. After all Court-approved deductions from the Settlement Amount, it is estimated that at
13 least **\$32,500.00** will be available to pay the individual settlement amounts to the Class Members.

14 *Plaintiff's Counsel Is Experienced in Wage-And-Hour Litigation, Including Numerous Class Actions*

15 73. Throughout my career, I have gained significant experience regarding the obligations
16 and burdens of representing a class. This knowledge has allowed me and my firm, Melmed Law Group
17 P.C., to successfully represent plaintiffs in many class actions in the past years. As noted, numerous
18 state and federal courts in California have found that my firm is competent and capable of representing
19 as Class Counsel large classes similar to the one here at issue.

20 74. In 2007, I received a B.A. from New York University, in New York, New York. In
21 2012, I received a J.D. from Loyola Law School, Los Angeles. I became a member of the Bar of the
22 State of California in June 2013.

23 75. From 2012 through 2014, I was an associate attorney at Von Behren & Hunter, LLP
24 ("VBH") in Manhattan Beach, California. At VBH, I litigated complex commercial litigation matters
25 where I represented life and health insurers in bad faith, ERISA, breach of contract and related
26 disputes. At VBH, I also represented and assisted in the representation of hotels, restaurants and real
27 estate development groups in state and federal commercial litigation, including class action cases (see,
28

1 i.e. *Daniel Flannery v. McCormick & Schmicks Seafood Restaurants*, Los Angeles County Superior
2 Court, Case No. BC487942).

3 76. From February 2015 through the present, I have been a founding and managing
4 shareholder in the firm of Melmed Law Group P.C. where I represented and continue to represent
5 thousands of employees in wage and hour class actions, and other employment-related matters.
6 Melmed Law Group P.C. has extensive experience in the litigation of complex cases, including
7 California-wide class actions. I am also an active of member of the plaintiff's employment bar
8 association called the California Employment Lawyers Association ("CELA").

9 77. In addition to the instant case, I have served as class counsel in a variety of wage and
10 hour class actions. I have developed extensive litigation experience in complex employment litigation
11 matters, particularly in California class actions representing employees. *See Exhibit D.*

12 78. Laura Supanich graduated from the University San Diego School of Law in 2016 and
13 was admitted to the State Bar of California in May 2017, and the State Bar of Michigan in March
14 2022. She has been practicing nationwide plaintiff-side labor & employment law (almost exclusively
15 focusing on wage and hour class and PAGA action litigation in state and federal court) during her time
16 since law school. Ms. Supanich was selected as a Super Lawyers® Rising Star in California from 2022-
17 2024. A list of Ms. Supanich's class and PAGA approvals is attached hereto as **Exhibit E.**

18 *The Attorneys' Fees Allocation is Reasonable*

19 79. Plaintiff also requests that the Court preliminarily approve an award of reasonable
20 attorneys' fees amounting to \$50,000.00. The attorneys' fee award of 1/3 of the settlement fund is
21 reasonable considering the experience of Class Counsel in employment law class actions, the legal
22 expertise required to litigate this case and negotiate this Settlement, and the significant amount of
23 actual lodestar time that Class Counsel has dedicated to this case. The attorneys' fees sought are
24 comparable to attorneys' fee awards granted in similar cases, and, moreover, represent only a fraction
25 of the market value of services rendered by Class Counsel on behalf of the Class to date. Significantly,
26 the Retainer Agreement in this case provides fees up to one-third of the amount obtained. Plaintiff's
27 Counsel does not have any fee splitting agreement in this matter.
28

1 80. If the Court grants preliminary approval to the settlement and authorizes the
2 dissemination of notice of the settlement to the class, Class Counsel anticipates filing a Motion for
3 Attorneys' Fees, Costs, and Incentive Award that will be scheduled to be heard concurrently (or will
4 be part of) the Motion for Final Approval and Fairness Hearing. In connection with the filing of the
5 Motion for Attorneys' Fees and Costs, Class Counsel will submit updated information in the form of
6 a sworn declaration setting forth a summary of their lodestar hours on this case, as well all of their
7 actual costs incurred in this case.

8 *The Class Representative Incentive Award Is Fair and Appropriate*

9 81. The Parties request payment of an Incentive Award from the non-reversionary
10 Maximum Settlement Amount to the Class Representative in the amount of \$7,500.00, in addition to
11 whatever payment he is otherwise entitled to receive as a Class Member. The proposed Incentive
12 Award is reasonable compensation given the time and effort that the named Plaintiff devoted to this
13 case; the valuable assistance he provided to Class Counsel; and the fact that he entered into a general
14 release of claims that is broader than the release of the Class.

15 82. Plaintiff provided invaluable assistance to Plaintiff's counsel and the Class Members in
16 this case, including providing factual background for mediation and the operative complaint,
17 reviewing the relevant documents, participating in phone calls with Plaintiff's counsel, gathering
18 highly relevant documents, and reviewing the settlement documents. Plaintiff agreed to participate in
19 this case with no guarantee of personal benefit.

20 83. Further, Plaintiff agreed to undertake the financial risk of serving as Class
21 Representative and exposed himself to the reputational risk of filing this lawsuit. Moreover, the
22 requested \$7,500.00 Incentive Payment for the Named Plaintiff falls within the range of incentive
23 payments typically awarded to Class Representatives in similar class actions. *See e.g. Bond v.*
24 *Ferguson Enterprises, Inc.*, No. 1:09-cv-1662 OWW MJS, 2011 WL 2648879 (E.D. Cal. June 30,
25 2011) (approving \$11,250 service award to each of the two class representatives in a trucker meal
26 break class action; *Ross v. US Bank National Association*, No. C 07-02951 SI, 2010 WL 3833922, at
27 *2 (N.D. Cal. Sept. 29, 2010) (approving \$20,000 enhancement award to Class Representative in
28 California wage-and-hour class action settlement); *Vasquez v. Coast Valley Roofing, Inc.*, 266 F.R.D.

1 482, 493 (E.D. Cal. 2010) (approving service awards in the amount of \$10,000 each from a \$300,000
2 settlement fund in a wage/hour class action); *West v. Circle K Stores, Inc.*, NO. CIV. S-04-0438 WBS
3 GGH, 2006 U.S. Dist. LEXIS 76558, at *28 (E.D. Cal. Oct. 19, 2006) (“the court finds plaintiffs’
4 enhancement payments of \$ 15,000 each to be reasonable.”); *Glass v. UBS Fin. Servs.*, No. C-06-4068
5 MMC, 2007 U.S. Dist. LEXIS 8476, at *52 (N.D. Cal. Jan. 26, 2007) (finding “requested payment of
6 \$ 25,000 to each of the named plaintiffs is appropriate” in wage and hour settlement); *Louie v. Kaiser*
7 *Found. Health Plan, Inc.*, Case No. 08cv0795 IEG RBB, 2008 U.S. Dist. LEXIS 78314, at *18 (S.D.
8 Cal. Oct. 6, 2008) (approving “\$25,000 incentive award for each Class Representative” in wage an
9 hour settlement); *Garner v. State Farm Mut. Auto. Ins. Co.*, Case No. CV 08 1365 CW (EMC), 2010
10 WL 1687832, at *17 n.8 (N.D. Cal. Apr. 22, 2010) (“Numerous courts in the Ninth Circuit and
11 elsewhere have approved incentive awards of \$20,000 or more where, as here, the class representative
12 has demonstrated a strong commitment to the class”).

13 84. The parties propose that the Court appoint Apex Class Action Administration to serve
14 as the Settlement Administrator. Apex Class Action Administration is experienced in administering
15 class action settlements.

16 85. The Settlement Agreement and this motion are concurrently being submitted to the
17 LWDA in accordance with Labor Code section 2699, subdivision (l)(2), attached to this Declaration
18 as **Exhibit F**.

19 I declare under penalty of perjury under the laws of the State of California that all the foregoing
20 is true and correct. Executed on December 3, 2024, in Los Angeles, California.

21
22
23 

24 **JONATHAN MELMED**

EXHIBIT A

STIPULATION OF CLASS ACTION SETTLEMENT AND RELEASE OF CLAIMS

This Stipulation of Class Action Settlement and Release of Claims is entered into by and between Plaintiff FRANCISCO RODRIGUEZ, individually and on behalf of the Settlement Class and Defendant LAND SERVICES LANDSCAPE CONTRACTORS, INC. (“Land Services”), subject to the terms and conditions hereof and the approval of the Court.

I. DEFINITIONS

1. “Action” or “Lawsuit” refers to the civil action filed March 2, 2023 in the Superior Court of the State of California, County of Alameda captioned as *FRANCISCO RODRIGUEZ, an individual, on behalf of himself, the State of California, as a private attorney general, and on behalf of all others similarly situated v. LAND SERVICES LANDSCAPE CONTRACTORS, INC., a California Corporation; and DOES 1 to 50, Case No. 23CV028674*.

2. “Agreement” or “Settlement” or “Settlement Agreement” means this Stipulation of Class Action Settlement and Release of Claims.

3. “Applicable Wage Orders” shall mean the California Industrial Welfare Commission (“IWC”) Wage Orders applicable to the facts of this case, including IWC Wage Order 14-2001 and others that may be applicable. (Cal. Code of Regs., tit. 8, § 11050, 11160.)

4. “Class” or “Class Member” shall include all individuals who are or were employed by Defendant as non-exempt employees in the State of California during the Class Period.

5. “Class Counsel” means and refers to Jonathan Melmed, Laura Supanich, and Michiko Vartanian of MELMED LAW GROUP P.C.

6. “Class Counsel Award” means attorneys’ fees for Class Counsel’s litigation and resolution of this Action and their expenses and costs incurred in connection with this Action, paid from the Maximum Settlement Fund.

7. “Class Data” means information regarding Class Members that Defendant will, in good faith, compile from its payroll and other business records and provide to the Settlement Administrator. It shall be formatted in a form acceptable to the Settlement Administrator and shall

include the following information for each Class Member: (1) employee identification number; (2) full name; (3) last known address; (4) start and end dates of employment; (5) Social Security Number; (6) the number of Compensable Workweeks associated with each individual during the Class Period; (7) the number of qualifying PAGA Workweeks associated with each PAGA Covered Employee during the PAGA Period.

8. “Class Period” or “Settlement Period” means the period of time from March 2, 2019 until the point in time that the work week count reaches 13,500, and will end at that point in time.

9. “Class Released Claims” means all claims for wages, statutory and civil penalties, (but not PAGA Penalties) monies, damages, liquidated damages, premiums, interest, restitution, injunctive and declaratory relief, attorneys’ fees and costs, that were alleged in the operative Complaint in the Action, and/or any letter(s) submitted by Plaintiff to the Labor and Workforce Development Agency (“LWDA”) against Defendant in the Action, and/or claims which could have been alleged that reasonably relate to or which reasonably arise out of the same set of operative facts pled therein, whether such claims or forms of relief are known or unknown during the Class Period, including, but not limited to: (1) failure to pay minimum wages in violation of California Labor Code sections 1197, 1198, 1194, 1194.2, the California Code of Regulations, and the applicable IWC Wage Orders; (2) failure to pay overtime wages in violation of California Labor Code sections 204, 510, 1194, 1198 and the applicable IWC Wage Orders; (3) failure to provide rest breaks and rest period premiums in violation of California Labor Code sections 226.7, the California Code of Regulations, and applicable IWC Wage Orders; (4) failure to provide meal breaks and meal period premiums in violation of California Labor Code sections 226.7, 512(a), and applicable IWC Wage Orders; (5) failure to maintain accurate employment records in violation of California Labor Code section 1174; (6) failure to pay wages timely during employment in violation of California Labor Code section 200, 204, and 210; (7) failure to pay all wages earned and unpaid at separation of employment in violation of California Labor Code sections 201, 202, and 203; (8) failure to indemnify employees for all necessary business expenditures in violation of California Labor Code section 2802 and 2804; (9) failure to provide accurate itemized wage

statements in violation of California Labor Code sections 226(a) and 226(e); (10) violation of Business and Professions Code section 17200, et seq.; (11) all other statutory violations alleged in the operative complaint in the Action; and (12) with respect to the statutory penalties claimed in the Action, any source of obligation as a basis for claiming such penalties during the Class Period against the Released Parties. The release of the Class Released Claims shall be given full *res judicata* and *collateral estoppel* effect upon entry of the judgment in this Action so as to bar any other individual or entity from filing or pursuing the Class Released Claims against the Released Parties in any forum.

10. “Class Representative Enhancement” means the amount that the Court authorizes to be paid to Plaintiff FRANCISCO RODRIGUEZ in addition to his Individual Settlement Payment and PAGA Individual Payment, as applicable, in recognition of his efforts and risks in assisting with the prosecution of the Action and in exchange for executing the General Release provided herein.

11. “Class Representative” means Plaintiff FRANCISCO RODRIGUEZ in his capacity as the representative of the Class Members.

12. “Compensable Workweeks” means the total number of workweeks during which a Class Member worked for Defendant during the Class Period.

13. “Complaint” shall mean the currently-operative complaint in the Action.

14. “Counsel for Defendant” shall refer to Kurt Bockes and Harman Deol of LITTLER MENDELSON, P.C.

15. “Court” means the Alameda County Superior Court.

16. “Defendant” means LAND SERVICES LANDSCAPE CONTRACTORS, INC.

17. “Effective Date” means: (a) the date upon which the time for appeal of the Court’s order granting final approval of the settlement and entry of judgment expires; unless (b) an appeal is timely filed, then “Effective Date” means the date of the final resolution of any appeal from the order granting final approval of the Settlement and entry of judgment.

18. “Employee’s Taxes and Required Withholding” shall mean the employee’s share

of any and all applicable federal, state, or local payroll taxes on the portion of any Settlement Class Member's Individual Settlement Payment that constitutes wages. The Employer's Taxes and Required Withholdings will be withheld from and paid out of the Individual Settlement Payments paid from the Net Settlement Amount.

19. "Employer's Taxes" shall mean and refer to Defendants' share of payroll taxes that is owed on the portion of any Settlement Class Member's Individual Settlement Payment that constitutes wages. The Employer's Taxes shall be separately paid by Defendant and shall not be paid from the Maximum Settlement Fund or Net Settlement Amount.

20. "Individual Settlement Payment" means the amount payable from the Net Settlement Amount to each Settlement Class Member.

21. "Maximum Settlement Fund" means the Maximum Settlement Amount of One Hundred Fifty Thousand Dollars and No Cents (\$150,000.00), which includes the Individual Settlement Payments, the Class Representative Enhancement, the Class Counsel Award, PAGA Payment, and the Settlement Administration Costs, and which excludes Defendant's share of payroll taxes. Defendant shall separately pay its share of the Employer's Taxes in addition to the Maximum Settlement Fund on the portion of each Individual Settlement Payment allocated as wages.

22. "Net Settlement Amount" or "NSA" means the Maximum Settlement Fund, less Class Counsel Award, Class Representative Enhancement, PAGA Payment, and Settlement Administration Costs.

23. "Notice Packet" means the Notice of Class Action Settlement in a form substantially similar to the form attached hereto as Exhibit A, or as otherwise approved by the Court.

24. "PAGA" means the California Labor Code Private Attorneys General Act of 2004.

25. "PAGA Covered Employees" means those Class Members who were employed by Defendant in California as nonexempt employees during the PAGA Period, regardless of whether the Class Member submitted a valid Request for Exclusion or otherwise opted out of the

Settlement.

26. “PAGA Letter” or “PAGA Letters” means the letter or notice, pursuant to California Labor Code section 2699.3, that Plaintiff conveyed to the California Labor and Workforce Development Agency (“LWDA”) on or about March 2, 2023, describing Defendant’s alleged violations under the California Labor Code.

27. “PAGA Payment” means the portion of the Maximum Settlement Fund that is designated as civil penalties pursuant to PAGA in the total amount of Twenty Thousand Dollars (\$20,000.00) allocated 75% to the LWDA (\$15,000.00) and 25% (\$5,000.00) to the PAGA Covered Employees.

28. “PAGA Individual Payment” means the amount paid from the 25% of PAGA Payment attributable to the PAGA Covered Employees.

29. “PAGA Period” means the period of time from March 2, 2022 until that point in time that the work week count reaches 13,500, and will end at that point in time.

30. “PAGA Released Claims” means the release of the Released Parties by the Labor Workforce Development Agency, State of California, and by Plaintiff FRANCISCO RODRIGUEZ as representative of and proxy for the LWDA, from all claims for civil penalties under the Labor Code pursuant to the Private Attorneys General Act (Cal. Lab. Code §§ 2698 et seq.) or otherwise that were alleged in the PAGA Letter(s), the Operative Complaint in the Action, and/or claims which reasonably relate to or which reasonably arise out of the same set of operative facts pled therein, whether such claims or forms of relief are known or unknown during the PAGA Period, including, but not limited to violations of California Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 256, 510, 512, 1174, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802, and 2804. The release of PAGA Released Claims shall be given full res judicata and collateral estoppel effect upon entry of the judgment in this Action so as to bar the LWDA and any other individual or entity from filing or pursuing claims for PAGA penalties for the PAGA Released Claims against the Released Parties in any forum.

31. “Parties” means Plaintiff and Defendant, collectively, and “Party” shall mean either

Plaintiff or Defendant, individually.

32. “Payment Plan” shall run from June 1, 2024 through June 1, 2027. Beginning June 1, 2024, the \$12,500 per quarter will accumulate until the Effective Date and shall be paid as an initial lump sum into a Qualified Settlement Fund (QSF) established by the Settlement Administrator within fifteen days after the Effective Date. Payments will then be made into the QSF on a quarterly basis thereafter with \$12,500 due each quarter until Maximum Settlement Fund has been paid.

33. “Payment Ratio” means the respective Compensable Workweeks for each Class Member divided by the total Compensable Workweeks for all Class Members.

34. “Plaintiff” means FRANCISCO RODRIGUEZ.

35. “Preliminary Approval Date” means the date on which the Court enters an order granting preliminary approval of the Settlement.

36. “Released Parties” means LAND SERVICES LANDSCAPE CONTRACTORS, INC. and each and all of its past and present parent, subsidiary, and affiliated corporations, entities, divisions, general and limited partners, joint venturers and affiliates, and each of their respective current and former directors, officers, managers, employees, principals, members, agents, insurers, reinsurers, shareholders, attorneys, advisors, representatives, general partners, limited partners, joint venturers, and affiliated companies, and each of their respective executors, predecessors, successors, assigns and legal representatives.

37. “Request for Exclusion” means a written statement requesting exclusion containing the Class Member’s name, signature, address, and telephone number to be mailed by the Class Members who wish to opt out of the Settlement Class. To be effective, the Request for Exclusion must be in the form described in Paragraph III(52)(g) *infra* post-marked by the Response Deadline, and received by the Settlement Administrator.

38. “Response Deadline” means the forty-five (45) days after the Settlement Administrator mails Notice Packets to Class Members and is the last date on which Class Members may submit Requests for Exclusion or Objections to the Settlement.

39. “Settlement Administrator” or “Claims Administrator” means Apex Class Action Administration (or other administrator agreed on by the parties) which the Parties have agreed will be responsible for administration of the Class Settlement and related matters.

40. “Settlement Class Members” or “Settlement Class” means all Class Members who do not timely submit a valid Request for Exclusion to be excluded from the Class as provided in this Agreement.

II. RECITALS

41. On March 2, 2023, Plaintiff filed a putative class and PAGA representative action Complaint against Defendant in Alameda County Superior Court captioned as *FRANCISCO RODRIGUEZ, an individual, on behalf of himself, the State of California, as a private attorney general, and on behalf of all others similarly situated v. LAND SERVICES LANDSCAPE CONTRACTORS, INC., a California Corporation; and DOES 1 to 50, Case No. 23CV028674*. The claims for relief Plaintiff asserted on behalf of himself and the putative class and aggrieved employee group are: (1) failure to pay minimum wages in violation of California Labor Code sections 1197, 1198, 1194, 1194.2, the California Code of Regulations, and the applicable IWC Wage Orders; (2) failure to pay overtime wages in violation of California Labor Code sections 204, 510, 1194, 1198 and the applicable IWC Wage Orders; (3) failure to provide rest breaks and rest period premiums in violation of California Labor Code sections 226.7, the California Code of Regulations, and applicable IWC Wage Orders; (4) failure to provide meal breaks and meal period premiums in violation of California Labor Code sections 226.7, 512(a), and applicable IWC Wage Orders; (5) failure to maintain accurate employment records in violation of California Labor Code section 1174; (6) failure to pay wages timely during employment in violation of California Labor Code section 200, 204, and 210; (7) failure to pay all wages earned and unpaid at separation of employment in violation of California Labor Code sections 201, 202, and 203; (8) failure to indemnify employees for all necessary business expenditures in violation of California Labor Code section 2802 and 2804; (9) failure to provide accurate itemized wage statements in violation of California Labor Code sections 226(a) and 226(e); (10) violation of Business and Professions Code

section 17200 et seq.; (11) and recovery of statutory and civil penalties pursuant to the California Labor Code, including but not limited to, the California Private Attorney General Act for violations of California Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 256, 510, 512, 1174, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802, and 2804. Plaintiff's Action seeks compensation in the form of wages, penalties, restitution, interest, attorneys' fees, and costs of suit, along with injunctive relief.

42. Defendant filed an answer to the Complaint on April 17, 2023, asserting general and affirmative defenses.

43. Plaintiff and Defendant engaged in a voluntary exchange of information concerning the claims and defenses set forth in the Action, including Defendant's policies and practices regarding the alleged violations, and payroll and timekeeping data for the Class Members. The Plaintiff and Defendant additionally have each conducted independent investigations and fact finding.

44. On April 22, 2024, Plaintiff and Defendant participated in a full day of mediation under the guidance of an experienced wage and hour neutral, Hon. Mitchel Goldberg (Ret.). After a day of mediation, the Parties agreed to resolve all claims in this Action.

45. Defendant denies any liability or wrongdoing of any kind associated with the claims alleged in the Action, disputes the damages and penalties claimed by Plaintiff, and further contends that, for any purpose other than settlement, Plaintiff's claims are not appropriate for class or representative action treatment.

46. The Plaintiff and Class Representative is represented by Class Counsel. Class Counsel conducted an investigation into the facts relevant to the Action, including reviewing documents and information provided by Defendant. Based on their own independent investigation and evaluation, Class Counsel is of the opinion that the Settlement with Defendant is fair, reasonable and adequate, and in the best interest of the Settlement Class in light of all known facts and circumstances, including the risks of significant delay, defenses asserted by Defendant, uncertainties regarding a class and representative action trial on the merits, and numerous potential

appellate issues. Defendant is agreeing to this Settlement to avoid the cost of further litigation. Accordingly, the Parties and their counsel desire to fully, finally, and forever settle, compromise and discharge all disputes and claims arising from or relating to the Action on the terms set forth herein.

III. TERMS OF AGREEMENT

47. Settlement Consideration. Defendant shall pay the Maximum Settlement Amount, which shall fund the Individual Settlement Payments, the Class Representative Enhancement, the Class Counsel Award, PAGA Payment, and the Settlement Administration Costs, as specified in this Agreement. Defendant shall not be required to pay more than the Maximum Settlement Amount except its share of payroll taxes. This settlement is non-reversionary and none of the Maximum Settlement Amount shall revert to Defendant.

48. Release by All Settlement Class Members. Upon the date the Maximum Settlement Fund is fully deposited, each Class Member (including Plaintiff) who does not timely submit a valid Request for Exclusion, shall, for the Class Period, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, fully release and forever discharge the Released Parties from the Class Released Claims.

49. General Release By Plaintiff. In addition to the Settlement Class Members' Released Claims, described above, in exchange for the consideration recited in this Agreement, including but not limited to the Class Representative Enhancement, Plaintiff, for himself and for any decedent, heirs, legal representatives, successors and assigns, hereby irrevocably and unconditionally releases, acquits and forever discharges the Released Parties, from any and all claims, demands, damages, liquidated damages, monies, penalties, restitution, injunctive relief, attorneys' fees, costs, liabilities and/or causes of action of whatever kind or character, whether known or unknown, which Plaintiffs ever had, now have, have asserted or may hereafter assert or claim to have against the Released Parties arising out of or relating in any way to any acts, circumstances, facts, transactions, or omissions based on facts occurring up to and including the

date Plaintiff signs this Agreement. This release includes but is not limited to any and all claims for unlawful discrimination, harassment, retaliation, and reasonable accommodation; related to the terms and conditions of employment; for penalties, compensation or benefits; and/or for wrongful termination of employment under arising under Title VII of the Civil Rights Act of 1964, as amended, the Civil Rights Act of 1866, the Civil Rights Act of 1991, the Americans with Disabilities Act, as amended, 42 U.S.C. § 1981, as amended, the Fair Labor Standards Act, as amended and the Portal to Portal Act, the Equal Pay Act, the Employee Retirement Income Security Act, as amended, the Consolidated Omnibus Budget Reconciliation Act, the Rehabilitation Act of 1973, the Family and Medical Leave Act, the California Fair Employment and Housing Act, the California Constitution, the California Labor Code, the California Government Code, the California Civil Code; and any and all other federal, state and local statutes, ordinances, regulations, rules and other laws, and any and all claims based on equity, constitutional, statutory, common law or regulatory grounds as well as any other claims based on theories of wrongful or constructive discharge, breach of contract or implied contract, fraud, misrepresentation, promissory estoppel or intentional and/or negligent infliction of emotional distress, or damages under any other federal, state or local statutes, ordinances, regulations, rules or laws, except for such claims that cannot be released by law. With respect to the claims referenced in this paragraph, Plaintiff shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits Plaintiff may otherwise have had pursuant to section 1542 of the California Civil Code, which states that:

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

50. This Agreement, including the General Release by Plaintiff shall not apply to claims for workers' compensation benefits, unemployment insurance benefits, pension or retirement benefits, or any other claim or right that as a matter of law cannot be waived or released.

Moreover, regardless of whether or not Plaintiff sign this Agreement, nothing in any Defendant agreement, policy, or practice, including this Agreement (i) limits or affects Plaintiff's right to challenge the validity of this Agreement under the ADEA or the Older Worker Benefit Protection Act (OWBPA), (ii) prevents Plaintiff from communicating with, filing a charge or complaint with; providing documents or information voluntarily or in response to a subpoena or other information request to; or from participating in an investigation or proceeding conducted by the Equal Employment Opportunity Commission, National Labor Relations Board, the Securities and Exchange Commission, the Occupational Safety and Health Administration, law enforcement, or any other any federal, state or local agency charged with the enforcement of any laws, or from testifying, providing evidence, responding to a subpoena or discovery request in court litigation or arbitration, or (iii) prevents a non-management, non-supervisory employee from engaging in protected concerted activity under Section 7 of the NLRA or under similar state law such as joining, assisting, or forming a union, bargaining, picketing, striking, or participating in other activity for mutual aid or protection, or refusing to do so; this includes using or disclosing information acquired through lawful means regarding wages, hours, benefits, or other terms and conditions of employment, except where the information was entrusted to the employee in confidence by the Defendant as part of the employee's job duties. In addition, nothing in this Agreement shall be construed to prevent the disclosure of factual information related to any acts of sexual assault, sexual harassment, workplace harassment or discrimination, failure to prevent an act of workplace harassment or discrimination, or act of retaliation against a person for reporting harassment or discrimination related to the case, prevents Plaintiff from discussing or disclosing information about unlawful acts in the workplace, such as harassment or discrimination or any other conduct that Plaintiff has reason to believe is unlawful; or waive Plaintiff's right to testify in an administrative, legislative, or judicial proceeding concerning alleged criminal conduct or alleged sexual harassment on the part of the Defendant, or on the part of the agents or employees of the Defendant, when Plaintiff has been required or requested to attend such a proceeding pursuant to a court order, subpoena, or written request from an administrative agency or the

legislature. In addition, nothing in this Agreement limits or affects Plaintiff's right to disclose or discuss sexual harassment or sexual assault disputes. By signing this Agreement Plaintiff is waiving his right to recover any individual relief (including any backpay, frontpay, reinstatement or other legal or equitable relief) in any charge, complaint, or lawsuit or other proceeding brought by Plaintiff or on Plaintiff's behalf by any third party, except for any right Plaintiff may have to receive a payment or award from a government agency (and not the Defendant) for information provided to the government agency or where otherwise prohibited.

51. PAGA Release by PAGA Covered Employees and Labor Workforce Development Agency. Upon the date the Maximum Settlement Fund is fully deposited, the Labor Workforce Development Agency, State of California, and Plaintiff as representative of and proxy for the LWDA, are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from the PAGA Released Claims.

52. Certification of the Settlement Class and Nullification of Settlement Agreement. The Parties stipulate to conditional class certification of the Settlement Class for the Class Period for purposes of settlement only. In the event this Settlement Agreement is not preliminarily or finally approved by the Court, fails to become effective, or is reversed, withdrawn or modified by the Court, or in any way prevents or prohibits Defendant from obtaining a complete resolution of the claims as described herein:

a. This Settlement Agreement shall be void *ab initio* and of no force or effect and shall not be admissible in any judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural;

b. The conditional class certification (obtained for any purpose) shall be void *ab initio* and of no force or effect and shall not be admissible in any judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural; and

c. None of the Parties to this Settlement will be deemed to have waived any claims, objections, defenses or arguments in the Action, including with respect to the issue of class

certification.

53. Tax Treatment.

a. The Parties, Class Counsel and Defendant's Counsel make no representations as to the tax treatment or legal effect of the payments called for hereunder, and Settlement Class Members are not relying on any statement or representation by the Parties, Class Counsel or Defendant's Counsel in this regard. Settlement Class Members understand and agree that they will be responsible for the payment of any taxes found to be due from or against a Settlement Class Member as a result of the Individual Settlement Payments and PAGA Individual Payments described herein.

b. All Parties represent that they have not received, and shall not rely on, advice or representations from the other Party or his/its agents regarding the tax treatment of payments under federal, state, or local law.

54. Preliminary Approval Motion. At the earliest practicable time, Plaintiff and Class Counsel shall file with the Court a Motion for Order Granting Preliminary Approval and supporting papers, which shall include this Settlement Agreement. The Order Granting Preliminary Approval shall be in a form substantially similar to Exhibit B. Any dispute regarding forms of notices and other documents necessary to implement the Settlement contained in the Stipulation, if not timely resolved among the Parties, shall be referred to the Court. The Parties shall seek a prompt hearing date to obtain preliminary approval of the Settlement.

55. Settlement Administrator. The Settlement Administrator shall be responsible for: (a) processing and mailing payments to the Class Representative, Class Counsel, LWDA and Settlement Class Members; (b) printing and mailing the Notice Packets to the Class Members as directed by the Court; (c) receiving and reporting the objections and Requests for Exclusion; (d) distributing tax forms to the Settlement Class Members and PAGA Covered Employees (e) providing declaration(s), as necessary, in support of preliminary and/or final approval of this Settlement; (f) calculating and withholding all taxes from the wage portion of the payments to Settlement Class Members; (g) calculating and notifying Defendant of its portion of the taxes on

the wage portion of the payments to Settlement Class Members and accepting payment of such taxes from Defendant; (h) timely depositing all tax payments with the appropriate government entities; and (i) other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator responsibilities.

56. Settlement Administration.

a. Class Data. No later than twenty-one (21) calendar days after the Preliminary Approval Date, Defendant shall provide the Settlement Administrator with the Class Data for purposes of preparing and mailing Notice Packets to Class Members. The Class Data shall be confidential. The Settlement Administrator shall not provide the Class Data to Class Counsel or Plaintiff or any third party, or use the Class Data or any information contained therein for any purpose other than to administer this Settlement.

b. Notice Packets. The Notice Packet shall contain the Notice of Class Action Settlement in a form substantially similar to the form attached hereto as Exhibit A. The Notice of Class Action Settlement shall set forth the material terms of the Settlement, including the release to be given by all members of the Settlement Class who do not request to be excluded from the Settlement Class. All Class Members who are PAGA Covered Employees shall be advised that they will be part of the PAGA settlement, whether or not they elect to opt-out of the class settlement. The Notice Packet also shall be individualized by including the Class Members' estimated Individual Settlement Payment and for Class Members, the number of Compensable Workweeks.

c. Notice By First Class U.S. Mail. Upon receipt of the Class Data, the Settlement Administrator will perform a search based on the National Change of Address Database and/or similar database(s) to update and correct any known or identifiable address changes. No later than fourteen (14) calendar days after receiving the Class Data from Defendant as provided herein, the Settlement Administrator shall mail copies of the Notice Packet to all Class Members via regular First Class U.S. Mail. The Settlement Administrator shall exercise its best judgment

to determine the current mailing address for each Class Member. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Class Member. In the event more than one address is identified, the Settlement Administrator shall mail to each potentially valid address.

d. Undeliverable Notices. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall promptly attempt to determine a correct address by lawful use of skip-tracing, or other search using the name, address and/or Social Security number of the Class Member involved, and shall then perform a re-mailing if another mailing address is identified by the Settlement Administrator. The deadlines for Class Members' Requests for Exclusion and written objections will be extended an additional 14 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

e. Disputes Regarding Individual Settlement Payments. Class Members will have the opportunity, should they disagree with Defendant's records regarding the Compensable Workweeks worked by Class Members stated on the Notice of Class Action Settlement, to provide documentation and/or an explanation to show contrary Compensable Workweeks. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility or ineligibility for, and the amounts of, any Individual Settlement Payments under the terms of this Agreement. The Settlement Administrator's determination of the eligibility or ineligibility for and amount of any Individual Settlement Payment shall be binding upon the Class Member and the Parties.

f. Disputes Regarding Administration of Settlement. Any disputes not subject to resolution by the Settlement Administrator concerning the administration of the Settlement will be resolved by the Court under the laws of the State of California. Prior to any such involvement

of the Court or the Settlement Administrator, counsel for the Parties will confer in good faith to resolve the disputes without the necessity of involving the Court.

g. Request for Exclusion. The Notice of Class Action Settlement contained in the Notice Packet shall state that Class Members who wish to exclude themselves from the Settlement must submit to the Settlement Administrator a written statement requesting exclusion from the Settlement. The written statement must: (1) explicitly and unambiguously state the following statement or similar statement: “I wish to exclude myself from the settlement reached in the matter of *Francisco Rodriguez v. Land Services Landscape Contractors, Inc.* (Case No. 23CV028674). I understand by excluding myself, I will not receive any money from the class settlement reached in this matter.”; (2) contain the name, address, and the last four digits of the Social Security number of the person requesting exclusion; (3) be signed by the Class Member; and (4) be postmarked by the Response Deadline and returned to the Settlement Administrator at the specified address in the Notice Packet. The Request for Exclusion will not be valid if it is not timely submitted by the Response Deadline and received by the Settlement Administrator. The date of the postmark on the return mailing envelope transmitting the Request for Exclusion shall be the exclusive means used to determine whether the Request for Exclusion was timely submitted. Any Class Member who requests to be excluded from the Settlement Class will not be entitled to any recovery under the Settlement and will not be bound by the terms of the Settlement or have any right to object, appeal, or comment thereon, however, all PAGA Covered Employees will receive their PAGA Individual Payments and will be releasing the PAGA Released Claims since they cannot opt out of the PAGA settlement. Class Members who fail to submit a valid and timely written Request for Exclusion on or before the Response Deadline shall be bound by the terms of the Settlement and any final judgment entered in this Action if the Settlement is approved by the Court. No later than fourteen (14) calendar days after the Response Deadline, the Settlement Administrator shall provide counsel for the Parties with a final list of the Class Members who have timely submitted Requests for Exclusion. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage members of the Class to submit Requests for Exclusion from the

Settlement.

h. Objections. The Notice of Class Action Settlement contained in the Notice Packet shall state that Class Members who wish to object to the Settlement must serve on the Settlement Administrator by first class mail a written statement of objection (“Notice of Objection”) by the Response Deadline. The date of the postmark on the envelope transmitting the Objection shall be deemed the exclusive means for determining that a Notice of Objection was submitted timely. The Notice of Objection must be signed by the Settlement Class Member and state: (1) the full name of the Settlement Class Member (and former names, if any); (2) the dates of employment of the Settlement Class Member; (3) the last four digits of the Settlement Class Member’s Social Security number and/or the Employee ID number; and (4) the reason(s) for the objection; and (5) name case number of this matter. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Settlement Class Members to file or serve written objections to the Settlement or solicit or encourage Settlement Class Members to appeal from the Order and Final Judgment. Class Members who submit a Request for Exclusion are not entitled to object to the Settlement.

57. Funding and Allocation of the Maximum Settlement Fund. Defendant shall pay the Gross Settlement Amount pursuant to the Payment Plan. Within fifteen (15) business days after the Effective Date, Defendant will also provide the Settlement Administrator a list identifying all Settlement Class Members who have garnishments and liens, the amounts of each individual’s garnishments and liens, and the name and address of the person or entity that is entitled to receive payment of such garnishments and liens.

a. PAGA Payment. As one part of the Motion for Order Granting Preliminary Approval, Plaintiff and Class Counsel shall seek approval from the Court of the PAGA Payment of Twenty Thousand Dollars (\$20,000.00). Any portion of the requested PAGA Payment that is not approved by the Court shall be part of the Net Settlement Amount and shall be distributed to Settlement Class Members as provided in this Agreement. The Settlement Administrator shall send to the Workforce Development Agency (“LWDA”) Seventy-Five Percent (75%) of the

approved PAGA Payment no later than fifteen (15) calendar days after Defendant sends the final \$12,500 quarterly payment to the Settlement Administrator. The Settlement Administrator shall pay Twenty-Five Percent (25%) of the approved PAGA Payment to the PAGA Covered Employees no later than fifteen (15) calendar days after Defendant sends the final \$12,500 quarterly payment to the Settlement Administrator. The PAGA Individual Payment paid to each PAGA Covered Employee shall be calculated by dividing 25% of the approved PAGA Payment by the number of Compensable Workweeks for all PAGA Covered Employees during the PAGA Period and then multiplying the result by the number of Compensable Workweeks for each PAGA Covered Employee during the PAGA Period.

i. Individual Settlement Payments. Individual Settlement Payments shall be paid from the Net Settlement Amount. The payments shall be calculated in accordance with the following steps: Using the Class Data, the Settlement Administrator will calculate the total Compensable Workweeks for all Settlement Class Members by adding the number of Compensable Workweeks worked by each Settlement Class Member during the Class Period. The respective Compensable Workweeks for each Settlement Class Member will be divided by the total Compensable Workweeks for all Settlement Class Members, resulting in the Payment Ratio for each Settlement Class Member. Each Settlement Class Member's Payment Ratio will then be multiplied by the Net Settlement Amount to calculate each Settlement Class Member's estimated Individual Settlement Payments.

ii. Tax Allocation. For tax purposes, the Individual Settlement Payments shall be allocated Twenty Percent (20%) to the payment of wages and other taxable damages, which will be subject to income and payroll tax withholding and all other authorized and required deductions and Eighty Percent (80%) to interest, penalties, liquidated damages, and other damages which are not subject to income or payroll tax withholding but which are subject to all other required authorized deductions. All applicable deductions or withholding required by law or expressly authorized by the Settlement Class Member, including payments of any garnishments and liens, will be withheld from the Individual Settlement Payment. It shall be the responsibility

of the Settlement Administrator to timely and properly withhold from Individual Settlement Payments payable to Settlement Class Members all applicable payroll and employment taxes, including all federal, state, and local income taxes, and to prepare and deliver the necessary tax documentation and, thereafter, to cause the appropriate deposits of withholding taxes and informational and other tax return filing to occur.

iii. Mailing. Individual Settlement Payments shall be mailed by regular First Class U.S. Mail to Settlement Class Members' last known mailing address no later than fifteen (15) calendar days after the Maximum Settlement Amount is fully funded.

iv. Expiration. Any checks issued to Settlement Class Members shall remain valid and negotiable for one hundred and eighty (180) days from the date of their issuance. If a Settlement Class Member does not cash his or her settlement check within 180 days, fifteen (15) calendar days after the check-cashing deadline, the Settlement Administrator shall escheat the funds to the California Controller's Unclaimed Property Fund. The Parties agree that this obligation shall satisfy and fully discharge Defendant's obligations under California Code of Civil Procedure Section 384 and the doctrines of *Cy Pres* and *escheat*.

b. Class Representative Enhancement. Plaintiff and Class Counsel shall draft and file with the Court the necessary papers for approval of the Class Representative Enhancement Payment. Defendant agrees not to oppose or object to any application or motion by Plaintiff for a Class Representative Enhancement of up to Seven Thousand Five Hundred Dollars (\$7,500.00) to Plaintiff. The Settlement Administrator shall pay the Class Representative Enhancement to Plaintiff from the Maximum Settlement Fund no later than thirty days after the Effective Date. Any portion of the requested Class Representative Enhancement that is not awarded to the Class Representative shall be part of the Net Settlement Amount and shall be distributed to Settlement Class Members as provided in this Agreement. The Settlement Administrator shall issue an IRS Form 1099 — MISC to Plaintiff for his Class Representative Enhancement. Plaintiff shall be solely and legally responsible to pay any and all applicable taxes on the respective Class Representative Enhancement and shall hold harmless Defendant from any claim or liability for

taxes, penalties, or interest arising as a result of the Class Representative Enhancement. The Class Representative Enhancement shall be in addition to Plaintiff's Individual Settlement Payment as a Settlement Class Member and PAGA Individual Payment. In the event that the Court reduces or does not approve the requested Class Representative Enhancement, Plaintiff shall not have the right to revoke the Settlement, and it will remain binding.

c. Class Counsel Award. Plaintiffs and Class Counsel shall draft and file with the Court the necessary papers for approval of the attorneys' fees and costs. Defendant agrees not to oppose or object to any application or motion by Class Counsel for attorneys' fees not to exceed One-Third (33.333%) of the Maximum Settlement Fund, One-Third (33.333%) of the Maximum Settlement Amount being \$50,000.00. Additionally, Defendant agrees not to oppose or object to any application or motion by Class Counsel for costs not to exceed Twenty Thousand Dollars (\$20,000.00) from the Maximum Settlement Fund for all past and future litigation costs and expenses necessary to prosecute, settle and administer the Action as supported by a declaration from Class Counsel. The Parties agree that any and all claims for reasonable attorneys' fees and costs have been settled by this Agreement and that neither Plaintiff, Settlement Class Members, nor Class Counsel shall seek payment of attorneys' fees or reimbursement of costs/expenses from the Released Parties except as set forth in this Agreement. Any portion of the requested Class Counsel Award that is not awarded to Class Counsel shall be part of the Net Settlement Amount and shall be distributed to Settlement Class Members as provided in this Agreement. The Settlement Administrator shall pay the approved Class Counsel Award to Class Counsel from the Maximum Settlement Fund no later than fifteen (15) calendar days after the Maximum Settlement Fund is provided to the Settlement Administrator. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the payment made pursuant to this paragraph. The Settlement Administrator shall issue an IRS Form 1099 — MISC to Class Counsel for the payments made pursuant to this paragraph. In the event that the Court reduces or does not approve the requested Class Counsel Award, Plaintiff and Class Counsel shall not have the right to revoke the Settlement, and it will remain binding.

d. Settlement Administration Costs. Plaintiffs and Class Counsel shall draft and file with the Court the necessary papers for approval of payment to the Settlement Administrator of the costs of administration of the Settlement from the Maximum Settlement Fund. Defendant agrees not to oppose or object to any application or motion by Plaintiff for payment of up to Twenty Thousand Dollars (\$20,000.00) to the Settlement Administrator. Any portion of the requested payment to the Settlement Administrator that is not awarded to the Settlement Administrator shall be part of the Net Settlement Amount and shall be distributed to Settlement Class Members as provided in this Agreement. The Settlement Administrator shall pay the approved Settlement Administration Costs no later than fifteen (15) calendar days after the final payment of fifty percent of the Maximum Settlement Fund is provided to the Settlement Administrator.

e. Net Settlement Amount. The Parties estimate the amount of the Net Settlement Amount as follows:

Maximum Settlement Fund:	\$	\$150,000
Class Representative Enhancement:	\$	-\$7,500
Class Counsel's Fees:	\$	-50,000.00
Class Counsel's Costs:	\$	-20,000.00
PAGA Payment:	\$	-\$20,000
		<i>(\$15,000 to the LWDA and \$5,000 to the PAGA Covered Employees)</i>
Settlement Administration Costs:	\$	-20,000.00
Net Settlement Amount	\$	32,500.00

58. Final Approval Motion. At the earliest practicable time following the expiration of the Response Deadline, Plaintiff shall file with the Court a Motion for Order Granting Final Approval and Entering Judgment, which motion shall request final approval of the Settlement and the amounts payable for the Class Representative Enhancement, the Class Counsel Award, the PAGA Payment, and the Settlement Administration Costs.

a. Final Approval Order and Judgment. Plaintiff shall present an Order Granting Final Approval of Class Action Settlement and Entering of Judgment to the Court for its approval in the form similar to Exhibit C. The Order Granting Final Approval of Class Action

Settlement and Entering of Judgment shall be lodged with the Court no later than seven (7) days before the Final Approval Hearing. Plaintiff shall be responsible for drafting and filing the motion for Final Approval and for entry of Judgment. Plaintiff will provide Defendant with a copy of the motion(s) three business days before the filing of the motion(s). The Order Granting Final Approval of Class Action Settlement and Entering of Judgment shall, among other things:

i. Find that the Court has personal jurisdiction over all Settlement Class Members and that the Court has subject matter jurisdiction to approve this Stipulation of Settlement;

ii. Certify the Class for Settlement purposes only;

iii. Approve the Settlement, adjudging the terms thereof to be fair, reasonable, adequate, and in the best interests of each of the Parties and the Class Members, and directing consummation of its terms and provisions;

iv. Approve Class Counsel's application for an award of attorneys' fees and costs, and the Class Representative Enhancements;

v. Approve the payment of reasonable Settlement Administration Costs;

vi. Enter Judgment pursuant to California Rules of Court, rule 3.7969(h); and

vii. Permanently bar Plaintiff and all Class Members who have not been timely and validly excluded from the Settlement from filing or prosecuting any of the Released Claims against the Released Parties.

viii. Permanently bar the LWDA and any other individual or entity from filing or prosecuting any of the PAGA Released Claims against the Released Parties.

b. Without affecting the finality of the Final Judgment, the Court shall retain continuing jurisdiction over the Action, the Parties, and the Settlement Class, as well as the administration and enforcement of the Settlement. Any disputes or controversies arising with respect to the interpretation, consummation, enforcement, or implementation of the Settlement,

not committed to resolution in the discretion of the Settlement Administrator as provided in this Agreement, shall be presented by motion to the Court. Notice of the Final Judgment shall be given by Plaintiff to Defendant and the Class Members as set forth in the Order Granting Final Approval of Class Action Settlement and Entering of Judgment, which notice shall satisfy the requirements of California Rules of Court, rule 3.771.

59. Option to Terminate Settlement. If, after the Response Deadline, the total number of Class Members who submitted timely and valid Requests for Exclusion from the Settlement is more than ten percent (10%) of all Class Members, Defendant shall have, in its sole discretion, the option to terminate this Settlement. If Defendant exercises the option to terminate this Settlement, Defendant shall: (a) provide written notice to Class Counsel within fourteen (14) calendar days after receiving a report from the Settlement Administrator informing Defendant that the total number of timely and valid Requests for Exclusion is more than ten percent (10%) of the total Class Members and (b) pay all Settlement Administration Costs incurred up to the date or as any result of the termination; and the Parties shall proceed in all respects as if this Agreement had not been executed.

60. No Impact on Benefit Plans. Neither this Settlement nor any amounts paid under the Settlement will modify any previously credited hours or service under any employee benefit plan, policy, or bonus program sponsored by Defendant. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under Defendant-sponsored benefit plans, policies, or bonus programs. The payments made under the terms of this Settlement shall not be applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of Defendant's benefit plan, policy, or bonus program. Defendant retains the right to modify the language of its benefit plans, policies and bonus programs to effect this intent, and to make clear that any amounts paid pursuant to this Settlement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purposes of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or

benefits are not required by this Settlement.

61. Notices. 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 (3rd) business day after mailing by United States certified mail, return receipt requested, addressed as follows:

To Plaintiff and the Settlement Class:

MELMED LAW GROUP P.C.
Jonathan Melmed
Laura Supanich
Michiko Vartanian
1801 Century Park East, Suite 850
Los Angeles, CA 91103
Telephone: (310) 824-3828
Facsimile: (310) 862-6851

To Defendant:

LITTLER MENDELSON, P.C.
Kurt Bockes
Harman Deol
101 Second Street, Suite 1000
San Francisco, CA 94105
Telephone: (415) 433-1940
Facsimile: (415) 399-8490

62. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement.

63. Amendment or Modification. This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest.

64. Entire Agreement. This Agreement and any attached Exhibits constitute the entire Agreement between the Parties relating to the Settlement. All prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or a Party's legal counsel are merged herein. No rights hereunder may be waived except in writing.

65. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement and to take all appropriate actions required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The person signing this Agreement on behalf of Defendant represents and warrants that he or she is authorized to sign this Agreement on behalf of Defendant. Plaintiff represents and warrants that he is authorized to sign this Agreement and that he has not assigned any claim, or part of a claim, covered by this Settlement to a third-party.

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

67. California Law Governs. All terms of this Agreement and the Exhibits hereto and any disputes arising hereunder shall be governed by and interpreted according to the laws of the State of California.

68. Counterparts. This Agreement may be executed electronically via DocuSign or other electronic format in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the Parties to this Agreement shall exchange among themselves copies or originals of the signed counterparts. Copies, including scanned copies of this Agreement, including electronic copies in PDF format that may be furnished by email, and the signatures (electronic or otherwise) contained therein, shall be effective as the original Agreement.

69. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement is a fair, adequate and reasonable settlement of this Action and have arrived at this Settlement after extensive arms-length negotiations, taking into account all relevant factors, present and potential.

70. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with respect to the interpretation, implementation and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith, and the Parties and their counsel

hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing and enforcing the settlement embodied in this Agreement and all orders and judgments entered in connection therewith.

71. Waiver of Certain Appeals. The Parties agree, with the exception of the attorneys' fees award, provided the attorneys' fees sought do not exceed the amount provided herein, to waive any and all rights to appeal, this waiver being contingent upon the Court entering the Final Judgment as provided herein. This waiver includes waiver of all rights to any post-judgment proceeding and appellate proceeding, including, but not limited to, motions for relief from judgment and motions to amend or alter the judgment.

72. No Admissions. Plaintiff has claimed and continues to claim that the Released Claims have merit and give rise to liability on the part of Defendant. Defendant has claimed and continues to claim that the Released Claims lack merit and do not give rise to the alleged liability. This Agreement is a compromise of disputed claims. Nothing contained in this Agreement and no documents referred to herein and no action taken to carry out this Agreement may be construed or used as an admission by or against the Defendant or Plaintiff or Class Counsel as to the merits or lack thereof of the claims asserted.

73. Consideration Period. Plaintiff understands he has at least 5 business days from the date he receives this Agreement to consider the terms of this Agreement, including whether to sign this Agreement ("Consideration Period"). If Plaintiff chooses to sign this Agreement before the Consideration Period ends, Plaintiff represents that it is because he freely chose to do so after carefully considering its terms. Plaintiff agrees with Defendant that changes, whether material or immaterial, do not toll or restart the running of the Consideration Period. Plaintiff agrees the Defendant has made no threats or promises to induce him to sign earlier.

74. Advice of Counsel. Plaintiff acknowledges that he has read and fully understand the terms of this Agreement. Defendant advises Plaintiff, in writing, to consult with an attorney of his choice regarding the terms of this Agreement prior to signing this Agreement. Plaintiff has been represented by his legal counsel, who has read and explained to him the entire contents of

this Agreement, as well as explained the legal consequences of the release.

IN WITNESS THEREOF, this Stipulation of Class Action Settlement and Release of Claims is executed by the Parties and their authorized attorneys, as of the day and year herein set forth.

DATED: _____

By: _____

FRANCISCO RODRIGUEZ

DATED: 9/30/24

LAND SERVICES LANDSCAPE
CONTRACTORS, INC.

By: 

Title: President

APPROVED AS TO FORM:

DATED: _____

MELMED LAW GROUP P.C.

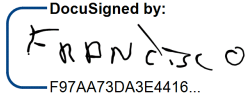
By: _____

Jonathan Melmed
Laura Supanich
Michiko Vartanian
Counsel for Plaintiff FRANCISCO
RODRIGUEZ, individually, on behalf of
The State of California, and on behalf of all
others similarly situated

this Agreement, as well as explained the legal consequences of the release.

IN WITNESS THEREOF, this Stipulation of Class Action Settlement and Release of Claims is executed by the Parties and their authorized attorneys, as of the day and year herein set forth.

DATED: 10/9/2024 _____

By:  _____
FRANCISCO RODRIGUEZ

DATED: _____

LAND SERVICES LANDSAPE
CONTRACTORS, INC.

By: _____

Title: _____

APPROVED AS TO FORM:

DATED: October 9, 2024 _____

MELMED LAW GROUP P.C.

By:  _____
Jonathan Melmed
Laura Supanich
Michiko Vartanian
Counsel for Plaintiff FRANCISCO
RODRIGUEZ, individually, on behalf of
The State of California, and on behalf of all
others similarly situated

DATED: 10/4/2024

LITTLER MENDELSON, P.C.

By: Kurt Bockes
Kurt Bockes
Harman Deol
Attorneys for Defendant
LANDSERVICES LANDSCAPE
CONTRACTORS, INC.

4881-8020-3748.1 / 063730-1006

Exhibit 1

[CLASS MEMBER NAME]

**NOTICE OF CLASS ACTION SETTLEMENT
RODRIGUEZ v. LAND SERVICES LANDSCAPE CONTRACTORS, INC.**

**Superior Court of California, County of Alameda
Case No.: 23CV028674**

If you are a current or former hourly-paid or non-exempt employee who worked for Land Services Landscape Contractors, Inc. (“Defendant”) within the State of California at any time from March 2, 2019 through and including _____, 2024 (the “Class Period”), a class action lawsuit may affect your rights and you may be entitled to a payment under this proposed settlement (“the Settlement”).

You are not being sued. A court authorized this notice. This is not a solicitation from a lawyer.

**PLEASE READ THIS NOTICE CAREFULLY. IT CONTAINS IMPORTANT
INFORMATION ABOUT YOUR RIGHTS.**

- This is a class action lawsuit that involves a class defined as “all individuals who are or were employed by Defendant as non-exempt employees in the State of California during the Class Period.”
- Plaintiff in this class action contends that Defendant violated provisions of the California Labor Code by allegedly failing to properly pay all wages during and at the end of employment, provide compliant meal and rest periods and pay premiums for missed meal and rest periods, and provide compliant pay stubs, as well as other related claims, and engaged in unfair competition.
- Plaintiff also alleges a claim for civil penalties under the California Private Attorneys General Act for Defendant’s alleged Labor Code violations.
- Defendant denies all of Plaintiff’s claims and asserts that it has complied with all of its legal obligations to its employees.
- There has been a settlement that affects your legal rights. Although the Court has authorized the Parties to provide this notice of the proposed settlement, the Court has expressed no opinion on the merits of Plaintiff’s claims or Defendant’s defenses.
- You have several options available to you:

DO NOTHING	By doing nothing, you <u>will</u> receive a share of the settlement proceeds, and you will give up any rights to sue Defendant and the Released Parties separately regarding all claims and causes of action of whatever kind or nature that are alleged, related to or that reasonably could have arisen out
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	of the same facts alleged in the Complaint that are the subject of this class action lawsuit.
ASK TO BE EXCLUDED (OPT OUT) OF THE CLASS SETTLEMENT BUT NOT THE PAGA SETTLEMENT	If you do <i>not</i> wish to take part in the class action portion of the Settlement (the “Class Settlement”), you may exclude yourself (i.e., opt out of the Class Settlement) by sending the Settlement Administrator a letter or card postmarked no later than [Response Deadline]. Any person who submits a timely request for exclusion from the Class Settlement shall, upon receipt, no longer be a Class Member, shall be barred from participating in the Class Settlement, and shall receive no benefits from the class action portion of the Settlement. Importantly, Class Members who timely and validly request exclusion from the Class Settlement will <i>not</i> be excluded from their share of the PAGA Payment. Requesting exclusion from the Class Settlement applies solely to the Class Members’ entitlement to the class action portion of the Settlement and not their entitlement to the PAGA Payment. If you request exclusion from the Class Settlement you will still be entitled to your share, if any, of the PAGA Payment.
OBJECT	Object to the terms of this Settlement.

Your options are explained in this notice.
To make a claim or object, you must act by XXXXX.

1. Why did I get this notice?

A settlement has been reached in a class action lawsuit that was brought on behalf of the following class of people defined as “all individuals who are or were employed by Defendant as non-exempt employees in the State of California during the Class Period.”

You have received this notice because Defendant’s records indicate that you are a member of the Class.

2. What is this lawsuit about?

On March 2, 2023, Plaintiff filed a putative class and PAGA representative action Complaint against Defendant in Alameda County Superior Court captioned as *FRANCISCO RODRIGUEZ, an individual, on behalf of himself, the State of California, as a private attorney general, and on behalf of all others similarly situated v. LAND SERVICES LANDSCAPE CONTRACTORS, INC., a California Corporation; and DOES 1 to 50, Case No. 23CV028674*. The claims for relief Plaintiff asserted on behalf of himself and the putative class and aggrieved employee group are: (1) failure to pay minimum wages in violation of California Labor Code sections 1197, 1198, 1194, 1194.2, the California Code of Regulations, and the applicable IWC Wage Orders; (2) failure to pay overtime wages in violation of California Labor Code sections 204, 510, 1194, 1198 and the applicable IWC Wage Orders; (3) failure to provide rest breaks and rest period premiums in violation of California Labor Code sections 226.7, the California Code of Regulations, and

applicable IWC Wage Orders; (4) failure to provide meal breaks and meal period premiums in violation of California Labor Code sections 226.7, 512(a), and applicable IWC Wage Orders; (5) failure to maintain accurate employment records in violation of California Labor Code section 1174; (6) failure to pay wages timely during employment in violation of California Labor Code section 200, 204, and 210; (7) failure to pay all wages earned and unpaid at separation of employment in violation of California Labor Code sections 201, 202, and 203; (8) failure to indemnify employees for all necessary business expenditures in violation of California Labor Code section 2802 and 2804; (9) failure to provide accurate itemized wage statements in violation of California Labor Code sections 226(a) and 226(e); (10) violation of Business and Professions Code section 17200 et seq.; (11) and recovery of statutory and civil penalties pursuant to the California Labor Code, including but not limited to, the California Private Attorney General Act for violations of California Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 256, 510, 512, 1174, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802, and 2804.

Defendant denies all of Plaintiff's claims, denies that it has liability to Plaintiff or any other Class Member, and asserts that it has complied with all of its legal obligations to its employees.

3. Has the Court decided who is right?

No. The Court has made no decision regarding the merits of Plaintiff's allegations or Defendant's defenses.

4. Why did this case settle?

The Parties reached a settlement in order to avoid the risk and expense of further litigation. Plaintiff and his attorneys believe the proposed settlement is fair, adequate and in the best interest of the class members to whom it applies given the outcome of their investigation, the consumption of time and resources required in connection with further litigation, and the uncertainty in the law governing some of the claims presented. Although Defendant disputes Plaintiff's claims, Defendant has also concluded that further litigation would be protracted and expensive and would also divert resources and management and employee time.

5. What are the terms of the settlement and how much will I receive?

Subject to final Court approval, the Settlement Agreement provides that Defendant will pay the gross amount of One Hundred Fifty Thousand Dollars (\$150,000.00) (the "Maximum Settlement Fund") to fully resolve the allegations in the Action. Under the Settlement, the following amounts will be deducted before any payments are made to employees, subject to final approval by the Court:

- Class Representative Enhancement to the Named Plaintiff - \$7,500
- Attorneys' fees— \$50,000.00
- Attorneys' Costs – \$20,000.00
- PAGA Payment – \$20,000 (\$15,000 to the LWDA and \$5,000 to be distributed to the "aggrieved" employee group).

- Settlement Administration Expenses – \$20,000.00

After these deductions the “Net Settlement Amount” will be available for payments to be made to the Class Members receiving this notice.

The Net Settlement Amount will be available for distribution to Settlement Class Members. Each Class Member who does not timely submit a valid Request for Exclusion to be excluded from the Class (“Settlement Class Member”) will be receive a *pro rata* portion of the Net Settlement Fund (“Individual Settlement Payment”). The payments will be calculated in accordance with the following steps:

The Settlement Administrator will calculate the total Compensable Workweeks for all Settlement Class Members by adding the number of Compensable Workweeks worked by each Settlement Class Member during the Class Period. The respective Compensable Workweeks for each Settlement Class Member will be divided by the total Compensable Workweeks for all Settlement Class Members, resulting in the Payment Ratio for each Settlement Class Member. Each Settlement Class Member’s Payment Ratio will then be multiplied by the Net Settlement Amount to calculate each Settlement Class Member’s estimated Individual Settlement Payments.

In addition, the employee’s share of PAGA Penalties will be paid to Class Members who worked during the PAGA Period. The PAGA Individual Payment paid to each PAGA Covered Employee shall be calculated by dividing 25% of the approved PAGA Payment by the number of Compensable Workweeks for all PAGA Covered Employees during the PAGA Period and then multiplying the result by the number of Compensable Workweeks for each PAGA Covered Employee during the PAGA Period.

Based on Defendant’s records, and the Parties’ current assumptions, your Individual Class Payment as a Class Member is estimated to be \$ [REDACTED] (less withholding). The actual amount you may receive likely will be different and will depend on a number of factors. This amount does not include any PAGA Penalties that may be owed to you under the Settlement. If you disagree with this information and would like someone to look into the matter, please follow the procedure below.

The above estimates are based on Defendant’s records showing that you worked [REDACTED] Compensable Workweeks during the Class Period.

6. What if I disagree with the number eligible pay periods attributed to me shown above?

If you believe that you worked more workweeks during the Class Period, you may dispute your Individual Class Payment calculation by providing written documentation to the Settlement Administrator at the address listed below, supporting your position on or before [RESPONSE DEADLINE]. Your dispute must contain: your full name, address, signature, last four digits of your Social Security number, the case name and an explanation of the dispute, along with any supporting documentation confirming the payment amounts attributed to you are incorrect.

7. What do I have to do to receive a share of the settlement?

If you wish to receive a payment under the terms of this settlement, you do not have to do anything. However, it is advisable to confirm your current mailing address with the Settlement Administrator in order to ensure you receive your settlement share at XXX. You will be covered by the release summarized in Section 8, below.

8. What rights am I giving up?

Upon the date the Settlement is fully funded, each Class Member who does not timely submit a valid Request for Exclusion to be excluded from the Class, will, for the Class Period, fully release and forever discharge the Released Parties from certain claims they may have as follows:

“Class Released Claims” means any and all claims for wages, statutory and civil penalties (but not PAGA Penalties), monies, damages, liquidated damages, premiums, pre-judgment and post-judgment interest, restitution, injunctive and declaratory relief, attorneys’ fees and costs, that were alleged in the operative Complaint in the Action, and/or any letter(s) submitted by Plaintiff to the Labor and Workforce Development Agency (“LWDA”) against Defendant in the Action, and/or claims which could have been alleged that reasonably relate to or which reasonably arise out of the same set of operative facts pled therein, whether such claims or forms of relief are known or unknown during the Class Period, including, but not limited to: (1) failure to pay minimum wages in violation of California Labor Code sections 1197, 1198, 1194, 1194.2, the California Code of Regulations, and the applicable IWC Wage Orders; (2) failure to pay overtime wages in violation of California Labor Code sections 204, 510, 1194, 1198 and the applicable IWC Wage Orders; (3) failure to provide rest breaks and rest period premiums in violation of California Labor Code sections 226.7, the California Code of Regulations, and applicable IWC Wage Orders; (4) failure to provide meal breaks and meal period premiums in violation of California Labor Code sections 226.7, 512(a), and applicable IWC Wage Orders; (5) failure to maintain accurate employment records in violation of California Labor Code section 1174; (6) failure to pay wages timely during employment in violation of California Labor Code section 200, 204, and 210; (7) failure to pay all wages earned and unpaid at separation of employment in violation of California Labor Code sections 201, 202, and 203; (8) failure to indemnify employees for all necessary business expenditures in violation of California Labor Code section 2802 and 2804; (9) failure to provide accurate itemized wage statements in violation of California Labor Code sections 226(a) and 226(e); and (10) violation of Business and Professions Code section 17200, et seq.; (11) all other statutory violations alleged in the operative complaint in the Action; and (12) with respect to the statutory penalties claimed in the Action, any source of obligation as a basis for claiming such penalties during the Class Period against the Released Parties. The release of the Class Released Claims shall be given full *res judicata* and *collateral estoppel* effect upon entry of the judgment in this Action so as to bar any other individual or entity from filing or pursuing the Class Released Claims against the Released Parties in any forum.

Upon the date the Settlement is fully funded, the Labor Workforce Development Agency, State of California and Plaintiff as a proxy for the LWDA, are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from the PAGA Released Claims as follows:

“PAGA Released Claims” means the release of the Released Parties by the Labor Workforce Development Agency, State of California, and by Plaintiff FRANCISCO RODRIGUEZ as representative of and proxy for the LWDA, from all claims for civil penalties under the Labor Code pursuant to the Private Attorneys General Act (Cal. Lab. Code §§ 2698 et seq.) or otherwise that were alleged in the PAGA Letter(s), the Operative Complaint in the Action, and/or claims which reasonably relate to or which reasonably arise out of the same set of operative facts pled therein, whether such claims or forms of relief are known or unknown, during the PAGA Period, including, but not limited to violations of California Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 256, 510, 512, 1174, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802, and 2804. The release of PAGA Released Claims shall be given full res judicata and collateral estoppel effect upon entry of the judgment in this Action so as to bar the LWDA and any other individual or entity from filing or pursuing claims for PAGA penalties for the PAGA Released Claims against the Released Parties in any forum.

“Released Parties” means LAND SERVICES LANDSCAPE CONTRACTORS, INC. and each and all of its past and present parent, subsidiary, and affiliated corporations, entities, divisions, general and limited partners, joint venturers and affiliates, and each of their respective current and former directors, officers, managers, employees, principals, members, agents, insurers, reinsurers, shareholders, attorneys, advisors, representatives, general partners, limited partners, joint venturers, and affiliated companies, and each of their respective executors, predecessors, successors, assigns and legal representatives.

9. What if I want to request exclusion from the class settlement?

If you do *not* wish to take part in the class action portion of the Settlement (the “Class Settlement”), you may exclude yourself (i.e., opt out of the Class Settlement). To do so, you must submit a written statement requesting exclusion from the Settlement. The written statement must explicitly and unambiguously state the following or similar statement: “I wish to exclude myself from the settlement reached in the matter of *Francisco Rodriguez v. Land Services Landscape Contractors, Inc.* (Case No. 23CV028674). “ I understand by excluding myself, I will not receive any money from the class settlement reached in this matter.”; (2) contain your name, address, and the last four digits of the Social Security number; (c) be signed by you; and (d) be postmarked by the Response Deadline and returned to the Settlement Administrator at the specified address in the Notice Packet. Your written statement must be mailed to the Settlement Administrator, and be postmarked no later than **[RESPONSE DEADLINE]**, or it will not be considered and you will still remain a Settlement Class Member and be bound by the Settlement. The Settlement Administrator’s address is:

ADMINISTRATOR
c/o **XXXXXX**

Class Members who are PAGA Covered Employees do not have a right to exclude themselves or object to the PAGA portion of the Settlement and will be covered by the release of claims for civil penalties under the PAGA.

Anyone who submits a timely and valid Request for Exclusion letter will not be deemed a Settlement Class Member and will not receive any payment as part of this Settlement, except for a pro-rata portion of the PAGA Payment. Such persons will keep any rights to sue Defendant and the Released Parties separately about the claims in this Action, except for the claims for civil penalties under the PAGA.

10. What if I have an objection?

Any objection to the Settlement must be in writing, include: (1) your full name (and former names, if any); (2) dates of employment; (3) last four digits your Social Security number and/or the Employee ID number; (4) reason(s) for the objection; and (5) name case number of this matter. Your written statement must be mailed to the Settlement Administrator and be postmarked no later than [RESPONSE DEADLINE]. Either of the Parties may file a responsive document to any objection with the Court. You may also appear at the Final Approval Hearing in Dept. 23 of the Superior Court of the State of California, County of Alameda, 1225 Fallon Street, Oakland, CA 94612 on _____, 2024, at XXX. (Pacific Time), to have your objection heard by the Court. If you object to the settlement, you will remain a Settlement Class Member, and if the Court approves the settlement, you will be bound by the terms of the Settlement Agreement in the same way as Class Members who do not object.

11. Do I need a lawyer?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. However, if you want your own lawyer, you are free to hire one at your own expense.

<u>Class Counsel:</u> MELMED LAW GROUP P.C. Jonathan Melmed Laura Supanich Michiko Vartanian 1801 Century Park East, Suite 850 Los Angeles, CA 91103 Telephone: (310) 824-3828 Facsimile: (310) 862-6851	<u>Counsel for:</u> LAND SERVICES LANDSCAPE CONTRACTORS, INC. Kurt R. Bockes Harman Deol 101 Second Street, Suite 1000 San Francisco, CA 94105
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12. What happens next in the case?

The Settlement has only been preliminarily approved by the Court. The Court will hold a hearing in Dept. 23 of the Superior Court of the State of California, County of Alameda, 1225 Fallon Street, Oakland, CA 94612 on _____, 2024, at XXX. (Pacific Time), to consider any objections and determine whether the settlement should be finally approved as fair, reasonable, and adequate.

The Court will also be asked to approve Class Counsel's request for attorneys' fees and costs and the costs of Settlement Administration. The hearing may be continued without further notice to you. It is not necessary for you to appear at this hearing.

13. How can I receive more information?

This notice is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you may review the detailed "Settlement Agreement" on file with the Clerk of the Court. The pleadings and other records in this litigation may be examined at any time during regular business hours at the Office of the Clerk of the Superior Court of the State of California, County of Alameda, 1225 Fallon Street, Oakland, CA 94612.

For further information, you may also telephone the Settlement Administrator at XXX or Class Counsel (listed above).

Please do not telephone the Court, the Office of the Clerk, or Defendant for information regarding this Settlement.

EXHIBIT B



Quotation Request:
Hannah Becker
Melmed Law
hb@melmedlaw.com
310.824.3828

Case Name: Rodriguez v. Land Services Landscape Contractors
Date: Friday, December 6, 2024
RFP Number: 25882004

Prepared By:
Michael Sutherland
Apex Class Action LLC
mike@apexclassaction.com
321.223.5067

Settlement Specifications	
Estimated Class Size:	132
Certified Language Translation:	Yes
Static Settlement Website:	No
Percentage of Undeliverable Mail:	20%

Professional Services	Fee Calculation	Rate(s)	Quantity	Estimated Cost
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Data Analytics and Standardization				
Import and Standardize Data*	Per Hour	\$125.00	1	\$125.00
Data Analyst	Per Hour	\$150.00	1	\$150.00
*Data provided must be in a workable format. Apex can standardize provided data at an additional cost of \$150/hr.				
			Sub Total:	\$275.00

Mailing of Class Notice				
Form Set Up	Per Hour	\$120.00	1	WAIVED
Print & Mail Class Notice	Per Piece	\$1.00	132	\$132.00
USPS First Class Postage	Per Piece	\$0.73	132	\$96.36
Remail Undeliverable Mail (Skip-Trace)	Per Piece	\$2.00	13	\$26.40
Receive and Process Undeliverable Mail	Per Hour	\$75.00	1	\$75.00
Process Class Member Correspondence via mail, e-mail & fax	Per Piece	\$75.00	1	\$75.00
NCOA Address Update (USPS)	Static Rate	\$110.00	1	\$110.00
Certified Language Translation: Spanish	Static Rate	\$1,000.00	1	\$1,000.00
			Sub Total:	\$1,514.76

Project Management				
Project Management	Per Hour	\$150.00	1	\$150.00
Project Coordinator	Per Hour	\$90.00	1	\$90.00
Data Analyst and Reporting	Per Hour	\$140.00	1	\$140.00
			Sub Total:	\$380.00



Professional Services	Fee Calculation	Rate(s)	Quantity	Estimated Cost
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Toll-Free Contact Center, Website & Reporting				
Bilingual Toll-Free Contact Center	Static Rate	\$250.00	1	\$250.00
Settlement Website: Static Apex URL	Static Rate	\$500.00	1	\$500.00
Settlement Status Reports	Static Rate	\$750.00	1	Waived
Sub Total:				\$750.00

Distribution & Settlement Fund Management				
Settlement Calculations (Preliminary and Final)	Per Hour	\$120.00	2	\$240.00
Account Management and Reconciliation	Per Hour	\$140.00	2	\$280.00
Print & Mail Distribution Settlement Check (W-2/1099)	Per Piece	\$1.00	132	\$132.00
USPS First Class Postage	Per Piece	\$0.73	132	\$96.36
Remail Distribution to Updated Address (Skip Trace)	Per Piece	\$1.50	4	\$6.00
Individual Income Tax Preparation & Reporting	Per Hour	\$100.00	4	\$400.00
QSF Income Tax Reporting (per calendar year)	Per Year	\$1,000.00	1	\$1,000.00
Sub Total:				\$2,154.36

Post Distribution Reconciliation				
Bank Account Reconciliation	Per Hour	\$135.00	1	\$135.00
Project Management Reconciliation	Per Hour	\$100.00	1	\$100.00
Declarations	Per Hour	\$120.00	1	\$120.00
Sub Total:				\$355.00

TOTAL ESTIMATED ADMINISTRATION COST:	\$5,429.12
TOTAL CAPPED ADMINISTRATION COST:	\$4,500.00

Thank you for your business!



Terms & Conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EXHIBIT C

March 2, 2023

Filed via the LWDA's PAGA Claim Notice Online Form

Copies Sent via Certified U.S. Mail to:

Land Services Landscape Contractors
901 Brown Rd.
Fremont, CA 94539

**Re: *Francisco Rodriguez v. Land Services Landscape Contractors, Inc.*
Notice of Intent to File Suit Pursuant to California Labor Code
Section 2699**

To Whom It May Concern:

This office represents Francisco Rodriguez ("Plaintiff") and a group of the putative class members in a forthcoming lawsuit against Land Services Landscape Contractors, Inc. ("Defendant"). The action, entitled *Francisco Rodriguez v. Land Services Landscape Contractors, Inc.*, is to be filed in the Superior Court of the State of California for the County of Alameda (the "Action"). A copy of the complaint as currently drafted, and as is intended to be filed in the Action, is enclosed as **Exhibit A**. This letter incorporates by reference the facts, law, and allegations of Exhibit A.

This letter serves as notice pursuant to the California Labor Code Private Attorneys General Act of 2004 ("PAGA"), codified at California Labor Code sections 2698 through 2699.6, that we intend to include representative claims in the Action for civil penalties under PAGA on behalf of a group of aggrieved employees. For the purposes of this letter, "Aggrieved Employees" is defined as: *All individuals who are or were employed by Defendant(s) as non-exempt employees in California, from one year prior to the mailing of this notice through the date of trial.*

As set forth in more detail in Exhibit A, Defendant violated its obligations to Plaintiff and the Aggrieved Employees under California law by: failing to pay minimum wages for all hours worked, failing to pay all overtime wages earned, failing to provide lawful rest periods and pay missed rest period premiums, failing to provide lawful meal periods and pay missed meal period premiums, failing to maintain accurate records, failing to reimburse all necessary business expenses, failing to provide accurate and complete wage statements, failing to pay all wages in full and on time during employment, and failing to pay all wages due upon termination.

Because of these systemic violations, Defendant violated: Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 256, 510, 512, 1174, 1174.5, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2084, and California Industrial Welfare Commission Wage Orders Wage Orders 5-2001 and/or 16-2001, and

Notice of Intent to File PAGA Action

March 2, 2023

Page 2 of 2

others that may be applicable. (Cal. Code of Regs., tit. 8, §§ 11050, 11160.) The enclosed Complaint further details: **(1)** the alleged violations; **(2)** the facts and theories supporting these violations; **(3)** the people and entities, dates, classifications, violations, events, and actions at issue; and **(4)** the illegal practices instituted by Defendant.

Together with this correspondence, the enclosed complaint provides notice that we intend to proceed with a claim for civil penalties in the Action pursuant to PAGA. (See Lab. Code, §§ 2698–2699.6.) We intend to fully prosecute the representative claims alleged in the complaint, including by obtaining civil penalties under PAGA.

Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andrew Levine', written over a horizontal line.

ANDREW LEVINE

Enclosure

EXHIBIT A

MELMED LAW GROUP P.C.
Jonathan Melmed (SBN 290218)
jm@melmedlaw.com
Andrew Levine (SBN 296872)
dl@melmedlaw.com
1801 Century Park East, Suite 850
Los Angeles, California 90067
Phone: (310) 824-3828
Fax: (310) 862-6851

Attorneys for Plaintiff, the Putative Class, and the Aggrieved Employees

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

FRANCISCO RODRIGUEZ, an individual, on
behalf of himself, the State of California, as a
private attorney general, and on behalf of all
others similarly situated,

Plaintiff,

v.

LAND SERVICES LANDSCAPE
CONTRACTORS, INC., a California
Corporation; and DOES 1 TO 50,

Defendants.

Case Number:

**CLASS AND REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. Failure to Pay All Minimum Wages,
2. Failure to Pay All Overtime Wages,
3. Failure to Provide Rest Periods and Pay Missed Rest Period Premiums,
4. Failure to Provide Meal Periods and Pay Missed Meal Period Premiums,
5. Failure to Maintain Accurate Employment Records,
6. Failure to Pay Wages Timely during Employment,
7. Failure to Pay All Wages Earned and Unpaid at Separation,
8. Failure to Indemnify All Necessary Business Expenditures,
9. Failure to Furnish Accurate Itemized Wage Statements,

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- 10.** Violations of California’s Unfair
Competition Law (Bus. & Prof. Code, §§
17200–17210), and
- 11.** Penalties Pursuant to the Labor Code
Private Attorneys General Act of 2004
(“PAGA”) for Violations of California
Labor Code Sections 201, 202, 203, 204,
210, 226, 226.3, 226.7, 256, 510, 512,
1174, 1185, 1194, 1194.2, 1197, 1197.1,
1198, 1198.5, 1199, 2802, 2804, and Other
Provisions of the Labor Code.

DEMAND FOR JURY TRIAL

1 Plaintiff Francisco Rodriguez (“Plaintiff”), on behalf of himself, the State of California, as a
2 private attorney general, and all other similarly situated employees within the State of California,
3 complains and alleges of defendants Land Services Landscape Contractors, Inc. and Does 1 to 50
4 (collectively, “Defendants”), and each of them, as follows:

5 **I. INTRODUCTION**

6 1. This is a class action complaint brought pursuant to California Code of Civil Procedure
7 section 382.

8 2. The “Class Period” as used herein, is defined as the period from four years prior to the
9 filing of this action and continuing into the present and ongoing. Defendants’ violations of California’s
10 laws as described more fully below have been ongoing throughout the Class Period and are still
11 ongoing.

12 3. Plaintiff brings this class action on behalf of himself and the following class: *All*
13 *individuals who are or were employed by Defendants as non-exempt employees in California during*
14 *the Class Period* (the “Class Members”). (Code Civ. Proc., § 382.)

15 4. Plaintiff brings this action on behalf of himself and the Class Members, as a class action,
16 against Defendants for:

- 17 A. Failure to pay all minimum wages,
- 18 B. Failure to pay all overtime wages,
- 19 C. Failure to provide rest periods and pay missed rest period premiums,
- 20 D. Failure to provide meal periods and pay missed meal period premiums,
- 21 E. Failure to maintain accurate employment records,
- 22 F. Failure to pay wages timely during employment,
- 23 G. Failure to pay all wages earned and unpaid at separation,
- 24 H. Failure to indemnify all necessary business expenditures,
- 25 I. Failure to furnish accurate itemized wage statements, and
- 26 J. Violations of California’s Unfair Competition Law (“UCL”) (Bus. & Prof.
27 Code, §§ 17200–17210).
- 28

1 5. This action is also a representative action brought pursuant to the California Labor Code
2 Private Attorneys General Act of 2004 (“PAGA”), codified at California Labor Code sections 2698
3 through 2699.6.

4 6. The “PAGA Period” as used herein, is defined as the period from March 1, 2022, and
5 continuing into the present and ongoing.

6 7. This PAGA action is brought on behalf of Plaintiff, the State of California as private
7 attorney general, and on behalf of the following aggrieved employees: *All individuals who are or were*
8 *employed by Defendants as non-exempt employees in California during the PAGA Period* (the
9 “Aggrieved Employees”).

10 8. Plaintiff is informed and believes and thereon alleges that the California Industrial
11 Welfare Commission (“IWC”) Wage Orders applicable to the facts of this case are IWC Wage Orders
12 5-2001 and/or 16-2001 (the “Applicable Wage Orders”) and possibly others that may be applicable.
13 (Cal. Code of Regs., tit. 8, §§ 11050, 11160.) Plaintiff reserves the right to amend or modify the
14 definition of “Applicable Wage Orders” with greater specificity or add additional IWC Wage Orders
15 if additional applicable wage orders are discovered in litigation.

16 **II. JURISDICTION & VENUE**

17 9. This Court has subject matter jurisdiction over all causes of action asserted herein
18 pursuant to Article VI, section 10, of the California Constitution and Code of Civil Procedure section
19 410.10 because this is a civil action in which the matter in controversy, exclusive of interest, exceeds
20 \$25,000, and because each cause of action asserted arises under the laws of the State of California or
21 is subject to adjudication in the courts of the State of California.

22 10. This Court has personal jurisdiction over Defendants because Defendants have caused
23 injuries in the County of Alameda and the State of California through their acts, and by their violation
24 of the California Labor Code and California state common law. Defendants transact millions of dollars
25 of business within the State of California. Defendants own, maintain offices, transact business, have an
26 agent or agents within the County of Alameda, and/or otherwise are found within the County of
27 Alameda, and Defendants are within the jurisdiction of this Court for purposes of service of process.
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1 11. Venue as to Defendants is proper in this judicial district, pursuant to section 395 of the
2 Code of Civil Procedure. Defendants operate within California and do business within Alameda
3 County, California. The unlawful acts alleged herein have a direct effect on Plaintiff and all of
4 Defendants' employees identified above within Alameda County and surrounding counties where
5 Defendants may remotely operate.

6 12. This matter is not appropriate for removal under the Class Action Fairness Act (28
7 U.S.C. § 1332) as the amount in controversy for Plaintiff's and the Class Members' claims, in
8 aggregate, is less than \$5 million. Additionally, all the allegations herein occurred in the State of
9 California. As such, even if the amount in controversy did exceed \$5 million this matter would still not
10 be appropriate for removal under the "local controversy" exception to the Class Action Fairness Act.
11 (28 U.S.C. § 1332, subd. (d)(4)(A).)

12 **III. THE PARTIES**

13 **A. PLAINTIFF**

14 13. At all relevant times, Plaintiff, who is over the age of 18, was and currently is a citizen
15 of California residing in the State of California. Defendants employed Plaintiff as a non-exempt hourly
16 employee in the County of Alameda.

17 14. Plaintiff brings this action on behalf of himself and the following class pursuant to
18 section 382 of the Code of Civil Procedure as follows: *All individuals who are or were employed by*
19 *Defendants as non-exempt employees in California during the Class Period* (the "Class Members").

20 15. Plaintiff also brings this action on behalf of himself and the State of California, as a
21 private attorney general, and on behalf of the following group of aggrieved employees: *All individuals*
22 *who are or were employed by Defendants as non-exempt employees in California during the PAGA*
23 *Period* (the "Aggrieved Employees").

24 16. The Class Members and the Aggrieved Employees, at all times pertinent hereto, are or
25 were employees of Defendants during the relevant statutory period.

26 **B. DEFENDANTS**

27 17. Plaintiff is informed and believes and thereon alleges that Defendants were authorized
28 to and doing business in Alameda County and is and/or was the legal employer of Plaintiff, the other

1 Aggrieved Employees, and the other Class Members during the applicable statutory periods. Plaintiff,
2 the other Aggrieved Employees, and the other Class Members were, and are, subject to Defendants'
3 policies and/or practices complained of herein and have been deprived of the rights guaranteed to them
4 by: California Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 256, 510, 512, 1174,
5 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2804, and others that may be applicable;
6 California Business and Professions Code sections 17200 through 17210 ("UCL"); and the Applicable
7 Wage Orders (Cal. Code of Regs., tit. 8, §§ 11050, 11160).

8 18. Plaintiff is informed and believes, and based thereon alleges, that during the Class
9 Period and PAGA Period, Defendants did (and continue to do) business in the State of California,
10 County of Alameda. Defendants operations are headquartered in Alameda County.

11 19. Plaintiff does not know the true names or capacities, whether individual, partner, or
12 corporate, of the defendants sued herein as Does 1 to 50, inclusive, and for that reason, said defendants
13 are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this
14 complaint when such true names and capacities are discovered. Plaintiff is informed, and believes, and
15 thereon alleges, that each of said fictitious defendants, whether individual, partners, or corporate, were
16 responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff,
17 the other Aggrieved Employees, and the other Class Members to be subject to the unlawful employment
18 practices, wrongs, injuries, and damages complained of herein.

19 20. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
20 herein, Defendants were and/or are the employers of Plaintiff, the other Aggrieved Employees, and the
21 other Class Members. At all times herein mentioned, each of said Defendants participated in the doing
22 of the acts hereinafter alleged to have been done by the named Defendants. Furthermore, the
23 Defendants, and each of them, were the agents, servants, and employees of each and every one of the
24 other Defendants, as well as the agents of all Defendants, and at all times herein mentioned were acting
25 within the course and scope of said agency and employment. Defendants, and each of them, approved
26 of, condoned, or otherwise ratified every one of the acts or omissions complained of herein.

27 21. At all relevant times, Defendants, and each of them, were members of and engaged in a
28 joint venture, partnership, and common enterprise, and acting within the course and scope of and in

1 pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff is informed, and
2 believes, and thereon alleges, that all Defendants were joint employers for all purposes of Plaintiff, the
3 other Aggrieved Employees, and the other Class Members.

4 **IV. COMMON FACTS & ALLEGATIONS**

5 22. Plaintiff and the other Class Members (collectively, the “Class Members”) are, and were
6 at all relevant times, employed by the Defendants within the State of California.

7 23. Likewise, Plaintiff and the other Aggrieved Employees (collectively, the “Aggrieved
8 Employees”) are, and were at all relevant times, employed by the Defendants within the State of
9 California.

10 24. The Class Members and the Aggrieved Employees are, and were, at all relevant times,
11 non-exempt employees for the purposes of minimum wages, overtime, rest breaks, meal periods, and
12 the other claims alleged in this complaint.

13 25. Specifically, Plaintiff was employed by Defendants within the statutory Class Period
14 and PAGA Period, working as an hourly, non-exempt landscaper for Defendants. Plaintiff’s duties
15 included clearing and cleaning landscape debris.

16 **A. MINIMUM WAGE VIOLATIONS**

17 26. Labor Code section 1197 requires employees to be paid at least the minimum wage fixed
18 by the IWC, and any payment of less than the minimum wage is unlawful. Similarly, Labor Code
19 section 1194 entitles “any employee receiving less than the legal minimum wage . . . to recover in a
20 civil action the unpaid balance of the full amount of this minimum wage.” Likewise, the Applicable
21 Wage Orders also obligate employers to pay each employee minimum wages for all hours worked.
22 (Cal. Code of Regs., tit. 8, §§ 11050, 11160.) Labor Code section 1198 makes unlawful the employment
23 of an employee under conditions that the IWC Wage Orders prohibit.

24 27. These minimum wage standards apply to each hour that employees work. Therefore, an
25 employer’s failure to pay for any particular time worked by an employee is unlawful, even if averaging
26 an employee’s total pay over all hours worked, paid or not, results in an average hourly wage above
27 minimum wage. (*Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.)
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1 28. Here, Defendants failed to fully conform their pay practices to the requirements of the
2 law during the relevant statutory periods. The Class Members and the Aggrieved Employees were not
3 compensated for all hours worked including, but not limited to, all hours they were subject to the control
4 of Defendants and/or suffered or permitted to work under the California Labor Code and the Applicable
5 Wage Orders.

6 29. Labor Code sections 1194, subdivision (a), and 1194.2, subdivision (a), provide that an
7 employer who has failed to pay its employees the legal minimum wage is liable to pay those employees
8 the unpaid balance of the unpaid wages as well as liquidated damages in an amount equal to the wages
9 due and interest thereon.

10 30. When employees, such as the Class Members, are not paid for all hours worked under
11 Labor Code section 1194, they are entitled to recover minimum wages for the time which they received
12 no compensation. (See *Sillah v. Command International Security Services* (N.D. Cal. 2015) 154
13 F.Supp.3d 891 [employees suing for failure to pay overtime could recover liquidated damages under
14 Labor Code section 1194.2 if they also showed they were paid less than minimum wage].)

15 31. Labor Code section 1197.1 authorizes employees who are paid less than the minimum
16 wage fixed by an applicable state or local law, or by an order of the IWC, a civil penalty, among other
17 damages, as follows:

18 (1) “For any initial violation that is intentionally committed, one hundred
19 dollars (\$100) for each underpaid employee for each pay period for
20 which the employee is underpaid.”

21 (2) “For each subsequent violation for the same specific offense, two
22 hundred fifty dollars (\$250) for each underpaid employee for each pay
23 period for which the employee is underpaid regardless of whether the
24 initial violation is intentionally committed.” (Lab. Code, § 1197.1, subd.
25 (a).)

26 32. As set forth above, Defendants failed to fully compensate the Class Members and the
27 Aggrieved Employees for all minimum wages. Accordingly, the Class Members are entitled to recover
28 liquidated damages for violations of Labor Code section 1197.1.

1 33. Based upon these same factual allegations, the Class Members are likewise entitled to
2 penalties under Labor Code sections 1199.

3 **B. OVERTIME VIOLATIONS**

4 34. Labor Code section 510 requires employers to compensate employees who work more
5 than eight hours in one workday, forty hours in a workweek, and for the first eight hours worked on
6 the seventh consecutive day no less than one and one-half times the regular rate of pay for an employee.
7 (Lab. Code, § 510, subd. (a).) Further, Labor Code section 510 obligates employers to compensate
8 employees at no less than twice the regular rate of pay when an employee works more than twelve
9 hours in a day or more than eight hours on the seventh consecutive day of work. (Lab. Code, § 510,
10 subd. (a).) These rules are also reflected in the Applicable Wage Orders.

11 35. In accordance with Labor Code section 1194 and the Applicable Wage Orders, the Class
12 Members and the Aggrieved Employees could not then agree and cannot now agree to work for a lesser
13 wage than the amount provided by Labor Code sections 510 or the Applicable Wage Orders.

14 36. Here, Defendants violated their duty to accurately and completely compensate the Class
15 Members and the Aggrieved Employees for all overtime worked. The Class Members and the
16 Aggrieved Employees periodically worked hours that entitled them to overtime compensation under
17 the law but were not fully compensated for those hours.

18 37. These actions were and are in clear violation of California's overtime laws as set forth
19 in Labor Code sections 510, 1194, 1199, and the Applicable Wage Orders. (Cal. Code of Regs., tit. 8,
20 §§ 11050, 11160.) As a result of Defendants' faulty policies and practices, the Class Members and the
21 Aggrieved Employees were not compensated for all hours worked or paid accurate overtime
22 compensation.

23 **C. REST BREAK VIOLATIONS**

24 38. Pursuant to Labor Code section 226.7 and the Applicable Wage Orders, Defendants
25 were and are required to provide the Class Members and the Aggrieved Employees with compensated,
26 duty-free rest periods of not less than ten minutes for every major fraction of four hours worked. Under
27 the Applicable Wage Orders, an employer must authorize and permit all employees to take ten minute
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1 duty free rest periods for every major fraction of four hours worked. (Cal. Code of Regs., tit. 8, §§
2 11050, 11160.)

3 39. Likewise, Labor Code section 226.7 provides that “[a]n employer shall not require an
4 employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute,
5 or applicable regulation, standard, or order of the Industrial Welfare Commission” (Lab. Code, §
6 226.7, subd. (b).) Labor Code section 226.7 also provides that employers must pay their employees one
7 additional hour of pay at the employee’s regular rate for each workday that a “meal or rest or recovery
8 period is not provided.” (Lab. Code, § 226.7, subd. (c).) The “regular rate” for these purposes must
9 factor in all nondiscretionary payments for work performed by the employee, including non-
10 discretionary bonuses, commissions, and other forms of wage payments exceeding the employees’ base
11 hourly rate. (*Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal.5th 858, 878.) Thus, the Wage
12 Orders set when and for how long the rest period must take place and the Labor Code establishes that
13 violations of the IWC Wage Orders are unlawful and sets forth the premium pay employer must pay
14 their employees when employers fail to provide rest periods.

15 40. The California Supreme Court has held that, during required rest periods, “employers
16 must relieve their employees of all duties and relinquish any control over how employees spend their
17 break time.” (*Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 260.) Relinquishing
18 control over employees during rest periods requires that employees be “free to leave the employer’s
19 premises” and be “permitted to attend to personal business.” (*Id.* at p. 275.) The *Brinker* Court
20 explained in the context of rest breaks that employer liability attaches from adopting an unlawful
21 policy:

22 “An employer is required to authorize and permit the amount of rest break time
23 called for under the wage order for its industry. If it does not—if, for example,
24 it adopts a uniform policy authorizing and permitting only one rest break for
25 employees working a seven-hour shift when two are required—it has violated
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27
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1 the wage order and is liable.” (*Brinker Rest. Corp. v. Superior Court* (2012) 53
2 Cal.4th 1004, 1033.)

3 41. Here, Defendants periodically did not permit the Class Members and the Aggrieved
4 Employees to take compliant duty-free rest breaks, free from Defendants’ control as required by Labor
5 Code section 226.7, the Applicable Wage Orders, and applicable precedent. (See *Augustus v. ABM*
6 *Security Services, Inc.* (2016) 2 Cal.5th 257, 269 [concluding that “during rest periods employers must
7 relieve employees of all duties and relinquish control over how employees spend their time.”].) At all
8 relevant times, the Class Members and the Aggrieved Employees were periodically not provided with
9 legally-compliant and timely rest periods of at least ten minutes for each four hour work period, or
10 major fraction thereof due to Defendants’ unlawful rest period policies/practices. The Class Members
11 and the Aggrieved Employees were often expected and required to continue working through rest
12 periods to meet the expectations Defendants and finish the workday. In some cases when the Class
13 Members and the Aggrieved Employees worked more than ten hours in a shift, Defendants failed to
14 authorize and/or permit a third mandated rest period. As a result, the Class Members and the Aggrieved
15 Employees were periodically unable to take compliant rest periods.

16 42. In such cases where Defendants did not offer the Class Members and the Aggrieved
17 Employees the opportunity to receive a compliant off-duty rest period, “the court may not conclude
18 employees voluntarily chose to skip those breaks.” (*Alberts v. Aurora Behavioral Health Care* (2015)
19 241 Cal.App.4th 388, 410 (2015) [“If an employer fails to provide legally compliant meal or rest
20 breaks, the court may not conclude employees voluntarily chose to skip those breaks.”]; *Brinker Rest.*
21 *Corp. v. Superior Court, supra*, 53 Cal.4th at p. 1033 [“No issue of waiver ever arises for a rest break
22 that was required by law but never authorized; if a break is not authorized, an employee has no
23 opportunity to decline to take it.”].)

24 43. In addition to failing to authorize and permit compliant rest periods, the Class Members
25 and the Aggrieved Employees were not compensated with one hour’s worth of pay at their regular rate
26 of compensation when they were not provided with a compliant rest period in accordance with Labor
27 Code section 226.7, subdivision (c). Thus, Defendants have violated Labor Code section 226.7 and the
28 Applicable Wage Orders.

1 44. Based on the foregoing, Plaintiff seeks to recover, on behalf of himself and other non-
2 exempt employees, rest period premiums and penalties.

3 **D. MEAL BREAK VIOLATIONS**

4 45. Labor Code section 512 and the Applicable Wage Orders require employers to provide
5 employees with a thirty-minute uninterrupted and duty-free meal period within the first five hours of
6 work. (Lab. Code, § 512, subd. (a) [“An employer shall not employ an employee for a work period of
7 more than five hours per day without providing the employee with a meal period of not less than 30
8 minutes”]; Cal. Code of Regs., tit. 8, §§ 11050, 11160 [“No employer shall employ any person
9 for a work period of more than five (5) hours without a meal period of not less than 30 minutes”].)
10 Additionally, an employee who works more than ten hours per day is entitled to receive a second thirty-
11 minute uninterrupted and duty-free meal period. (Lab. Code, § 512, subd. (a) [“An employer shall not
12 employ an employee for a work period of more than 10 hours per day without providing the employee
13 with a second meal period of not less than 30 minutes”].)

14 46. “An on-duty meal period is permitted only when the nature of the work prevents an
15 employee from being relieved of all duty and the parties agree in writing to an on-duty paid meal
16 break.” (*Lubin v. The Wackenhut Corp.* (2016) 5 Cal.App.5th 926, 932.) The written agreement must
17 include a provision allowing the employee to revoke it at any time. (*Ibid.*) Generally, the California
18 Department of Industrial Relations, Division of Labor Standards Enforcement (“DLSE”) and courts
19 have “found that the nature of the work exception applies: (1) where the work has some particular
20 external force that requires the employee to be on duty at all times, and (2) where the employee is the
21 sole employee of a particular employer.” (*Id.* at p. 945, internal quotation marks omitted; *Abdullah v.*
22 *U.S. Security Associates, Inc.* (9th Cir. 2013) 731 F.3d 952, 958–959.) “[I]t is the employer’s obligation
23 to determine whether the nature of the work prevents an employee from being relieved before requiring
24 an employee to take an on-duty meal period.” (*Lubin v. The Wackenhut Corp.*, *supra*, 5 Cal.App.5th at
25 p. 946.)

26 47. Here, the Class Members and the Aggrieved Employees were never asked to sign any
27 enforceable document agreeing to an on-duty meal period. Moreover, nothing in the nature of their
28 work involved the kind of “external force” that might justify on-duty meal breaks. (*Lubin v. The*

1 *Wackenhut Corp.*, *supra*, 5 Cal.App.5th at p. 945.) Nevertheless, Defendants periodically did not
2 provide compliant off-duty meal periods within the first five hours of work for the Class Members and
3 the Aggrieved Employees.

4 48. As with rest breaks, meal breaks must be duty-free. (*Brinker Restaurant Corp. v.*
5 *Superior Court* (2012) 53 Cal.4th 1004, 1035 [“The IWC’s wage orders have long made a meal period’s
6 duty-free nature its defining characteristic.”].) Relinquishing control over employees during meal
7 periods requires that employees be “free to leave the employer’s premises” and be “permitted to attend
8 to personal business.” (*Augustus v. ABM Security Services, Inc.*, *supra*, 2 Cal.5th at p. 275.) Under
9 Labor Code section 512, if an employer maintains a uniform policy that does not authorize and permit
10 the amount of meal time called for under the law (as specified in the Labor Code and/or applicable
11 IWC Wage Order), “it has violated the wage order and is liable.” (*Brinker Restaurant Corp. v. Superior*
12 *Court*, *supra*, 53 Cal.4th at p. 1033.)

13 49. During the applicable statutory periods here, the Class Members and the Aggrieved
14 Employees were periodically denied legally-compliant and timely off-duty meal periods of at least
15 thirty minutes due to Defendants’ unlawful meal period policy and practices. As a result of Defendants’
16 uniform meal period policies and practices, the Class Members and the Aggrieved Employees were
17 often not permitted to take compliant first meal periods before the end of the fifth hour of work. The
18 Class Members and the Aggrieved Employees were also periodically not permitted to take second meal
19 periods for shifts in excess of ten hours. Defendants thus violated Labor Code section 512 and the
20 Applicable Wage Orders by failing to advise, authorize, or permit the Class Members and the
21 Aggrieved Employees to receive thirty-minute, off-duty meal periods within the first five hours of their
22 shifts.

23 50. Labor Code section 226.7 provides that “[a]n employer shall not require an employee
24 to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or
25 applicable regulation, standard, or order of the Industrial Welfare Commission.” (Lab. Code, § 226.7,
26 subd. (b).) Labor Code section 226.7, subdivision (c), and the Applicable Wage Orders further obligate
27 employers to pay employees one additional hour of pay at the employee’s regular rate of compensation
28 for each workday that the meal period is not provided. (Lab. Code, § 226.7, subd. (c); Cal. Code of

1 Regs., tit. 8, §§ 11050, 11160 [“If an employer fails to provide an employee a meal period in accordance
2 with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay
3 at the employee’s regular rate of compensation for each workday that the meal period is not
4 provided.”].) The “regular rate” for these purposes must factor in all nondiscretionary payments for
5 work performed by the employee, including non-discretionary bonuses, commissions, and other forms
6 of wage payments exceeding the employees’ base hourly rate. (*Ferra v. Loews Hollywood Hotel, LLC*
7 (2021) 11 Cal.5th 858, 878.)

8 51. Accordingly, for each day that the Class Members and the Aggrieved Employees did
9 not receive compliant meal periods, they were and are entitled to receive meal period premiums
10 pursuant to Labor Code section 226.7 and the Applicable Wage Orders. Defendants, however, failed
11 to pay the Class Members and the Aggrieved Employees applicable meal period premiums for many
12 workdays that the employees did not receive a compliant meal period. Thus, Defendants have violated
13 Labor Code section 226.7 and the Applicable Wage Orders.

14 52. Based on the foregoing, Plaintiff seeks to recover, on behalf of himself and other non-
15 exempt employees, meal period premiums and penalties.

16 **E. UNTIMELY WAGES DURING EMPLOYMENT**

17 53. Labor Code section 204 expressly requires employers who pay employees on a weekly,
18 biweekly, or semimonthly basis to pay all wages “not more than seven calendar days following the
19 close of the payroll period.” Labor Code section 210, subdivision (a), makes employers who violate
20 Labor Code section 204 subject to a penalty of:

21 “(1) For any initial violation, one hundred dollars (\$100) for each failure to
22 pay each employee.

23 “(2) For each subsequent violation, or any willful or intentional violation, two
24 hundred dollars (\$200) for each failure to pay each employee, plus 25
25 percent of the amount unlawfully withheld.” (Lab. Code, § 210, subd.
26 (a).)

1 54. Notably, the penalty provided by Labor Code section 210 is “[i]n addition to, and
2 entirely independent and apart from, any other penalty provided in this article” (Lab. Code, § 210,
3 subd. (a).)

4 55. Due to Defendants’ failure to pay the Class Members and the Aggrieved Employees the
5 wages described above, along with rest and meal break premiums, Defendants failed to timely pay the
6 Class Members and the Aggrieved Employees within seven calendar days following the close of payroll
7 in accordance with Labor Code section 204 on a regular and consistent basis. (See *Parson v. Golden*
8 *State FC, LLC* (N.D. Cal., May 2, 2016, No. 16-CV-00405-JST) 2016 WL 1734010, at p. *3–5, 2016
9 U.S. Dist. LEXIS 58299 [finding that a failure to pay rest period premiums can support claims under
10 Labor Code sections 203 and 204].)

11 **F. UNTIMELY WAGES AT SEPARATION**

12 56. Labor Code section 203 provides “if an employer willfully fails to pay . . . any wages
13 of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty”
14 for up to thirty days. (Lab. Code § 203; *Mamika v. Barca* (1998) 68 Cal.App.4th 487, 492.) As a result
15 of Defendants’ failure to pay the Class Members and the Aggrieved Employees for the wages described
16 above, along with rest and meal break premiums, Defendants violated and continue to violate Labor
17 Code section 203.

18 57. Due to Defendants’ faulty pay policies, those Class Members and Aggrieved Employees
19 whose employment with Defendants concluded were not compensated for each and every hour worked
20 at the appropriate rate. Defendants have failed to pay formerly-employed Class Members and
21 Aggrieved Employees whose sums were certain at the time of termination within at least seventy-two
22 hours of their resignation and have failed to pay those sums for thirty days thereafter.

23 58. Under Labor Code section 256, “[t]he Labor Commissioner shall impose a civil penalty
24 in an amount not exceeding 30 days pay as waiting time under the terms of Section 203.” (Lab. Code,
25 § 256.) This type of waiting time penalty can be recovered through PAGA because PAGA allows an
26 employee to recover civil penalties on behalf of the state against his or her employer for Labor Code
27 violations. (*Villacres v. ABM Industries Inc.* (2010) 189 Cal.App.4th 562, 579 [recovery of the section
28 256 “civil penalty falls within the PAGA”]); *Iskanian v. CLS Transportation Los Angeles, LLC* (2014)

59 Cal.4th 348, 381; *Esparza v. KS Industries, L.P.* (2017) 13 Cal.App.5th 1228, 1242.) Defendants have failed to pay the Aggrieved Employees' worked wages that were due within at least seventy-two hours of their separation. Thus, the Aggrieved Employees were and are entitled to waiting time penalties as civil penalties under PAGA and Labor Code section 256.

G. FAILURE TO REIMBURSE BUSINESS EXPENSES

59. At all relevant times herein, Defendants were subject to Labor Code section 2802, which states that "an employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer." The purpose of this section is to "prevent employers from passing along their operating expenses onto their employees." (*Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554, 562.)

60. At all relevant times herein, Defendants were subject to Labor Code section 2804, which states that "any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State."

61. Thus, the Class Members and the Aggrieved Employees were and are entitled to reimbursement for the expenses they incurred during the course of their duties. The duty to reimburse even extends to the use of equipment the employee may already own and would be required to pay for anyway. (*Cochran v. Schwan's Home Serv., Inc.* (2014) 228 Cal.App.4th 1137, 1144 ["The threshold question in this case is this: Does an employer always have to reimburse an employee for the reasonable expense of the mandatory use of a personal cell phone, or is the reimbursement obligation limited to the situation in which the employee incurred an extra expense that he or she would not have otherwise incurred absent the job? The answer is that reimbursement is always required. Otherwise, the employer would receive a windfall because it would be passing its operating expenses on to the employee."].)

62. Here, Defendants failed to fully reimburse the Class Members and the Aggrieved Employees for necessary expenditures incurred as a direct consequence and requirement of performing their job duties. Consequently, Defendants failed to comply with Labor Code section 2802.

1 **H. WAGE STATEMENT VIOLATIONS**

2 63. Defendants also failed to provide accurate itemized wage statements in accordance with
3 Labor Code sections 226, subdivisions (a)(1), (2), (5), and (9). Labor Code section 226, subdivision
4 (a), obligates employers, semi-monthly or at the time of each payment to furnish an itemized wage
5 statement in writing showing:

- 6 (1) The gross wages earned;
- 7 (2) The total hours worked by the employee;
- 8 (3) The number of piece-rate units earned and any applicable piece rate if
9 the employee is paid on a piece rate basis;
- 10 (4) All deductions, provided that all deductions made on written orders of
11 the employee may be aggregated and shown as one item;
- 12 (5) The net wages earned;
- 13 (6) The inclusive dates of the period for which the employee is paid;
- 14 (7) The name of the employee and only the last four digits of his or her social
15 security number or an employee identification number other than a social
16 security number;
- 17 (8) The name and address of the legal entity that is the employer; and
- 18 (9) All applicable hourly rates in effect during the pay period and the
19 corresponding number of hours worked at each hourly rate by the
20 employee.

21 64. Due to Defendants' failure to pay the Class Members and the Aggrieved Employees
22 properly as described above, the wage statements issued do not indicate the correct amount of gross
23 wages earned, total hours worked, or the net wages earned, or the applicable hourly rates in effect
24 during the pay period and the corresponding number of hours worked at each hourly rate. Thus,
25 Defendants have violated Labor Code section 226, subdivisions (a)(1), (2), (5), and (9).

26 65. In addition to Labor Code section 226, subdivision (a), Defendants also knowingly and
27 intentionally failed to provide the Class Members and the Aggrieved Employees with accurate itemized
28 wage statements in violation of Labor Code section 226, subdivision (e). Defendants knew that they

1 were not providing the Class Members and the Aggrieved Employees with wage statements required
2 by California law but nevertheless failed to correct their unlawful practices and policies. (See *Garnett*
3 *v. ADT LLC* (E.D. Cal. 2015) 139 F.Supp.3d 1121, 1134 [finding the defendant knowingly and
4 intentionally violated Labor Code section 226 because the “[d]efendant knew that it was not providing
5 total hours worked to plaintiff or other employees paid on commission” even though it believed that
6 employees paid solely on commission or commission and salary “are exempt and therefore we do not
7 record hours on a wage statement.”].)

8 **I. RECORDKEEPING VIOLATIONS**

9 66. Labor Code section 226, subdivision (a), requires employers to keep an accurate record
10 of, among other things, all hours worked by employees. Labor Code section 226.3 provides, in pertinent
11 part, as follows:

12 “Any employer who violates subdivision (a) of Section 226 shall be subject to a
13 civil penalty in the amount of two hundred fifty dollars (\$250) per employee per
14 violation in an initial citation and one thousand dollars (\$1,000) per employee
15 for each violation in a subsequent citation, for which the employer fails to
16 provide the employee a wage deduction statement or fails to keep the records
17 required in subdivision (a) of Section 226. The civil penalties provided for in
18 this section are in addition to any other penalty provided by law.” (Lab. Code, §
19 226.3, emphasis added.)

20 67. Likewise, Labor Code section 1174, subdivision (d), requires every employer, including
21 Defendants, to:

22 “Keep, at a central location in the state or at the plants or establishments at which
23 employees are employed, payroll records showing the hours worked daily by
24 and the wages paid to, and the number of piece-rate units earned by and any
25 applicable piece rate paid to, employees employed at the respective plants or
26 establishments. These records shall be kept in accordance with rules established
27 for this purpose by the commission, but in any case shall be kept on file for not
28 less than three years. An employer shall not prohibit an employee from

maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.” (Lab. Code, § 1174, subd. (d), emphasis added.)

68. As explained in detail above, Defendants failed to provide the Class Members and the Aggrieved Employees with accurate itemized wage statements. Defendants did so, in part, because they failed to accurately track hours worked by the Class Members and the Aggrieved Employees. Defendants have thus failed to keep accurate records of the “total hours worked by the employee[s]” in violation of Labor Code section 226, subdivision (a), and are therefore subject to the penalties provided by Labor Code section 226.3. These penalties are “in addition to any other penalty provided by law.” (Lab. Code, § 226.3.)

69. The failure to accurately track hours worked also resulted in a failure of Defendants to keep a record of all “payroll records showing the hours worked daily by” Defendants’ employees, including Plaintiff and the other Class Members, in violation of Labor Code section 1174, subdivision (d).

V. CLASS ACTION ALLEGATIONS

70. As mentioned above, Plaintiff brings this action on behalf of himself and the Class Members pursuant to section 382 of the Code of Civil Procedure.

71. **Numerosity/Ascertainability:** The Class Members are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the class is unknown to Plaintiff at this time; however, it is estimated that the number of Class Members is greater than 100 individuals. The identity of such membership is readily ascertainable via inspection of Defendants’ employment records.

72. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated non-exempt employees, which predominate over questions affecting only individual members including, without limitation to:

A. Whether Defendants’ pay policies/practices resulted in a failure to pay the Class Members for all hours worked, including all minimum wages;

1 B. Whether Defendants' pay policies/practices resulted in a failure to pay the Class
2 Members for all required overtime wages at the Class Members' regular rate of pay;

3 C. Whether Defendants' rest period policies and practices afforded legally
4 compliant rest periods or compensation in lieu thereof;

5 D. Whether Defendants' meal period policies and practices afforded legally
6 compliant meal periods or compensation in lieu thereof;

7 E. Whether Defendants maintained accurate employment records;

8 F. Whether Defendants timely paid all wages during employment;

9 G. Whether Defendants timely paid all wages earned and unpaid at separation;

10 H. Whether Defendants indemnified their employees for all necessary business
11 expenditures;

12 I. Whether Defendants furnished legally-compliant wage statements to the Class
13 Members pursuant to Labor Code section 226; and

14 J. Whether Defendants' violations of the Labor Code and the Applicable Wage
15 Orders amounted to a violation of California's UCL.

16 73. **Predominance of Common Questions:** Common questions of law and fact
17 predominate over questions that affect only individual Class Members. The common questions of law
18 set forth above are numerous and substantial and stem from Defendants' uniform policies and practices
19 applicable to each individual class member, such as Defendants' uniform policy and practice of failing
20 to pay for all hours worked, Defendants' uniform policies and practices which failed to provide
21 compliant rest periods, Defendants' uniform policies and practices which failed to provide compliant
22 meal periods, Defendants' failure to provide accurate itemized wage statements, and others. As such,
23 the common questions predominate over individual questions concerning each individual class
24 member's showing as to his or her eligibility for recovery or as to the amount of his or her damages.

25 74. **Typicality:** The claims of Plaintiff are typical of the claims of the Class Members
26 because Plaintiff was employed by Defendants as a non-exempt employee in California during the
27 statute(s) of limitation applicable to each cause of action pleaded in this complaint. As alleged herein,
28 Plaintiff, like the other Class Members, was deprived of minimum, regular, and overtime wages

1 because of Defendants' unlawful timekeeping policies and practices, was deprived of rest periods and
2 premium wages in lieu thereof, was deprived of meal periods and premium wages in lieu thereof, was
3 subject to Defendants' uniform rest period policies and practices, was subject to Defendants' uniform
4 meal period policies and practices, was not provided accurate itemized wage statements, was not paid
5 all wages in full and on time, , and was subject to other similar policies and practices to which the Class
6 Members were subject.

7 75. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to
8 represent fairly and adequately the interests of the Class Members. Moreover, Plaintiff's attorneys are
9 ready, willing, and able to fully and adequately represent the Class Members and Plaintiff. Plaintiff's
10 attorneys have prosecuted numerous wage-and-hour class actions in state and federal court in the past
11 and are committed to vigorously prosecuting this action on behalf of the Class Members.

12 76. **Superiority:** The California Labor Code is broadly remedial in nature and serves an
13 important public interest in establishing minimum working conditions and standards in California.
14 These laws and labor standards protect the average working employee from exploitation by employers
15 who have the responsibility to follow the laws and who may seek to take advantage of superior
16 economic and bargaining power in setting onerous terms and conditions of employment. The nature of
17 this action and the format of laws available to Plaintiff and the Class Members make the class action
18 format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each
19 employee were required to file an individual lawsuit, Defendants would necessarily gain an
20 unconscionable advantage since they would be able to exploit and overwhelm the limited resources of
21 each individual plaintiff with their vastly superior financial and legal resources.

22 77. Moreover, requiring each Class Member to pursue an individual remedy would also
23 discourage the assertion of lawful claims by employees who would be disinclined to file an action
24 against their former or current employer for real and justifiable fear of retaliation and permanent
25 damages to their careers at subsequent employment. Further, the prosecution of separate actions by the
26 individual Class Members, even if possible, would create a substantial risk of inconsistent or varying
27 verdicts or adjudications with respect to the individual Class Members against Defendants herein, and
28 which would establish potentially incompatible standards of conduct for Defendants or legal

determinations with respect to individual Class Members which would, as a practical matter, be dispositive of the interest of the other Class Members not parties to adjudications or which would substantially impair or impede the ability of the Class Members to protect their interests.

78. Further, the claims of the individual Class Members are not sufficiently large to warrant vigorous individual prosecution considering the concomitant costs and expenses attending thereto. As such, the Class Members identified above are maintainable as a class under section 382 of the Code of Civil Procedure.

VI. EXHAUSTION OF REMEDIES

79. Plaintiff has fully and completely exhausted administrative remedies under PAGA prior to proceeding with the PAGA claims stated in this complaint. Plaintiff filed a PAGA notice online with the Labor Workforce Development Agency (“LWDA”) and sent a letter by certified mail to Defendants setting forth the facts and theories of the violations alleged against Defendants, as prescribed by PAGA. (Lab. Code, §§ 2698–2699.6.)

80. As required by PAGA, Plaintiff submitted the \$75.00 filing fee with the LWDA by regular mail. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), no notice was received by Plaintiff from the LWDA evidencing its intention to investigate within sixty-five calendar days of the postmark date of the PAGA notice. Plaintiff is therefore entitled to commence and proceed with a civil action pursuant to Labor Code section 2699.

VII. CAUSES OF ACTION

First Cause of Action

Failure to Pay All Minimum Wages (Against All Defendants)

81. Plaintiff realleges and incorporates by reference all previous paragraphs.

82. Section 4 of the Applicable Wage Orders and Labor Code section 1197 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law. (Lab. Code, § 1197; Cal. Code of Regs., tit. 8, §§ 11050, 11160.) Labor Code sections 1194, subdivision (a), and 1194.2, subdivision (a), provide that an employee who has not been paid the legal minimum wage as required by Labor Code section 1197 may recover the unpaid balance, together with attorneys’ fees

1 and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest
2 accrued thereon.

3 83. Here, Defendants failed to fully conform their pay practices to the requirements of the
4 law during the relevant statutory periods. Plaintiff and the other Class Members were not compensated
5 for all hours worked including, but not limited to, all hours they were subject to the control of
6 Defendants and/or suffered or permitted to work under the Labor Code and the Applicable Wage
7 Orders.

8 84. Labor Code section 1198 makes unlawful the employment of an employee under
9 conditions that the IWC Wage Orders prohibit. Labor Code sections 1194, subdivision (a), and 1194.2,
10 subdivision (a), provide that an employer who has failed to pay its employees the legal minimum wage
11 is liable to pay those employees the unpaid balance of the unpaid wages as well as liquidated damages
12 in an amount equal to the wages due and interest thereon.

13 85. As a direct and proximate result of Defendants' unlawful conduct as alleged herein,
14 Plaintiff and the other Class Members have sustained economic damages, including but not limited to
15 unpaid wages and lost interest, in an amount to be established at trial, and they are entitled to recover
16 economic and statutory damages and penalties and other appropriate relief because of Defendants'
17 violations of the Labor Code and Applicable Wage Orders.

18 86. Defendants' practices and policies regarding illegal employee compensation are
19 unlawful and create an entitlement to recovery by Plaintiff and the other Class Members in a civil
20 action for the unpaid amount of minimum wages, liquidated damages, including interest thereon,
21 statutory penalties, attorney's fees, and costs of suit according to Labor Code sections 204, 218.5,
22 1194, 1194.2, 1197, and 1198, and Code of Civil Procedure section 1021.5.

23 **Second Cause of Action**

24 *Failure to Pay All Overtime Wages*
25 *(Against All Defendants)*

26 87. Plaintiff realleges and incorporates by reference all previous paragraphs.

27 88. This cause of action is brought pursuant to Labor Code sections 204, 510, 1194, and
28 1198, which provide that non-exempt employees are entitled to overtime wages for all overtime hours
worked and provide a private right of action for the failure to pay all overtime compensation for

1 overtime work performed. At all times relevant herein, Defendants were required to properly pay
2 Plaintiff and the other Class Members for all overtime wages earned pursuant to Labor Code section
3 1194 and the Applicable Wage Orders. Defendants caused Plaintiff and the other Class Members to
4 work overtime hours but did not compensate them at one and one-half times their regular rate of pay
5 for such hours in accordance with California law. Likewise, Defendants caused Plaintiff and the other
6 Class Members to work double-time hours but did not compensate them at twice their regular rate of
7 pay for such hours in accordance with California law.

8 89. Defendants failed to fully conform their pay practices to the requirements of California
9 law. This unlawful conduct includes but is not limited to Defendants' uniform and unlawful pay
10 policies and practices of failing to accurately record all the time that non-exempt employees were under
11 the supervision and control of Defendants. The foregoing policies and practices are unlawful and allow
12 Plaintiff and the other Class Members to recover in a civil action the unpaid amount of overtime
13 premiums owing, including interest thereon, statutory penalties, attorney's fees, and costs of suit
14 according to Labor Code section 204, 510, 1194, and 1198, the Applicable Wage Orders, and Code of
15 Civil Procedure section 1021.5.

16 **Third Cause of Action**

17 *Failure to Provide Rest Periods and Pay Missed Rest Period Premiums*
18 *(Against All Defendants)*

19 90. Plaintiff realleges and incorporates by reference all previous paragraphs.

20 91. Section 12 of the Applicable Wage Orders, and Labor Code section 226.7 establish the
21 right of employees to be provided with a rest period of at least ten minutes for each four hour period
22 worked, or major fraction thereof. (See Cal. Code of Regs., tit. 8, §§ 11050, 11160.)

23 92. Due to Defendants' unlawful rest period policies and practices described in detail above,
24 Defendants did not authorize and permit Plaintiff and the other Class Members to take all rest periods
25 to which they were legally entitled. Despite Defendants' violations, Defendants have not paid an
26 additional hour of pay to Plaintiff and the other Class Members at their respective regular rates of pay
27 for each violation, in accordance with California Labor Code section 226.7.

28 93. The foregoing violations create an entitlement to recovery by Plaintiff and the other
Class Members in a civil action for the unpaid amount of rest period premiums owing, including interest

1 thereon, statutory penalties, and costs of suit pursuant to the Applicable Wage Orders, and California
2 Labor Code section 226.7.

3 **Fourth Cause of Action**

4 *Failure to Provide Meal Periods and Pay Missed Meal Period Premiums*
5 *(Against All Defendants)*

6 94. Plaintiff realleges and incorporates by reference all previous paragraphs.

7 95. Plaintiff is informed and believes and thereon alleges, that Defendants failed in their
8 affirmative obligation to provide their hourly non-exempt employees, including Plaintiff and the other
9 Class Members, with all required meal periods in accordance with the mandates of the Labor Code and
10 the Applicable Wage Orders, for the reasons set forth herein above. Despite Defendants' violations,
11 Defendants have not paid an additional hour of pay to Plaintiff and the other Class Members at their
12 respective regular rates of pay for each violation, in accordance with California Labor Code section
13 226.7.

14 96. As a result, Defendants are responsible for paying premium compensation for meal
15 period violations, including interest thereon, statutory penalties, and costs of suit pursuant to the
16 Applicable Wage Orders and Labor Code sections 226.7 and 512, and Civil Code sections 3287,
17 subdivision (b), and 3289. (See Cal. Code of Regs., tit. 8, §§ 11050, 11160.)

18 **Fifth Cause of Action**

19 *Failure to Maintain Accurate Employment Records*
20 *(Against All Defendants)*

21 97. Plaintiff realleges and incorporates by reference all previous paragraphs.

22 98. Pursuant to California Labor Code section 1174, subdivision (d), an employer shall keep
23 at a central location in the state or at the plants or establishments at which employees are employed,
24 payroll records showing the hours worked daily by and wages paid to employees employed at the
25 respective plants or establishments. These records must be kept in accordance with rules established
26 for this purpose by the commission, but in any case shall be kept on file for not less than two years.

27 99. Labor Code section 1174.5 imposes a civil penalty of \$500 for an employer's failure to
28 maintain accurate and complete records.

100. Defendant has intentionally and willfully failed to keep accurate and complete records
showing the hours worked daily and wages paid to Plaintiff and the other Class Members. Thus,

1 Plaintiff and the other Class Members have been denied their legal right and protected interest in having
2 available at a central location at the plant or establishment where they are employed, accurate and
3 complete payroll records showing the hours worked daily by, and the wages paid to, employees at those
4 respective locations pursuant to Labor Code 1174.

5 **Sixth Cause of Action**

6 *Failure to Pay Wages Timely during Employment*
7 *(Against All Defendants)*

8 101. Plaintiff realleges and incorporates by reference all previous paragraphs.

9 102. Labor Code section 200 provides that “wages” include all amounts for labor performed
10 by employees of every description, whether the amount is fixed or ascertained by the standard of time,
11 task, pieces, commission basis, or other method of calculation. Labor Code section 204 states that all
12 wages earned by any person in any employment are payable twice during the calendar month and must
13 be paid not more than seven days following the close of the period when the wages were earned. Labor
14 Code section 210, subdivision (a), makes employers who violate Labor Code section 204 subject to a
15 penalty of \$100 for any initial failure to timely pay each employee’s full wages and \$200 for each
16 subsequent violation, plus 25% of the amount unlawfully withheld.

17 103. Labor Code section 216 establishes that it is a misdemeanor for any person, with regards
18 to wages due, to “falsely deny the amount or validity thereof, or that the same is due, with intent to
19 secure himself, his employer or other person, any discount upon such indebtedness, or with intent to
20 annoy, harass, oppress, hinder, delay, or defraud, the person to whom such indebtedness is due.”

21 104. Defendants as a matter of established company policy and procedure in the State of
22 California, scheduled, required, suffered, and/or permitted Plaintiff and the other Class Members, to
23 work without full compensation, to work without legally-compliant off-duty meal periods, to work
24 without legally-compliant off-duty rest periods, and thereby failed to fully pay Plaintiff and the other
25 Class Members within seven days of the close of payroll, as required by law.

26 105. Defendants, as a matter of established company policy and procedure in the State of
27 California, falsely deny they owe Plaintiff and the other Class Members these wages, with the intent of
28 securing for itself a discount upon its indebtedness and/or to annoy, harass, oppress, hinder, delay,
and/or defraud Plaintiff and the other Class Members.

106. Defendants' pattern, practice, and uniform administration of its corporate policy of illegally denying employees compensation, as described herein, is unlawful and entitles Plaintiff and the other Class Members to recover, pursuant to Labor Code section 218, the unpaid balance of the compensation owed to them in a civil action and any applicable penalties, attorney fees, and interest owed to them pursuant to Labor Code sections 210 and 218.5.

Seventh Cause of Action

*Failure to Pay All Wages Earned and Unpaid at Separation
(Against All Defendants)*

107. Plaintiff realleges and incorporates by reference all previous paragraphs.

108. The actionable period for this cause of action is three years prior to the filing of this complaint through the present, and ongoing until the violations are corrected or the class is certified. (*Pineda v. Bank of America, N.A.* (2010) 50 Cal.4th 1389, 1395; *Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1109; Code Civ. Proc., § 338, subd. (a).) Labor Code sections 201 and 202 of the California Labor Code require Defendants to pay all compensation due and owing to its former employees (including the formerly-employed Class Members) during the actionable period for this cause of action at or around the time that their employment is or was terminated, or ended.

109. Section 203 of the Labor Code provides that if an employer willfully fails to pay compensation promptly upon discharge or resignation, as required by Sections 201 and 202, then the employer is liable for penalties in the form of continued compensation up to thirty workdays.

110. Due to Defendants' faulty pay policies, those Class Members whose employment with Defendants has concluded were not compensated for each and every hour worked at the appropriate rate. Defendants have willfully failed to pay those formerly-employed Class Members whose sums were certain at the time of termination within seventy-two hours of their resignation and have failed to pay those sums for thirty days thereafter as required by Labor Code sections 201 through 203.

111. As a result, Defendants are liable to the formerly-employed Class Members for waiting time penalties amounting to thirty days wages for the formerly-employed Class Members pursuant to Labor Code section 203. (See, e.g., DLSE Manual, § 4.3.4 [failure to pay any sort of wages due upon termination entitles an employee to recover waiting time penalties].)

Eighth Cause of Action

*Failure to Indemnify All Necessary Business Expenditures
(Against All Defendants)*

112. Plaintiff realleges and incorporates by reference all previous paragraphs.

113. California Labor Code Section 2802 states that employers must “indemnify” an employee for “all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.” Likewise, Labor Code section 2804 states that “any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State.”

114. Here, Plaintiff and the other Class Members paid out of pocket for necessary business expenditures incurred as a direct consequence and requirement of performing their job duties. Despite knowing that Plaintiff and the other Class Members incurred these necessary business expenses, and requiring Plaintiff and the other Class Members to use such items, Defendants did not reimburse them.

115. Thus, Plaintiff and the other Class Members are entitled to recover the cost of such necessary business expenses, plus interest from the date each incurred such business expenses, plus fees and costs. (Lab. Code, § 2802, subs. (b), (c).)

Ninth Cause of Action

*Failure to Furnish Accurate Itemized Wage Statements
(Against All Defendants)*

116. Plaintiff realleges and incorporates by reference all previous paragraphs.

117. Labor Code section 226, subdivision (a), obligates employers, semi-monthly or at the time of each payment to furnish an itemized wage statement in writing showing:

- (1) The gross wages earned;
- (2) The 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;

- 1 (5) The net wages earned;
- 2 (6) The inclusive dates of the period for which the employee is paid;
- 3 (7) The name of the employee and only the last four digits of his or her social
- 4 security number or an employee identification number other than a social
- 5 security number;
- 6 (8) The name and address of the legal entity that is the employer; and
- 7 (9) All applicable hourly rates in effect during the pay period and the
- 8 corresponding number of hours worked at each hourly rate by the
- 9 employee.

10 118. As set forth above, Defendants issued and continues to issue wage statements to its non-

11 exempt employees including Plaintiff and the other Class Members that are inadequate under Labor

12 Code section 226, subdivision (a). By failing to pay Plaintiff and the other Class Members properly as

13 described above, Defendants failed to include required information on their wage statements, including,

14 but not limited to, the gross wages earned, the net wages earned in violation of Labor Code section

15 226, subdivision (a).

16 119. Defendants' failure to comply with Labor Code section 226, subdivision (a), of the

17 Labor Code was knowing and intentional. (Lab. Code, § 226, subd. (e)).

18 120. As a result of Defendants' issuance of inaccurate itemized wage statements to Plaintiff

19 and the other Class Members in violation of Labor Code section 226, subdivision (a), Plaintiff and the

20 other Class Members are each entitled to recover an initial penalty of \$50, and subsequent penalties of

21 \$100, up to an amount not exceeding an aggregate penalty of \$4,000 per Plaintiff and per each Class

22 Member from Defendants pursuant to Labor Code section 226, subdivision (e), along with costs and

23 reasonable attorneys' fees.

24 **Tenth Cause of Action**

25 *Violations of California's Unfair Competition Law*
26 *(Against All Defendants)*

26 121. Plaintiff realleges and incorporates by reference all previous paragraphs.

27 122. Defendants have engaged and continue to engage in unfair and/or unlawful business

28 practices in California in violation of California Business and Professions Code section 17200 through

1 17210, by committing the unlawful acts described above. Defendants' utilization of these unfair and
2 unlawful business practices deprived and continue to deprive Plaintiff and the other Class Members of
3 compensation to which they are legally entitled. These practices constitute unfair and unlawful
4 competition and provide an unfair advantage over Defendants' competitors who have been and/or are
5 currently employing workers and attempting to do so in honest compliance with applicable wage and
6 hour laws.

7 123. Because Plaintiff is a victim of Defendants' unfair and unlawful conduct alleged herein,
8 Plaintiff for himself and on behalf of the Class Members, seeks full restitution of monies, as necessary
9 and according to proof, to restore any and all monies withheld, acquired and/or converted by
10 Defendants pursuant to Business and Professions Code sections 17203 and 17208.

11 124. The acts complained of herein occurred within the four years prior to the initiation of
12 this action and are continuing into the present and ongoing.

13 125. Plaintiff was compelled to retain the services of counsel to file this Court action to
14 protect his interests and those of the Class Members, to obtain restitution and injunctive relief on behalf
15 of Defendants' current non-exempt employees and to enforce important rights affecting the public
16 interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which Plaintiff
17 is entitled to recover under Code of Civil Procedure section 1021.5.

18 **Eleventh Cause of Action**

19 *Penalties Pursuant to PAGA for Violations of California Labor Code Sections 201,*
20 *202, 203, 204, 210, 226, 226.3, 226.7, 256, 510, 512, 1174, 1185, 1194, 1194.2, 1197,*
1197.1, 1198, 1198.5, 1199, 2802, 2804, and Other Provisions of the Labor Code
(Against All Defendants)

21 126. Plaintiff realleges and incorporates by reference all previous paragraphs.

22 127. Based on the above allegations incorporated by reference, Defendants violated Labor
23 Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 256, 510, 512, 1174, 1185, 1194, 1194.2,
24 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2804, and others that may be applicable; and the Applicable
25 Wage Orders (Cal. Code of Regs., tit. 8, §§ 11050, 11160), and others that may be applicable.

26 128. As a result of the acts alleged above, Plaintiff seeks penalties under Labor Code sections
27 2698 through 2699.6 because of Defendants' violation of Labor Code sections 201, 202, 203, 204, 210,
28 226, 226.3, 226.7, 256, 510, 512, 1174, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802,

2804, and others that may be applicable; and the Applicable Wage Orders (Cal. Code of Regs., tit. 8, §§ 11050, 11160), and others that may be applicable.

129. Under Labor Code section 2699, subdivision (f)(2), and 2699.5, for each such violation, Plaintiff and the Aggrieved Employees are entitled to penalties in an amount to be shown at the time of trial subject to the following formula:

A. \$100 for the initial violation per employee per pay period; and

B. \$200 for each subsequent violation per employee per pay period.

130. Moreover, under Labor Code section 256, the Aggrieved Employees are entitled to penalties “in an amount not exceeding 30 days pay as waiting time under the terms of Section 203” through PAGA. (Lab. Code, §§ 256, 2699.)

131. These penalties must be allocated seventy-five percent to the Labor and Workforce Development Agency (“LWDA”) and twenty-five percent to the affected employees. These penalties may be stacked separately for each of Defendants violations of the California Labor Code. (*Lopez v. Friant & Associates, LLC* (2017) 15 Cal.App.5th 773, 780–781 [citing with approval *Stoddart v. Express Services, Inc.* (E.D. Cal., Sept. 16, 2015, No. 2:12-CV-01054-KJM) 2015 WL 5522142, at *9, for the proposition that plaintiff could pursue separate claims for penalties under Labor Code section 226, subdivision (e), and penalties for Labor Code section 226, subdivision (a), violations]; see also *Hernandez v. Towne Park, Ltd.* (C.D. Cal., June 22, 2012, No. CV 12-02972 MMM JCGX) 2012 WL 2373372, at *17 fn. 70 [noting that federal courts applying California law have found that “PAGA penalties can be stacked, i.e., multiple PAGA penalties can be assessed for the same pay period for different Labor Code violations.”], internal quotation marks omitted).

132. In addition, to the extent permitted by law, Defendants failed to provide Plaintiff and all Aggrieved Employees with accurate itemized wage statements in compliance with Labor Code section 226, subdivision (a). Plaintiff seeks separate PAGA penalties for Defendants’ violations of Labor Code section 226, subdivisions (a) and (e). (*Lopez v. Friant & Associates, LLC, supra*, 15 Cal.App.5th at pp. 780, 788.)

133. For violations of Labor Code section 226, subdivision (a), Plaintiff seeks the default penalty provided by Labor Code section 226.3. Labor Code section 226.3 provides that “[a]ny

1 employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount
2 of two hundred fifty dollars (\$250) per employee per violation in an initial violation and one thousand
3 dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails
4 to provide the employee a wage deduction statement or fails to keep the required in subdivision (a) of
5 Section 226.” Accordingly, through PAGA and to the extent permitted by law Plaintiff and the
6 Aggrieved Employees are entitled to recover penalties for violations of Labor Code section 226.3 and
7 seeks default PAGA penalties for each of Defendants’ numerous violations of Labor Code section 226,
8 subdivision (e).

9 134. Labor Code section 210 provides that “in addition to, an entirely independent and apart
10 from, any other penalty provided in this article, every person who fails to pay the wages of each
11 employee as provided in Sections . . . 204 . . . shall be subject to a civil penalty as follows: (1) For any
12 initial violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For each
13 subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure
14 to pay each employee, plus 25% of the amount unlawfully withheld.” As a result of the faulty
15 compensation policies and practices, Plaintiff and the Aggrieved Employees are also entitled to recover
16 penalties under Labor Code section 210 through PAGA.

17 135. Labor Code section 1197.1 authorizes a civil penalty, restitution of wages, and
18 liquidated damages, in the amount of: (1) one hundred dollars (\$100) for any initial violation that is
19 intentionally committed for each underpaid employee for each pay period for which the employee is
20 underpaid, and (2) two hundred fifty dollars (\$250) for each subsequent violation for the same specific
21 offense for each underpaid employee for each pay period for which the employee is underpaid
22 regardless of whether the initial violation is intentionally committed. Accordingly, through PAGA and
23 to the extent permitted by law, Plaintiff and the Aggrieved Employees are entitled to recover pursuant
24 to Labor Code section 1197.1.

25 136. Plaintiff was compelled to retain the services of counsel to file this action to protect his
26 interests and those of the Aggrieved Employees, and to assess and collect the wages and penalties owed
27 by Defendants. Plaintiff has thereby incurred attorneys’ fees and costs, which Plaintiff is also entitled
28 to recover under Labor Code section 2699, subdivision (g)(1).

1 **VIII. DEMAND FOR JURY TRIAL**

2 137. Plaintiff hereby demands trial by jury of Plaintiff's and the Class Members' claims
3 against Defendants.

4 **IX. PRAYER FOR RELIEF**

5 Plaintiff prays for judgment for himself and for all others on whose behalf this suit is brought
6 against Defendants, as follows:

- 7 1. For an order certifying the proposed class;
- 8 2. For an order appointing Plaintiff as representative of the class;
- 9 3. For an order appointing Plaintiff's counsel as counsel for the class;
- 10 4. For the failure to pay all minimum wages, compensatory, consequential, general, and
11 special damages according to proof pursuant to Labor Code sections 1194, 1194.2,
12 1197, and others as may be applicable;
- 13 5. For the failure to pay all overtime wages, compensatory, consequential, general, and
14 special damages according to proof pursuant to Labor Code sections 204, 510, 1194,
15 1198, and others as may be applicable;
- 16 6. For the failure to provide rest periods and pay missed rest period premiums,
17 compensatory, consequential, general, and special damages according to proof pursuant
18 to Labor Code section 226.7;
- 19 7. For the failure to provide meal periods and pay missed meal period premiums,
20 compensatory, consequential, general, and special damages according to proof pursuant
21 to Labor Code sections 226.7 and 512;
- 22 8. For the failure to maintain accurate employment records, penalties pursuant to Labor
23 Code sections 226.3, 1174.5, and others that may be applicable;
- 24 9. For the failure to pay wages timely during employment, the unpaid balance of the
25 compensation owed to Plaintiff and the other Class Members and any applicable
26 penalties owed to them pursuant to Labor Code section 210;
- 27 10. For the failure to pay all wages earned and unpaid at separation, statutory waiting time
28 penalties pursuant to Labor Code sections 201 through 203, for the Class Members who

quit or were fired in an amount equal to their daily wage multiplied by thirty days, as may be proven;

- 11.** For the failure to indemnify all necessary business expenditures, all unreimbursed business expenses, and interest thereon, that are owed, pursuant to Labor Code section 2802, and attorney fees, pursuant to Labor Code section 2802, subdivision (c);
- 12.** For the violations of California's Unfair Competition Law, restitution to Plaintiff and the other Class Members of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of Business and Professions Code sections 17200 through 17210;
- 13.** For the claim of penalties pursuant to PAGA and other provisions of the California Labor Code, a civil penalty in the amount of \$100 for the initial violation and \$200 for each subsequent violation as specified in Labor Code section 2699, subdivision (f)(2), in the representative action brought on behalf of Plaintiff and the Aggrieved Employees pursuant the Labor Code Private Attorneys General Act of 2004, and for civil penalties available under Labor Code section 210 and Labor Code section 256;
- 14.** Prejudgment interest on all due and unpaid wages pursuant to Labor Code section 218.6 and Civil Code sections 3287 and 3289;
- 15.** On all causes of action for which attorneys' fees may be available, for attorneys' fees and costs as provided by Labor Code sections 218.5, 226, Code of Civil Procedure section 1021.5, and others as may be applicable;
- 16.** For an order enjoining Defendants, and each of them, and their agents, servants, and employees, and all persons acting under, in concert with, or for them, from acting in derogation of any rights or duties adumbrated in this complaint; and

1 **17.** For such other and further relief, this Court may deem just and proper.

2
3 Dated: March 2, 2023

MELMED LAW GROUP P.C.

4 

5 **JONATHAN MELMED**

6 **ANDREW LEVINE**

7 Attorneys for Plaintiff, the Putative Class, and the
8 Aggrieved Employees

From: LWDA DO NOT REPLY lwdadonotreply@dir.ca.gov
Subject: Thank you for submission of your PAGA Case.
Date: March 2, 2023 at 2:36 PM
To: lg@melmedlaw.com

LR

3/2/2023

LWDA Case No. LWDA-CM-939568-23
Law Firm : Melmed Law Group P.C.
Plaintiff Name : Francisco Rodriguez
Employer: Land Services Landscape Contractors, Inc.
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT D

Exhibit D – List of Class and PAGA Approvals

- *Blan v. Button Transportation, Inc.* (Super. Ct. Solano County, No. FCS045949) [final approval granted on December 8, 2016; Hon. Michael Mattice];
- *Cleary v. Penske Truck Leasing Co., L.P.* (Super. Ct. San Bernardino County, No. CIVDS1600144) [final approval granted on February 8, 2017; Hon. Janet M. Frangie];
- *Plimpton v. Gordon Trucking, Inc.* (Super. Ct. San Bernardino County, No. CIVDS1511918) [final approval granted on February 16, 2017; Hon. Donald Alvarez];
- *Broner v. Michael Dusi Trucking, Inc.* (Super. Ct. San Luis Obispo County, No. 16CVP-0044) [final approval granted on March 15, 2017; Hon. Donald G. Umhofer];
- *Riley v. Pacific Tank Lines, Inc.* (Super. Ct. San Bernardino County, No. CIVDS1603263) [final approval granted on March 28, 2017; Hon. John M. Pacheco];
- *Davis v. Western Merchandise Express, Inc.* (Super. Ct. Kern County, No. BCV-16-101216) [final approval granted on April 26, 2017; Hon. Sidney P. Chapin];
- *Long v. Covenant Transport, Inc.* (E.D.Tenn., No. 1:15-cv-278) [final approval granted on April 28, 2017; Hon. Travis R. McDonough];
- *Pena v. Inner Valley Transport, Inc.* (Super. Ct. Kern County, No. BCV-100625-LHB) [final approval granted on May 5, 2017; Hon. Thomas S. Clark];
- *Upton v. Coremark International, Inc.* (Super. Ct. San Francisco County, No. CGC 15-549348) [final approval granted on May 10, 2017; Hon. Curtis E.A. Karnow];
- *Ramirez v. Castlewood West, LLC* (Super. Ct. Monterey County, No. 16CV01137) [final approval granted on May 18, 2017; Hon. Lydia Villarreal];
- *William Haynes v. Reliable Trucking, Inc.* (Super. Ct. Contra Costa County, No. C16-01237) [final approval granted on May 26, 2017; Hon. Barry P. Goode];
- *Davis v. Transforce, Inc.* (Super. Ct. Kern County, No. BCV-16-101393) [final approval granted on June 5, 2017; Hon. Thomas S. Clark];
- *Harris v. Jerry DeBriae Logging Co., Inc.* (Super. Ct. Cowlitz County, No. 16-2-00402-5) [final approval granted on June 7, 2017; Hon. Stephen M. Warning];

- 1 • *Powers v. Estenson Logistics, LLC* (Super. Ct. San Bernardino County, No. CIVDS1602295) [final approval granted on July 12, 2017; Hon. David Cohn];
- 2
- 3 • *Hugues v. The Morning Star Trucking Company, LLC* (Super. Ct. Yolo County, No. CV16-1215) [final approval granted on August 3, 2017; Hon. W. Arvid Johnson];
- 4
- 5 • *Waddell v. Dalton Trucking, Inc.* (Super. Ct. San Bernardino County, No. CIVDS1603262) [final approval granted on August 7, 2017; Hon. John M. Pacheco];
- 6
- 7 • *Campos v. Black Eagle Trucking, Inc.* (Super. Ct. San Diego County, No. 37-2016-00023781-CU-OE-CTL) [final approval granted on August 25, 2017; Hon. Timothy Taylor];
- 8
- 9
- 10 • *Asplund v. White Timber Industries, Inc.* (Super. Ct. Cowlitz County, Wash., No. 16-2-00870-5) [final approval granted on September 13, 2017; Hon. Michael Evans];
- 11
- 12 • *Elson v. Covey Auto Express, Inc.* (Super. Ct. San Joaquin County, No. STK-CV-UOE-2016-0009114) [final approval granted on September 18, 2017; Hon. Linda L. Lofthus];
- 13
- 14 • *Torres v. Salinas Farm Labor Contractor, Inc.* (Super. Ct. Stanislaus County, No. 2018173) [final approval granted on December 19, 2017; Hon. Roger M. Beauchesne];
- 15
- 16 • *Young v. First Class Service Trucking, Inc.* (Super. Ct. San Joaquin County, No. STK-CV-UOE-2016-10381) [final approval granted January 2, 2018; Hon. Elizabeth Humphreys];
- 17
- 18
- 19 • *Isabella v. Equinox Holdings, Inc.* (Super. Ct. L.A. County, No. BC578960) [final approval granted on January 4, 2018; Hon. Ann I. Jones];
- 20
- 21 • *Grumm v. T.J.S. Leasing & Holding, Co., Inc.* (Super. Ct. Humboldt County, No. DR160492) [final approval granted on February 6, 2018; Hon. Kelly L. Neel];
- 22
- 23 • *Robins v. Versa Logistics, LLC* (Super. Ct. L.A. County, No. BC644321) [final approval granted on March 26, 2018; Hon. Carolyn B. Kuhl];
- 24
- 25 • *Chavez v. Shamrock Foods Company* (C.D.Cal., No. 5:17-cv-00731-SVW-AFM) [final approval granted on April 11, 2018; Hon. Stephen V. Wilson];
- 26
- 27 • *Diaz v. Absolute West, LLC* (Super. Ct. L.A. County, No. BC647126) [final approval granted on April 19, 2018; Hon. Maren E. Nelson];
- 28

- *Herman v. Andrus Transportation Services, Inc.* (C.D.Cal., No. 5:16-CV-02365-AG-DTB) [final approval granted on May 14, 2018; Hon. Andrew J. Guilford];
- *Hernandez v. J.V.C. Truck Lines, Inc.* (Super. Ct. San Bernardino County, No. CIVDS1714857) [final approval granted on May 22, 2018; Hon. Brian S. McCarville];
- *Happell v. Hercules Forwarding, Inc.* (Super. Ct. L.A. County, No. BC639636) [final approval granted on June 14, 2018; Hon. Carolyn B. Kuhl];
- *Medina v. Timmerman Starlite Trucking, Inc.* (Super. Ct. Stanislaus County, No. 2023292) [final approval granted on June 15, 2018; Hon. Roger M. Beauchesne];
- *Brown v. Saks & Company, LLC* (C.D.Cal., No. 2:17-cv-04210-SJO) [final approval granted on July 16, 2018; Hon. S. James Otero];
- *Flores v. Aqua Terra Culinary, Inc.* (Super. Ct. Monterey County, No. 17CV002672) [final approval granted on July 18, 2018; Hon. Lydia Villarreal];
- *Myers v. LBC Limited Partnership* (Super. Ct. San Bernardino County, No. CIVDS1715068) [final approval granted on July 25, 2018; Hon. Janet M. Frangie];
- *Westphal v. New York Life Insurance Company* (Super. Ct. Placer County, No. SCV0040562) [final approval granted on August 30, 2018; Hon. Michael W. Jones];
- *Hollis v. Union Pacific Railroad Company* (C.D.Cal., No. 5:17-cv-02449-JGB) [final approval granted on September 17, 2018; Hon. Jesus G. Bernal];
- *Cheifer v. WHGM, Inc.* (Super. Ct. L.A. County, No. LC104900) [final approval granted on September 21, 2018; Hon. Rupert A. Byrdsong];
- *Hernandez-Chulo v. E&R Trucking, Inc.* (Super. Ct. Merced County, No. 18CV-00882) [final approval granted on October 29, 2018; Hon. Brian McCabe];
- *Freeman v. Redwood Wise Riders, Inc.* (Super. Ct. Solano County, No. FCS050140) [approval granted on December 4, 2018; Hon. Wendy G. Getty];
- *Ricci v. HSS, Inc.* (Super. Ct. Yuba County, No. CVCV17-00967) [final approval granted on December 4, 2018; Hon. Stephen W. Berrier];
- *Antonov v. GL HHR, Inc.* (Super. Ct. San Bernardino County, No. CIVDS1724725) [final approval granted on December 11, 2018; Hon. David Cohn];

- 1 • *Pena v. Keystone Freight Corp.* (Super. Ct. Tulare County, No. VCU269897) [final
2 approval granted on January 14, 2019; Hon. Melinda M. Reed];
- 3 • *Westbrook v. Winco Holdings, Inc.* (Super. Ct. Riverside County, No. RIC171068)
4 [final approval granted on January 17, 2019; Hon. Raquel A. Marquez];
- 5 • *Jackie Thompson v. Cheema Freightlines, LLC* (Super. Ct. San Joaquin County, No.
6 STK-CV-UOE-2017-01011658) [final approval granted on February 6, 2019; Hon.
7 Roger Ross];
- 8 • *Pazo v. Incredible Adventures* (Super. Ct. San Francisco County, No. CGC-16-555971)
9 [final approval granted on February 25, 2019; Hon. Anne-Christine Massullo];
- 10 • *Reboucas v. Trans International Trucking, Inc.* (Super. Ct. L.A. County, No.
11 BC644182) [final approval granted on May 9, 2019; Hon. Maren E. Nelson];
- 12 • *Myers v. Jerome's Furniture Warehouse* (Super. Ct. San Bernardino County, No.
13 CIVDS1710569) [final approval granted on June 11, 2019; Hon. Janet M. Frangie];
- 14 • *Juarez v. Magic Laundry Services, Inc.* (Super. Ct. L.A. County, No. BC713767)
15 [approval granted on June 14, 2019; Hon. William F. Highberger];
- 16 • *Rangel v. Guard-Systems, Inc.* (Super. Ct. L.A. County, No. 19STCV19613) [approval
17 granted on June 18, 2019; Hon. Yolanda Orozco];
- 18 • *Castaing v. East Bay Automotive Company* (Super. Ct. Alameda County, No.
19 RG17879115) [final approval granted on June 24, 2019; Hon. Brad Seligman];
- 20 • *Juarez v. Mike Lowrie Trucking, Inc.* (Super. Ct. Kern County, No. BCV-18-
21 100177TSC) [final approval granted on August 8, 2019; Hon. Thomas S. Clark];
- 22 • *Pia v. 5G's Automotive, Inc.* (Super. Ct. Tulare County, No. VCU274628) [final
23 approval granted on September 6, 2019; Hon. Brett D. Hillman];
- 24 • *Thomas v. Commercial Protective Services, Inc.* (Super. Ct. San Bernardino County,
25 No. CIVDS1821925) [final approval granted on September 16, 2019; Hon. David
26 Cohn];
- 27 • *Berbano v. Ingram Micro, Inc.* (Super. Ct. San Bernardino County, No.
28 CIVDS1826085) [final approval granted on September 17, 2019; Hon. David Cohn];

- *Guerra v. U.S. Polymers, Inc.* (Super. Ct. San Bernardino County, No. CIVDS1829174) [approval granted on September 20, 2019; Hon. David Cohn];
- *Lopez-Urrutia v. Southwest V-Ditch Inc.* (Super. Ct. San Bernardino County, No. CIVDS1833332) [final approval granted on October 16, 2019; Hon. David Cohn];
- *Guy v. California Lutheran University* (Super. Ct. Ventura County, No. 56-219-00524415-CU-OE-VTA) [final approval granted on November 6, 2019; Hon. Mark C. Borrell];
- *Moseby v. Renzenberger, Inc.* (Super. Ct. San Bernardino County, No. CIVDS1725125) [final approval granted on November 7, 2019; Hon. Janet M. Frangie];
- *Woodard v. AH 2005 Management, L.P.* (Super. Ct. Monterey County, No. 18CV001986) [approval granted on November 21, 2019; Hon. Lydia M. Villarreal];
- *Ramirez v. William J. Wickwire M.D.* (Super. Ct. San Bernardino County, No. CIVDS1913102) [final approval granted on November 25, 2019; Hon. David Cohn];
- *Lyons v. SAIA Motor Freight Line, LLC* (Super. Ct. San Bernardino County, No. CIVDS1828225) [final approval granted on December 9, 2019; Hon. David Cohn];
- *Baker v. Vallejo CJD, LLC* (Super. Ct. Tulare County, No. VCU273830) [final approval granted on December 16, 2019; Hon. David C. Mathias];
- *Tsao v. Giorgio Armani Corporation* (Super. Ct. Orange County, No. 30-218-01000817-CU-OE-CXC) [final approval granted on December 20, 2019; Hon. Peter J. Wilson];
- *Burnham v. DGDGI* (Super. Ct. Santa Clara County, No. 2018-1-CV-331434) [final approval granted on January 17, 2020; Hon. Thomas E. Kuhnle];
- *Martinez v. E&A Protective Services-Bravo, LLC* (E.D. Cal., No. 1:18-cv-00658-BAM) [final approval granted on January 17, 2020; Hon. Barbara A. McAuliffe];
- *Cardoso v. Rogers & Rogers, Inc.* (Super. Ct. Imperial County, No. ECU000637) [final approval granted on January 27, 2020; Hon. Brooks Anderholt];
- *Mora v. The Complete Logistics Company* (Super. Ct. San Bernardino County, No. CIVDS1833922) [final approval granted on February 10, 2020; Hon. David Cohn];

- 1 • *Lopez v. Ruiz Food Products, Inc.* (Super. Ct. Tulare County, No. VCU 275105) [final
2 approval granted on March 10, 2020; Hon. Bret D. Hillman];
- 3 • *Jaurigue v. Knights of Columbus* (Super. Ct. San Bernardino County, No.
4 CIVDS1824508) [final approval granted on July 10, 2020; Hon. David Cohn];
- 5 • *Lopez v. Unitek College NCP, LLC* (Super. Ct. Kern County, No. BCV-19-102146)
6 [final approval granted on July 15, 2020; Hon. Stephen D. Schuett];
- 7 • *Ashe v. Farmers Insurance Group* (Super. Ct. L.A. County, No. 18STCV00453) [final
8 approval granted on July 20, 2020; Hon. Steven J. Kleinfeld];
- 9 • *Martin v. Break the Floor Productions LLC* (Super. Ct. San Diego County, No. 37-
10 2019-00029711-CU-OE-CTL) [final approval granted on October 23, 2020; Hon.
11 Kenneth J. Medel];
- 12 • *Robles v. Winsford II Corporation* (Super. Ct. San Bernardino County, No.
13 CIVDS1902903) [final approval granted on November 3, 2020; Hon. David Cohn];
- 14 • *Lopez v. RTS Holdings, LLC* (Super. Ct. San Bernardino County, No. CIVDS1934904)
15 [final approval granted on November 24, 2020; Hon. David Cohn];
- 16 • *Romero v. Carl Zeiss Meditec Production* (Super. Ct. San Bernardino County, No.
17 CIVDS1907556) [final approval on December 3, 2020; Hon. David Cohn];
- 18 • *Soto v. Britz Farming Corp* (Super. Ct. Merced County, No. 19CV04182) [final
19 approval granted on December 8, 2020; Hon. Brian L. McCabe];
- 20 • *Martinez v. Global Sales & Warehousing, LLC* (Super. Ct. Ventura County, No. 56-
21 2019-00534178-CU-OE-VTA) [final approval granted on December 18, 2020; Hon.
22 Matthew P. Guasco];
- 23 • *Gaxiola v. Lloyds Manufacturing Services, Inc.* (Super. Ct. San Bernardino County, No.
24 CIVDS1939269) [final approval granted on February 2, 2021; Hon. David Cohn];
- 25 • *Ancona v. Populus Financial Group, Inc.* (Super. Ct. L.A. County, No. 19STCV41065)
26 [approval granted on February 18, 2021; Hon. Maurice A. Leiter];
- 27 • *Elayda v. Physassist Scribes, Inc.* (Super. Ct. San Bernardino County, No.
28 CIVDS2002023) [final approval granted on March 1, 2021; Hon. David Cohn];

- *Lee v. Home Delivery Logistics, Inc.* (Super. Ct. Alameda County, No. RG18927149) [final approval granted on March 2, 2021; Hon. Winifred Y. Smith];
- *Pagh v. Wyndham Vacation Ownership, Inc.* (C.D.Cal., No. 8:19-cv-00812-JWH-ADSx) [final approval granted on March 23, 2021; Hon. John W. Holcomb];
- *Robinson v. Paragon Systems, Inc.* (Super. Ct. Sacramento County, No. BC720142) [final approval granted on April 1, 2021; Hon. Elihu Berle];
- *Lachman v. Berlitz Languages, Inc.* (Super. Ct. L.A. County, No. 19STCV01533) [final approval granted on April 1, 2021; Hon. Carolyn Kohl];
- *Murray v. Scelzi Enterprises, Inc.* (Super. Ct. Riverside County, No. RIC2002545) [final approval granted on April 13, 2021; Hon. Sunshine Sykes];
- *Ruiz v. SAIA Motor Freight Line, LLC* (Super. Ct. San Bernardino County, No. CIVDS2014796) [final approval granted on May 19, 2021; Hon. David Cohn];
- *Gallegos v. TST, Inc.* (Super. Ct. San Bernardino County, No. CIVDS1933834) [final approval granted on May 20, 2021; Hon. David Cohn];
- *Cornejo v. Weidner Property Management LLC* (Super. Ct. San Bernardino County, No. CIVDS2016465) [final approval granted on May 25, 2021; Hon. David Cohn];
- *Garcia v. Construction Innovations Group, LLC* (Super. Ct. Sacramento County, No. 34-2020-00285239) [final granted on May 25, 2021; Hon. Shama H. Mesiwala];
- *Aguirre v. Swinerton Builders* (Super. Ct. San Bernardino County, No. CIVDS 1925363) [final approval granted on May 26, 2021; Hon. David Cohn];
- *Pease v. Wattrans, Inc.* (Super. Ct. San Bernardino County, No. CIVDS1919832) [final approval granted on June 3, 2021; Hon. Thomas Garza];
- *Moreira v. University of Redlands* (Super. Ct. San Bernardino County, No. CIVDS1913813) [final approval granted on June 8, 2021; Hon. David Cohn];
- *Garcia v. Cardenas Markets, LLC* (Super. Ct. San Bernardino County, No. CIVDS1917380) [final granted on July 1, 2021; Hon. David Cohn];
- *Robinzine v. Mohawk ESV, Inc.* (Super. Ct. San Bernardino County, No. CIVDS1930033) [final approval granted on July 7, 2021; Hon. David Cohn];

- *Cuevas v. Action Embroidery Corp.* (Super. Ct. San Bernardino County, No. CIVDS2012230) [final approval granted on July 29, 2021; Hon. David Cohn];
- *Urquizo v. Santos Montemayor FLC, Inc.* (Super. Ct. Kern County, No. BCV-20-101587) [final granted on July 30, 2021; Hon. Thomas S. Clark];
- *San Juan v. San Marcos Growers* (Super. Ct. Ventura County, No. 56-2020-00542257-CU-OE-VTA) [final approval granted on August 13, 2021; Hon. Matthew P. Guasco];
- *Cartagena v. Impact Healthcare* (Super. Ct. Tulare County, No. VCU283955) [approval granted on August 30, 2021; Hon. David C. Mathias];
- *Reveles v. Certis U.S.A. L.L.C.* (Super. Ct. Kern County, No. BCV-20-102315) [final approval granted on October 4, 2021; Hon. Bernard C. Barmann Jr.];
- *Rico v. Western Mesquite Mines, Inc.* (Super. Ct. Imperial County, No. ECU000873) [final approval granted on October 14, 2021; Hon. Jeffrey B. Jones];
- *Correa v. Newell Brands, Inc.* (Super. Ct. San Bernardino County, No. CIVDS1901381) [final approval granted on October 29, 2021; Hon. David Cohn];
- *Gonzalez v. Frank Carson Landscape & Maintenance, Inc.* (Super. Ct. Sacramento County, No. 34-2020-00289370) [final approval granted on November 4, 2021; Hon. Christopher E. Krueger];
- *Nelson v. Hardwoods Specialty Products US LP* (Super. Ct. Alameda County, No. RG19046262) [final approval granted on November 18, 2021; Hon. Evelio Grillo];
- *Lopez v. KLX Inc.* (Super. Ct. Tulare County, No. VCU275330) [final approval granted on November 30, 2021; Hon. Bret Hillman];
- *Golightly v. AMDA, Inc.* (Super. Ct. L.A. County, No. 20STCV13173) [final approval granted on December 1, 2021; Hon. Amy D. Hogue];
- *Bollinger-Felt v. Pacific Bells, LLC* (Super. Ct. Stanislaus County, No. CV-20-000680) [final approval granted on January 27, 2022; Hon. Stacy P. Speiller];
- *Mahdian v. AG Laguna Hills, LLC* (Super. Ct. Orange County, No. 30-2019-01098085-CU-OE-CJC) [approval granted on February 4, 2022; Hon. Randall J. Sherman];

- *Martinez v. East Coast/West Coast Logistics, LLC* (Super. Ct. San Bernardino County, No. CIVDS1932745) [final approval granted on March 2, 2022; Hon. David Cohn];
- *Aguilera v. Salmex Pizza, Inc.* (Super. Ct. San Bernardino County, No. CIVDS2014336) [approval granted on March 10, 2022; Hon. David Cohn];
- *Sotelo v. Cosmetix West* (Super. Ct. L.A. County, No. 19STCV28580) [final approval granted on March 23, 2022; Hon. Kenneth R. Freeman];
- *Dulay v. Center for Social Dynamics* (Super. Ct. Alameda County, No. RG20055934) [final approval granted on April 7, 2022; Hon. Frank Roesch];
- *Pena v. Canyon Plastics, Inc.* (Super. Ct. L.A. County, No. 20STCV34161) [final approval granted on April 13, 2022; Hon. Amy D. Hogue];
- *Guerrero v. Advanced Vision Science, Inc.* (Super. Ct. Santa Barbara County, No. 18CV05341) [final approval granted on May 9, 2022; Hon. Donna Geck];
- *Velasco v. Jasmine Vineyards, Inc.* (Super. Ct. Kern County, No. BCV-19-101405) [final approval granted on May 18, 2022; Hon. Bernard C. Barmann, Jr.];
- *Sampson v. Diversified Conveyors International, LLC* (Super. Ct. San Bernardino County, No. CIVDS2018610) [final approval granted on June 3, 2022; Hon. Rafael A. Arreola];
- *Martinez v. Victorian Care Homes of the Monterey Peninsula, Inc.* (Super. Ct. Monterey County, No. 20CV002456) [final approval granted on June 29, 2022; Hon. Thomas W. Wills];
- *Lujano v. General Production Service of California, Inc.* (Super. Ct. Kern County, No. BCV-20-102705) [final approval granted on July 6, 2022; Hon. Bernard C. Barmann Jr.];
- *Matus v. Flory Industries* (Super. Ct. Stanislaus County, No. CV-20-003117) [final approval granted on August 11, 2022; Hon. John D. Freeland];
- *Ramos v. Cambridge College* (Super. Ct. San Bernardino County, No. CIVSB2112109) [final approval granted on August 15, 2022; Hon. David Cohn];

- *Garcia v. The Golden 1 Credit Union* (Super. Ct. Sacramento County, No. 34-2021-00293831) [final approval granted on August 26, 2022; Hon. Lauri A. Damrell];
- *Casillas v. California Paper Products LLC* (Super. Ct. Kern County, No. BCV-20-102523) [approval granted on September 8, 2022; Hon. David Lampe];
- *Arzola v. All Star Glass Inc.* (Super. Ct. Ventura County, No. 56-2021-00553193-CU-OE-VTA) [final approval granted on September 9, 2022; Hon. Matthew P. Guasco];
- *Beltran v. Hutchinson Aerospace & Industry, Inc.* (Super. Ct. Los Angeles County, No. 20STCV02267) [approval granted on September 9, 2022; Hon. John J. Kralik];
- *Avina v. Ravco Construction, Inc.* (Super. Ct. Orange County, No. 30-2020-01146748-CU-OE-CXC) [final approval granted on September 16, 2022; Hon. Randall J. Sherman];
- *Garcia v. Pure Heart Congregate Living Facility, Inc.* (Super. Ct. Los Angeles County, No. 21STCV05070) [approval granted on September 21, 2022; Hon. Carolyn B. Kuhl];
- *Andrisani v. Dracko Merchandising Inc.* (Super. Ct. Los Angeles County, No. 20STCV42108) [final approval granted on October 5, 2022; Hon. Carolyn B. Kuhl];
- *Torres v. McKesson Medical-Surgical, Inc.* (Super. Ct. San Bernardino, No. CIVDS1917976) [final approval granted on November 2, 2022; Hon. David Cohn];
- *Gonzalez v. Lief Organics, LLC*, (Super. Ct. L.A. County, No. 20STCV19371) [final granted on December 9, 2022; Hon. David S. Cunningham III];
- *Hernandez v. Avon Protection Systems, Inc.* (Super. Ct. Orange County, No. 30-2021-01183162-CU-OE-CXC) [final approval granted on January 13, 2023; Hon. Randall J. Sherman];
- *Escalante v. Hudson Technologies Company* (Super. Ct. San Diego County, No. 37-2019-00070131-CU-OE-CTL) [final approval granted on January 20, 2023; Hon. Gregory Pollack];
- *Garcia v. Pacific Diagnostics Laboratories, LLC* (Super. Ct. Santa Barbara County, No. 19CV00992) [preliminary approval granted on January 20, 2023; final approval set to be heard on May 3, 2023; Hon. Thomas P. Anderle];

- *Lopez v. Praesidium Diagnostics LLC* (Super. Ct. Los Angeles County, No. 21STCv08378) [final approval granted on February 17, 2023; Hon. Lawrence P. Riff];
- *Aguilar v. Jimenez Nursery, Inc.* (Super. Ct. Santa Barbara, No. 21CV01836) [final approval granted on March 9, 2023; Hon. Colleen K. Sterne];
- *Duarte v. Sage Veterinary Centers, LP* (Super. Ct. Santa Clara, No. 20CV375152) [; final granted on March 14, 2023; Hon. Sunil R. Kulkarni];
- *Santacruz v. Golden Labor Services, LLC* (Super. Ct. Kern County, No. BCV-20-102729) [preliminary approval granted on July 19, 2022; final approval set to be heard on May 9, 2023; Hon. J. Eric Bradshaw];
- *Medina-Rivera v. Treebeard Landscape, Inc.* (Super. Ct. San Diego County, No. 37-2021-00050044-CU-OE-CTL) [preliminary approval granted on March 17, 2023; final approval set to be heard on June 2, 2023; Hon. Joel R. Wohlfeil];
- *Bray v. Uline, Inc.,* (Super. Ct. San Bernardino County, No. CIVSB2112058) [preliminary approval granted on March 20, 2023; final approval set to be heard on August 8, 2023; Hon. David Cohn];
- *Barrera v. Spencer Aerospace Manufacturing, LLC* (Super. Ct. Los Angeles County, No. 21STCV05109) [preliminary approval granted on March 22, 2023; final approval set to be heard on June 21, 2023; Hon. Lawrence P. Riff];
- *Guzman v. Destination Anywhere, Inc.,* (Super. Ct. San Joaquin County, No. STK-CV-UOE-2021-10462) [final approval granted on April 14, 2023; Hon. Barbara Kronlund];
- *Benson, et al. v. F21 OPCO, LLC dba Forever 21,* (Super. Ct. San Diego, No. 37-2021-00024619-CU-OE-CTL) [preliminary approval granted on April 21, 2023; final approval set to be heard on October 6, 2023; Hon. Eddie C. Sturgeon];
- *Orozco v. Ventura Hospitality Partners LLC* (Super. Ct. Ventura County, No. 56-2021-00557454-CU-OE-VTA) [preliminary approval granted on April 25, 2023; final approval set to be heard on October 5, 2023; Hon. Mathew Guasco];
- *Janssen, et al. v. Mussetter Distributing, Inc.* (Super. Ct. Pacer County, No. S-CV-0049920 [final approval granted on May 4, 2023; Hon. Michael W. Jones];

- *Brohawn v. Automobile Accessories Company* (Super. Ct. Shasta County, No. CVCV21-0198019) [final approval granted on May 8, 2023; Hon. Stephen H. Baker].

EXHIBIT E

Exhibit E – List of Class and PAGA Approvals

- *Beltran v. Big Valley Labor, LLC, et al.* (Super. Ct. Monterey County, No. 20CV003543 [PAGA approval granted on August 15, 2022; Hon. Thomas W. Wills];
- *Andrisani v. Dracko Merchandising Inc.* (Super. Ct. Los Angeles County, No. 20STCV42108) [final approval granted on October 5, 2022; Hon. Carolyn B. Kuhl];
- *Velasco v. Jasmine Vineyards, Inc.* (Super. Ct. Kern County, No. BCV-19-101405) [final approval granted on May 18, 2022; Hon. Bernard C. Barmann, Jr.];
- *Santacruz v. Golden Labor Services, LLC* (Super. Ct. Kern County, No. BCV-20-102729) [final approval granted on May 24, 2023; Hon. David Zulfa];
- *Sandoval v. Dynalloy, Inc.* (Super. Ct. Orange County, No. 30-2021-01186578-CU-OE-CXC) [final approval granted on January 27, 2023; Hon. Randall J. Sherman];
- *Martinez v. Victorian Care Homes of the Monterey Peninsula, Inc. et al.* (Super. Ct. Monterey County, No. 20CV002456) (final approval granted on June 29, 2022; Hon. Thomas W. Wills];
- *Pena v. Canyon Plastics, Inc.* (Super. Ct. L.A. County, No. 20STCV34161) [final approval granted on April 13, 2022; Hon. Amy D. Hogue];
- *Hernandez v. Avon Protection Systems, Inc.* (Super. Ct. Orange County, No. 30-2021-01183162-CU-OE-CXC) [final approval granted on January 13, 2023; Hon. Randall J. Sherman];
- *Ramos v. Cambridge College* (Super. Ct. San Bernardino County, No. CIVSB2112109) [final approval granted on August 15, 2022; Hon. David Cohn];
- *Gonzalez v. Lief Organics, LLC*, (Super. Ct. L.A. County, No. 20STCV19371) [final granted on December 9, 2022; Hon. David S. Cunningham III];
- *Ramirez v. Cal Closets Retail, Inc.* (Super Ct. Orange County, No. 30-2021-01184589-CU-OE-CXC) [final approval granted August 4, 2023; Hon. Peter Wilson];
- *Vasquex v. Scheenstra Dairy*, (Super. Ct. Tulare County, No. VCU286451) [final approval granted February 2, 2023, Hon. Nathan Ide];

- *Wilson v. OCH Powersports, LP, et al.* (Super. Ct. Orange County, No. 30-2020-01140921-CU-OE-CXC) [final approval granted July 20, 2023; Hon. Peter J. Wilson];
- *Casillas v. California Paper Products LLC* (Super. Ct. Kern County, No. BCV-20-102523) [approval granted on September 8, 2022; Hon. David Lampe];
- *Duarte v. Sage Veterinary Centers, LP* (Super. Ct. Santa Clara, No. 20CV375152) [final approval granted on March 14, 2023; Hon. Sunil R. Kulkarni];
- *Smith v. First Meridian Care Services, Inc.* (Super. Ct. San Diego County, No. 37-2021-00048087-CU-OE-CTL) [PAGA approval granted October 20, 2022, Hon. Timothy Taylor];
- *Chong v. Team Volkswagen of Hayward Corporation, et al.* (Super. Ct. Alameda County, No RG21093235) [PAGA approval granted November 10, 2022, Hon. Jeffrey Brand];
- *Guzman v. Destination Anywhere, Inc.,* (Super. Ct. San Joaquin County, No. STK-CV-UOE-2021-10462) [final approval granted on April 14, 2023; Hon. Barbara Kronlund];
- *Benson, et al. v. F21 OPCO, LLC dba Forever 21,* (Super. Ct. San Diego, No. 37-2021-00024619-CU-OE-CTL) [final approval granted October 6, 2023; Hon. Eddie C. Sturgeon];
- *Janssen, et al. v. Mussetter Distributing, Inc.* (Super. Ct. Placer County, No. S-CV-0049920 [final approval granted on May 4, 2023; Hon. Michael W. Jones];
- *Medina-Rivera v. Treebeard Landscape, Inc.* (Super. Ct. San Diego County, No. 37-2021-00050044-CU-OE-CTL) [final approval granted August 18, 2023; Hon. Joel R. Wohlfeil];
- *LaPlante v. The Floor Store, Inc.* (Super. Ct. Santa Clara County, No. 22CV397281) [final approval granted February 9, 2024, Hon. Theodore C. Zayner];
- *Gonzalez v. Unitrans International Corporation,* (Super. Ct. Los Angeles County, No. 21STCV41250) [final approval granted May 21, 2024; Hon. Lawrence P. Riff];
- *Mendoza v. Frantz Wholesale Nursery, LLC,* (Super. Ct. Stanislaus County, No. CV-22-001992) [final approval granted October 15, 2024; Hon. Sonny S. Sanhu];

- *Chinchilla v. RAM Structural Steel, Inc.* (Super. Ct. Los Angeles County, No. 22STCV18306) [final approval granted May 13, 2024; Hon. Laura A. Seigle];
- *Hassmer v. Chaparral Country Corporation*, (Super. Ct. San Francisco County, No. CGC-22-598519) [final approval granted March 12, 2024, Hon. Ethan P. Schulman];
- *Picou v. Direct Urgent Care, Inc. et al.* (Super. Ct. San Francisco County, No. CGC-21-589539) [preliminary approval granted on January 23, 2024; Hon. Ethan P. Schulman];
- *Salazar v. Valley Prune, LLC*, (Super. Ct. Tehama County, No. 22CI000240) [final approval granted August 6, 2024; Hon. Matthew C. McGlynn];
- *Meza v. Imperial Bag & Paper Co. LLC*, (Super. Ct. Los Angeles County, No. 22STCV34617) [preliminary approval granted on May 28, 2024; final approval set to be heard on February 25, 2025; Hon. William F. Highberger];
- *Ortega v. Sierra Vista Child & Family Services*, (Super. Ct. Stanislaus County, No. CV-22-001790) [PAGA approval granted September 26, 2023, Hon. Stacy P. Speiller];
- *McCain, et al. v. Trinity Technology Group, Inc.*, (Super. Ct. Sacramento County, No. 34-2021-00304751) [final approval granted August 30, 2024; Hon. Jill Talley];
- *Herring v. Certis USA LLC*, (Super. Ct. Kern County, No. BCV-22-102755) [final approval granted June 11, 2024; Hon. T. Mark Smith];
- *Paterson v. Sierra-at-Tahoe*, (Super. Ct. El Dorado County, No. 23CV0587) [PAGA approval granted March 5, 2024; Hon. Gary S. Slessberg];
- *Fajardo v. Tapatio Auto and Truck Wrecking Inc.*, (Super. Ct. Kern County, No. BCV-23-100597) [final approval granted September 11, 2024; Hon. T. Mark Smith];
- *Venezia v. W.B. Powell, Inc.*, (Super. Ct. Riverside County, No. RIC2004151) [preliminary approval granted May 14, 2024; Hon. Harold W. Hopp];
- *Vanderpool v. Searles Valley Minerals*, (Super. Ct. San Bernardino County, No. CIVSB2200817) [preliminary approval granted May 10, 2024; final approval set to be heard on November 15, 2025; Hon. Jessica L. Morgan];

- *Vasquez v. Cima's Landscape & Maintenance, Inc.*, (Super. Ct. Sacramento, No. 23CV001639) [preliminary approval granted August 29, 2024; final approval set to be heard on February 14, 2025; Hon. Lauri A. Damrell];
- *Hernandez v. Arthur J. Gallagher Service Company, LLC, et al.* (Dist. Ct. Southern District of California, No. 22-cv-01910-H-DEB) [final approval granted August 26, 2024; Hon. Marilyn L. Huff];
- *Pulido v. Redux, LLC*, (Super. Ct. Riverside County, No. CVR12304544) [preliminary approval granted October 4, 2024; final approval to be heard on January 21, 2025; Hon. Harold W. Hopp];

EXHIBIT F

Subject: Thank you for your Proposed Settlement Submission

Date: Tuesday, December 3, 2024 at 1:40:16 PM Pacific Standard Time

From: DIR PAGA Unit

To: rachel@melmedlaw.com

12/03/2024 01:40:03 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm