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7 Attorneys for Plaintiff, on behalf of the State of CA and all Aggrieved Employees

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF RIVERSIDE

10
11 VIRGEL ALLEN, individually, on a
12 representative basis, and on behalf of all others
13 similarly situated;

14 Plaintiff,

15 vs.

16 KELLY SERVICES GLOBAL, LLC, a
17 Michigan Corporation; CORTECH WEST
18 STAFFING, LLC, a California Domestic
19 LLC; and MITSUBISHI MOTORS NORTH
20 AMERICA, INC., a California Corporation,
21 and DOES 1 through 20, inclusive;

22 Defendants.

Case No.: CVRI23203841

[Assigned to Hon. Harold Hopp, Dept 1, for all purposes]

**DECLARATION OF MISTY M. LAUBY,
ESQ., IN SUPPORT OF MOTION TO
APPROVE SETTLEMENT PURSUANT TO
THE PRIVATE ATTORNEYS GENERAL
ACT OF 2004**

Hearing

Date: July 28, 2025

Time: 8:30 a.m.

Dept.: 1

Complaint filed: July 26, 2023

23 I, Misty M. Lauby, state and declare:

24 1. I am an attorney licensed to practice before all of the courts of the State of California. I
25 am a partner with the law firm of Lauby Mankin Lauby LLP, which has offices in Orange County and
26 Riverside County. I am thoroughly familiar with and have personal knowledge of all of the facts set
27 forth herein. I submit this declaration in support of Plaintiff's Motion to Approve Settlement Pursuant
28 to the Private Attorney General Act of 2004 (the "PAGA"). If called as a witness, I could and would
competently testify thereto.

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1 **I. COUNSEL'S EXPERIENCE**

2 1. I have been a member, in good standing, of the State Bar of California since 2006. I am
3 licensed to practice before all courts of the State of California and am admitted to practice in the
4 United States District Court for the Central District of California and have litigated cases in various
5 courts and counties throughout California.

6 2. I began working as an attorney for Fernandez & Lauby, LLP (now Lauby, Mankin &
7 Lauby, LLP) in 2006. From 2006 through March 2018, I worked in the firm's insurance defense
8 department as the handling attorney in approximately 250-350 complex construction defect litigation
9 matters that I successfully managed and settled on behalf of multiple insurance carrier and contractor
10 clients.

11 3. In or around March 2018, I transitioned to handling exclusively employee vs. employer
12 litigation matters.

13 4. The vast majority of my employment cases have been litigated as class actions,
14 representative PAGA actions or a combination of the two.

15 5. I have been the handling attorney on over 47 class action and/or representative PAGA
16 actions. And, on these cases, myself and/or my firm have been appointed Class Counsel on over 27
17 cases, and have helped recover over \$20,000,000 for my clients, the employees, and the State of
18 California.

19 6. I have been involved in one contested class certification motion in a case that settled
20 just prior to the class certification hearing.

21 **II. PROCEDURAL BACKGROUND**

22 8. After being retained by Plaintiff, my office submitted a claim on March 2, 2023, to the
23 California Labor Workforce and Development ("LWDA") for civil penalties under the Labor Code
24 Private Attorneys General Act of 2004 (Lab. Code §§ 2698, et seq.), which is attached hereto as
25 **Exhibit A**. At the same time, we sent a letter to Defendant requesting the production of Plaintiff's
26 personnel and timekeeping records in order to further evaluate his wage and hour claims while also
27 serving a litigation hold on Defendant to preserve potentially relevant electronically stored
28 information.

1 9. On March 2, 2023, Plaintiff, on behalf of himself and similarly situated employees, filed
2 the Class Action Complaint in the Superior Court of the State of California, County of Riverside, entitled
3 *Virgel Allen v. Kelly Services Global, LLC., et al.*, Case No. CVRI2301068, alleging Defendants' failure
4 to pay Plaintiff and other similarly situated employees all minimum wages earned in violation of Labor
5 Code sections 200, 1194, 1194.2, 1197 and IWC Wage Order § 4; failure to pay Plaintiff and other
6 similarly situated employees all overtime wages earned in violation of Labor Code sections 204 and 510
7 and IWC Wage Order § 3(A); failure to provide Plaintiff and other similarly situated employees meal
8 periods in violation of Labor Code §§ 226.7 and 512 and IWC Wage Order §§ 11, 12; failure to provide
9 Plaintiff and other similarly situated employees rest periods in violation of Labor Code §§ 226.7 and 512
10 and IWC Wage Order § 12; 2-2001; failure to pay Plaintiff and other similarly situated employees vested
11 vacation time in violation of Labor Code section 227.3; failure to timely pay Plaintiff and other similarly
12 situated employees final wages in violation of Labor Code sections 201, 202, and 203; failure to provide
13 Plaintiff and other similarly situated employees with wage statements that fully and accurately itemized the
14 requirements set forth in Labor Code section 226; and unfair and unlawful competition in violation of
15 Business and Professions Code section 17200, *et seq.*

16 10. On July 24, 2023, upon Kelly's motion, the Court compelled Plaintiff's individual
17 claims raised in the Class Action Complaint against Defendant Kelly to arbitration on the basis of an
18 enforceable arbitration agreement and class action waiver entered into with Defendant Kelly, and
19 stayed the Class Action Complaint pending arbitration between Plaintiff and Defendant Kelly.

20 11. On March 2, 2023, Plaintiff, on behalf of himself and similarly situated aggrieved
21 employees, submitted a notice to the California Labor & Workforce Development Agency ("LWDA")
22 memorializing claims against Defendants for violations of the California Labor Code, including claims
23 for failure to pay Plaintiff and other similarly situated employees all minimum wages earned, in
24 violation of Labor Code sections 200, 1194, 1194.2, 1197 and IWC Wage Order § 4; failure to pay
25 Plaintiff and other similarly situated employees all overtime wages earned in violation of Labor Code
26 sections 204 and 510 and IWC Wage Order § 3(A); failure to provide Plaintiff and other similarly
27 situated employees meal periods in violation of Labor Code §§ 226.7 and 512 and IWC Wage Order
28 §§ 11, 12; failure to provide Plaintiff and other similarly situated employees rest periods in violation of

1 Labor Code §§ 226.7 and 512 and IWC Wage Order § 12; 2-2001; failure to pay Plaintiff and similarly
2 situated employees vested vacation in violation of Labor Code section 227.3; failure to timely pay
3 final wages in violation of Labor Code sections 201, 202, and 203; failure to provide Plaintiff and
4 other similarly situated employees with wage statements that fully and accurately itemized the
5 requirements set forth in Labor Code section 226.

6 12. On July 26, 2023, Plaintiff filed his PAGA Complaint in the Superior Court of the State
7 of California, County of Riverside, entitled *Virgel Allen v. Kelly Services Global, LLC., et al.*, Case No.
8 CVRI2303841 alleging (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure
9 to provide meal periods; (4) failure to provide rest breaks; (5) failure to pay vested vacation; (6) failure
10 to timely pay wages each period; (7) failure to timely pay final wages; and (8) failure to provide accurate
11 itemized wage statements.

12 13. Thereafter, the Parties agreed to attend early mediation. The Parties informally
13 exchanged documents and information that allowed both sides to calculate the potential damages and
14 evaluate potential risk, including policies and procedures pertaining to each claim alleged, and statistics
15 relating to the number of current and former employees, number of shifts, pay periods worked and other
16 things. Defendants also provided their written policies and practices and a robust sampling of payroll
17 and timekeeping records for Class Members. This information enabled both parties to take a deep dive
18 into the claims. Additionally, during this process, Plaintiff and his counsel analyzed, researched, and
19 investigated the potential issues, including matters related to the calculation of damages, trial, and
20 appellate issues and risks.

21 14. On September 10, 2024, the Parties engaged in mediation with Kelly A. Knight, Esq.,
22 an experienced and reputable wage and hour and PAGA action mediator. In advance of mediation, the
23 Parties engaged in informal discovery to determine the total number of Aggrieved Employees and
24 implicated pay periods at issue, together with a review of the pertinent policies and procedures. At all
25 times, the Parties' settlement negotiations have been non-collusive, adversarial, and at arm's length.

26 15. The Parties entered into a Settlement Agreement ("S.A."), which contains all necessary
27 and material terms of this settlement. Attached hereto as **Exhibit B**.

28 16. The Parties now seek the Court's approval of the PAGA-only Settlement.

1 17. The Parties also settled and resolved Plaintiff's individual (non-PAGA) claims at
2 mediation. Pursuant to the CMO, the nature and valuation of Plaintiff's individual claims are
3 discussed below – and the terms of the individual settlement are shown in the separate Individual
4 Settlement Agreement that is attached to the Declaration of Misty Lauby and filed concurrently with
5 Plaintiff's Request for Dismissal of Class Claims.

6 **III. ANALYSIS OF THE CLAIMS AND VALUATION**

7 **CMO ¶ 9(b)(i): Nature of the Alleged Violations**

8 18. Plaintiff alleged eight causes of action on behalf of the Aggrieved Employees.
9 However, as discussed herein, some of the claims are overlapping due to the nature of the violation
10 (so, in essence, there are not 8 distinct penalties recoverable).

11 19. KSG is a temporary services provider that provided staffing to the MMNA distribution
12 center at 21800 Authority Way, Suite 102, Riverside California. Plaintiff and Aggrieved Employees
13 worked directly for KSG and under their direction, supervision and employee handbook. KSG only
14 provided labor to the facility from the beginning of the PAGA period on March 2, 2022 through
15 December 2022 when their contract with MMNA was terminated. The following claims cover only 32
16 employees and 498 workweeks total.

17 20. Plaintiff alleged that Defendant paid the Aggrieved Employees on an hourly basis with
18 additional earned compensation (in the form of \$100 per week nondiscretionary attendance bonuses,
19 among possibly others). However, Defendant failed to include this nondiscretionary compensation in
20 the regular rate calculations and overtime compensation – in violation of California law. Defendant
21 argued that at a certain point, it became clear that the contract with MMNA was going to end, so they
22 were having trouble retaining employees. They instituted the retention bonus in an attempt to retain
23 employees toward the end of the relevant period and, therefore, this issue did not affect most of the
24 pay periods.

25 21. Plaintiff claimed that Plaintiff and Aggrieved Employees were unable to clock in until
26 their supervisor arrived which regularly happened late. This created multiple violations, including (1)
27 denying employees of compensation for all hours worked, (2) inaccurate record keeping, and (3)
28 denial of agreed upon attendance bonuses for not being late to work.

1 22. Plaintiff claimed that Defendant KSG failed to provide compliant meal periods and rest
2 breaks to the Aggrieved Employees due to workload requirements. However, Defendants vehemently
3 opposed this claim based on the argument that Defendant KSG had compliant written policies.
4 Additionally, Defendants argued that it provided and made available meal and rest breaks to all
5 employees, and any employee who did not take a meal or rest break did so entirely of his or her own
6 volition. As such, Defendants argued that these claims were without merit because, for each violation,
7 a fact-finder would have to determine why a break was noncompliant/nonexistent, because if it was by
8 the employee's choice, no liability attaches to Defendants.

9 23. Plaintiff also brought a claim that Pursuant to Labor Code § 227.3, an employer that has
10 implemented a paid vacation, paid time off, or compensated time off policy must, upon an employee's
11 separation from employment, pay to the employee all vested but unused vacation and/or paid time off
12 at his final rate of pay. However, the records received in advance of mediation appear to have paid out
13 vacation at the correct rate.

14 24. Plaintiff alleged what are often referred to as "derivative" violations. For instance,
15 Plaintiff argued that, due to the unpaid wages, Defendants are liable to each *former* Aggrieved
16 Employee for failure to timely pay all wages due and owing upon separation of employment (Labor
17 Code § 203) and, moreover, that Defendant KSG's wage statements failed to comply with Labor Code
18 § 226 since the wage statements did not accurately state total hours worked, gross and net wages
19 earned, all deductions, among other violations. However, as Defendants argued that the overarching
20 claims had no merit, Defendants also argued that these derivative claims would fail as well.

21 25. Further, as to all claims, Defendants alleged that the Company had written compliant
22 policies and there existed an enforceable arbitration agreement with class action waiver.

23 26. Despite that each of the claims were disputed, the Parties concluded that further
24 litigation of the Action would be protracted and expensive, and that it is desirable that the Action be
25 fully and finally settled in order to limit further risk, expense and protracted litigation.

26 **CMO ¶ 9(b)(ii): Number of Alleged Individual Violations**

27 27. An analysis of discovery responses and pre-mediation data and information showed that
28 there were only approximately 498 PAGA pay periods through the date of mediation. The time period

covered March 2, 2022, through December 2022 (the date KSG's contract with MMNA was terminated). During this period, it is estimated that there are 32 individuals that fall within the defined group of Aggrieved Employees.

28. Thus, based on 498 total pay periods at issue, Plaintiff calculated that there was a potential total of 582 separate Labor Code violations, broken down as follows:

- a. Overtime (25% violation rate) = 125
- b. Minimum wage (10% violation rate) = 50
- c. Meal Period (10% violation) = 50
- d. Rest Breaks (15% violation rate) = 75
- e. Vested Vacation (0% violation rate) = 0
- f. Failure to timely pay wages each period (25% violation, derivative) = 125
- g. Failure to timely pay final wages (32 former employees) = 32
- h. Wage statement violations (25% violation, derivative) = 125

CMO ¶ 9(b)(iii): Total Amount of Penalties for which Defendant is Potentially Liable

29. Assuming no risk and purely calculating the total amount of penalties for which Defendant was *potentially* liable if all allegations are proven, the following summary totals \$58,200 as follows:

- | | |
|----------------------|------------------------|
| a. Overtime: | 125 x \$100 = \$12,500 |
| b. Minimum Wage: | 50 x \$100 = \$5,000 |
| c. Meal Period: | 50 x \$100 = \$5,000 |
| d. Rest Break: | 75 x \$100 = \$7,500 |
| e. Labor Code § 204: | 125 x \$100 = \$12,500 |
| f. Final Pay: | 125 x \$100 = \$3,200 |
| g. Wage Statements: | 125 x \$100 = \$12,500 |

CMO ¶ 9(b)(iv): Total Amount of Penalties for Which Defendant Would Likely be Liable

30. Based on a detailed analysis of each claim, including the weight of the evidence, clarity of applicable law, and strength of the factual and legal defenses asserted by Defendant, I calculated that the total amount of penalties for which Defendant would likely be found liable at trial is \$22,988.

1 31. With that said, we placed the following risk-adjusted values on each claim based on the
2 merits, risks and defenses, for each:

3 a. Overtime: Here, Plaintiff alleged a failure to pay all wages due to miscalculation
4 of the “regular rate of pay.” The other overtime claim – for miscalculation of the regular rate – is
5 apparent from the face of the paystub and directly violates decades of controlling authority.
6 Defendants argued that bonuses were rare and only began toward the end of the contract period with
7 MMNA. Because the bonuses were evident from the wage statements, Plaintiff only assigned a small
8 25% risk on the merits and believed that the Court would not apply a discretionary reduction. Thus,
9 the risk-adjusted value of the overtime claim is \$9,375.

10 b. Minimum Wage: This claim was based on Plaintiff and the Aggrieved
11 Employees alleged waiting time on occasions when they arrived at work and were unable to clock in
12 because their supervisor would not be there on time. However, Defendant raised the argument that its
13 if it happened at all, it would have been very rare and that the Plaintiff and Aggrieved Employees were
14 able to with clock in without the supervisor or ask for the additional time to be added to their checks.
15 With that in mind, Plaintiff believed there was a 50% risk on the merits and that the Court would apply
16 a 25% discretionary reduction. Therefore, the risk-adjusted value of this claim is \$1,875.

17 c. Meal Period: Plaintiff’s meal period claims had a maximum value of \$5,000 due
18 to the fact that Plaintiff’s experience was that meal period violations in the form of late meal periods
19 likely only occurred in 5-10% of shift. Additionally, on the merits, Defendant raised a defense to meal
20 period claims, namely that it had a fully compliant written policy for meal periods and made all
21 required meal periods available to the Aggrieved Employees, and further that meal periods were a full
22 one hour. Based on these facts, we assigned a 60% risk on the merits for the meal period claim and
23 believed the Court would apply a 25% discretionary reduction. Therefore, we assigned a risk-adjusted
24 value of \$1,500 for the meal period claims.

25 d. Rest Break: Plaintiff’s rest break claims had a maximum value of \$7,500
26 because Plaintiff estimated that approximately there was about a 15% violation rate; and, like the meal
27 period claims, Defendant raised strong arguments that it had a fully compliant written policy for rest
28 breaks and made all required breaks available to the Aggrieved Employees. Additionally, because rest

breaks need not be recorded, Defendant argued that Plaintiff faced a manageability and evidentiary issue proving when or if rest break violations occurred since we could not rely on timekeeping records alone. In light of these risks, we assigned a 50% merit-based risk to the rest break claims and believed the Court would apply another 25% discretionary reduction. Thus, the risk-adjusted value of this claim is \$2,813.

e. Failure to Pay Wages Each Period: We placed very little value on the Labor Code § 204 claims because these were simply derivative of the unpaid wage claims (*i.e.*, there was no direct violation of the statute, such as a practice of routinely paying late). Therefore, although we believe there was risk aligned with wage claims (25% - aligned with the unpaid wage claims), we believe the Court would apply a heavy discretionary reduction of 90% discount, leading to risk-adjusted value of \$938.

f. Failure to Timely Pay Wages: The failure to timely pay final wage claim was derivative of the unpaid wage claims, so we applied the same 25% risk on the merits and expected another 25% discretionary reduction, leading to a risk-adjusted value of \$1,800.

g. Wage Statements: Plaintiff's wage statement claims were based on the argument that – because of the unpaid wage claims and overtime claims – the paystubs failed to accurately state all required information. This was purely a derivative claim and, although we believed it would succeed (25% risk on the merits), we also believed that the Court would apply a 50% discretionary reduction because Defendant was already penalized for the allegedly illegal conduct with imposition of PAGA penalties for the unpaid wage violations. Thus, the wage statement violations had a risk-adjusted value of \$4,688.

CMO ¶ G(9)(b)(v): Likelihood of Violations being Proven Knowing and Intentional

32. Due to the disputed facts, the uncertainty regarding applicable law as to certain claims, and the fact that Defendant had compliant written policies, we did not believe there was a high likelihood that most of the violations would be deemed knowing and intentional. However, we did believe that the overtime miscalculations, if proven, would be found knowing and intentional since these practices run afoul of decades of state and federal authority regarding the regular rate of pay.

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1 **CMO ¶ G(9)(b)(vi): Other Facts to Suggest Imposition of Maximum would be Unjust**

2 33. The PAGA gives the court wide latitude to reduce the amount of civil penalties “based
3 on the facts and circumstances of a particular case” and if “to do otherwise would result in an award
4 that is unjust, arbitrary and oppressive, or confiscatory.” Labor Code § 2699(h). Some factors courts
5 have considered in reducing the amount of civil penalties include whether (1) the violation arises from
6 an unsettled legal obligation (*Cotter v. Lyft, Inc.*, (N.D. Cal. 2016) 193 F.Supp.3d 1030, 1037); and (2)
7 the employer’s willingness to fix the violation. (*Fleming v. Covidien*, (C.D. Cal. 2011) 2011 U.S. Dist.
8 LEXIS 154590, *8-9). For instance, in the *Lyft* case, the Court found that a \$1M PAGA settlement
9 was fair and reasonable in light of the unsettled nature of the law, which awarded \$2.52 per pay period
10 (397,110 pay periods / \$1M PAGA settlement), which was a 97.5% reduction from the maximum
11 penalty. In *Fleming v. Covidien*, the Court reduced the potential penalties by over 82 percent,
12 awarding \$500,000 for 28,742 pay periods at issue. Similarly, in *Sanchez v. McDonald’s Restaurants*
13 *of California*, BC499888, Los Angeles Superior Court entered summary adjudication against
14 McDonald’s for violating the overtime laws, but the Court’s tentative ruling at trial was to award only
15 \$750,000 in PAGA penalties against McDonald’s, despite a substantial number of violations at 119
16 stores at issue.

17 34. Additionally, Plaintiff believes that the amount obtained in settlement, and the
18 reasonable estimates provided above, are justified given that Defendant vehemently argued against any
19 contention that its violations were “knowing and intentional” since it had compliant policies and
20 practices in place at all times.

21 35. Finally, the parties only reached settlement and the agreed-upon PAGA penalties after
22 mediation with an extensive exchange of information and arms-length negotiation between the Parties.

23 **CMO ¶ G(9)(b)(vii): How the Amount of Penalties was Calculated**

24 36. The total amount of PAGA penalties was not “calculated or otherwise arrived at.”
25 Instead, the PAGA penalties make up the entire settlement amount, and the settlement only occurred
26 after arms-length negotiations and expert financial analysis.

27 ///

28 ///

1 **CMO ¶ G(9)(b)(viii): Other Factors Material to Determination that Penalties are Fair**

2 37. I believe that this declaration covers all factors material to a determination that the
3 penalties are fair.

4 **IV. THE SETTLEMENT DISTRIBUTION OF PAGA PENALTIES**

5 **A. TERMS OF THE SETTLEMENT AND DISTRIBUTION OF PAGA PENALTIES**

6 38. The settlement provides that Defendant will pay a non-reversionary PAGA settlement
7 amount of Five Thousand Dollars (\$5,000) (the “PAGA Settlement Amount”) plus a Forty Thousand
8 Dollar (\$40,000) individual settlement to Plaintiff Virgel Allen that is inclusive of payments for
9 Attorneys’ Fees and Attorneys’ Costs,¹ (the Individual Settlement Agreement [“Individual
10 Settlement”]. KSG will be separately responsible for the Settlement Administration Costs. (S.A. ¶
11 4.02(b)(5)). As a result, the full \$5,000 will remain as the PAGA Award for payment to the LWDA
12 and Aggrieved Employees and, pursuant to Labor Code § 2699(i), 75% shall be paid to the LWDA
13 (which shall be used to assist in the enforcement of labor laws and education of employers and
14 employees about their rights and responsibilities under the Labor Code), and the remaining 25% being
15 paid to the Aggrieved Employees on a pro rata basis based the number of pay periods each Aggrieved
16 Employee worked during the PAGA Period. (S.A. ¶ 4.02(b)(3)-(4)).

17 39. As such, the LWDA will receive \$3,750 and the Aggrieved Employees will receive
18 \$1,250. Assuming 32 employees, the average payment will be \$39.06. Each Aggrieved Employee’s
19 share will be treated as non-wage income and reported by the Settlement Administrator on IRS Form
20 1099 to the respective Aggrieved Employee and applicable governmental authorities.

21 **B. PAYMENT AND THE NOTICE LETTER**

22 40. Pursuant to the terms of the Settlement Agreement, Defendants are required to fund the
23 Settlement Amount within 30 days of the Effective Date. (S.A. ¶ 4.02(b)(6)). Within 10 days after
24 receiving the funds, the Administrator shall issue payments to cover all court-approved payments.
25 (S.A. ¶ 4.02(b)(8)).

26
27
28 ¹ Attorneys’ Fees in the amount of \$19,210.24, and reimbursement of actual attorney costs of \$10789.76 (Lauby Decl. ¶ 42).

1 41. The Aggrieved Employees will have 180 days to cash their checks, and if for any
2 reason a check is un-cashed, that share will be forwarded to State Controller's Office for the State of
3 California in the name of the Aggrieved Employee. (S.A. ¶ 4.02(b)(9)).

4 42. A Notice will be sent to the Aggrieved Employees advising of the settlement and
5 payment. (*see* Exhibit D to Lauby Decl.).

6 **C. SETTLEMENT ALLOCATION TO THE AGGRIEVED EMPLOYEES.**

7 43. As noted, 25% of the PAGA Award (totaling \$1,250) will be paid to approximately 32
8 Aggrieved Employees on a pro-rata basis according to the number of pay periods each Aggrieved
9 Employee worked during the PAGA Period. (S.A. ¶ 4.02(b)(4)). The portion of the PAGA Award
10 allocated to each Aggrieved Employee shall be referred to as the Aggrieved Employee's "Individual
11 PAGA Payment." The Aggrieved Employees will receive \$35.21 on average while preserving all
12 potential claims for unpaid wages and statutory penalties, if any exist.

13 **D. THE RELEASE**

14 44. The California Supreme Court has explained that a judgment in "a representative action
15 brought by an aggrieved employee under the Labor Code Private Attorneys General Act of 2004... is
16 binding not only on the named employee plaintiff but also on government agencies and any aggrieved
17 employee not a party to the proceeding." *Arias*, 46 Cal.4th at 985-986.

18 45. The release in the Settlement Agreement strictly complies with CMO ¶ G(9)(d). For
19 instance, it was agreed that the "[u]pon the Effective Date, the release of claims for PAGA penalties
20 shall bind only the named plaintiff and the State of California. See CMO ¶ G(9)(d)(i). Thus, the Parties
21 agree that Plaintiff – in his individual capacity and on behalf of the State of California and LWDA –
22 shall completely release and discharge the PAGA Released Parties from the PAGA Released Claims
23 for the PAGA Release Period" (S.A. ¶ 6.01(a)).

24 46. Additionally, the release claims are limited, as required by the CMO and set forth in the
25 Settlement Agreement, include the following:

26 "“PAGA Released Claims” means all claims for statutory penalties release
27 all claims for statutory penalties that could have been sought by the Labor
28 Commissioner for the violations identified in Plaintiff's pre-filing letter to

1 the LWDA to the extent they are alleged in the PAGA Complaint, including
2 but not limited to, claims premised upon (1) failure to pay minimum wages,
3 (2) failure to pay overtime wages, (3) failure to provide meal periods, (4)
4 failure to provide rest breaks, (5) failure to pay vested vacation; (6) failure
5 to timely pay wages each period, (8) failure to timely pay final wages, (9)
6 failure to provide accurate itemized wage statements, and (10) all other
7 claims for civil penalties recoverable under the Private Attorneys General
8 Act, Labor Code §§ 2698 et seq. that were stated in the to be filed PAGA
9 Complaint. The time period governing the PAGA Released Claims shall be
10 any time during the PAGA Release Period. Plaintiff does not release any
11 aggrieved employee's claim for wages or damages. See PAGA CMO ¶
12 G(9)(d)(i-iv)." (S.A. ¶ 1.01(m)).

13 47. Furthermore, the Released Parties are defined as follows: "PAGA Released Parties"
14 means the Defendants named in the PAGA Complaint and Kelly Services USA, LLC, together with
15 their respective officers, directors, employees and agents. See PAGA CMO ¶ G(9)(d)(ii). (S.A. ¶
16 1.01(l)). (See the concurrently filed Declaration of Eisha Perry, Esq. – counsel for Defendants – for the
17 discussion of the rationale behind the addition of Kelly Services USA, LLC as a Released Party.)

18 48. Separate and apart from Plaintiff's PAGA claims *civil* penalties, Plaintiff also alleged
19 individual claims for the underlying *unpaid wage and statutory* penalty claims. To resolve Plaintiff's
20 separate claims, Defendant agreed to pay a total sum of \$40,000, less applicable withholdings, in
21 exchange for a full release of his individual claims, inclusive of \$30,000 in attorneys' fees and costs.

22 49. For these reasons, the Parties contend that the release in the Settlement Agreement
23 narrowly applies only to the claims alleged, and only binds the named Plaintiff as is consistent with
24 the California Supreme Court's ruling in *Arias*, 46 Cal.4th at 986.

25 **V. THE AGREED UPON PENALTIES ARE FAIR**

26 50. The settlement requires Defendants to pay \$5,000 inclusive of payments to the LWDA
27 and approximately 32 Aggrieved Employees. Attorneys fees and costs and administrator fees are being
28 separately paid. Further, there is no request for a service award.

1 51. The PAGA Award will be allocated to the PAGA Penalties and, pursuant to Labor
2 Code § 2699(i), 75 percent (\$3,750) shall be paid to the LWDA (which shall be used to assist in the
3 enforcement of labor laws and education of employers and employees about their rights and
4 responsibilities under the Labor Code), and the remaining 25 percent (\$1,250) being paid to the
5 Aggrieved Employees based the number of pay periods each Aggrieved Employee worked during the
6 PAGA Period.

7 52. As such, each Aggrieved Employee will receive approximately \$39.06 on average,
8 although the actual amount will be based on the number of eligible pay periods each person worked
9 during the Settlement Period. The portion of each Aggrieved Employee's Individual Share will be
10 treated as non-wage income and reported by the Settlement Administrator on IRS Form 1099 to the
11 respective Aggrieved Employee and applicable governmental authorities.

12 53. In exchange for these payments and benefits, and in accordance with the Court's Case
13 Management Order, the release in the Settlement Agreement binds the named Plaintiff only for civil
14 penalties claims he brought under Labor Code § 2699.

15 **V. CMO ¶ H(3)-(4): ATTORNEYS' FEES AND COSTS ARE REASONABLE UNDER THE**
16 **INDIVIDUAL SETTLEMENT**

17 54. In accordance with the Settlement, the Parties agreed that my office would receive
18 attorney's fees and costs from the individual settlement only in the amount of \$30,000 (\$19,210.24
19 fees and \$10,789.76 in costs). This is substantially less than our lodestar of at least \$96,070.

20 **HOURS INCURRED**

21 55. I have spent 147.8 hours working on this action and have kept contemporaneous
22 records of these billable hours. To that end, I performed substantial work on this case, including
23 significant pre-filing work, legal research regarding nuanced and issues unique to this matter, review
24 and analysis of voluminous records from Defendant to verify and value the claims herein, and work on
25 the mediation session, preliminary and final approval processes.

26 **HOURLY RATE**

27 56. My billing rate is \$650 per hour, and this rate is usual and customary for class action
28 and/or PAGA practitioners with my level of expertise and experience.

1 57. This rate is consistent with Plaintiff and Defense attorneys who handle complex class
2 action litigation, if not somewhat lower. For instance, the 2023 Wolters Kluwer Real rate Report
3 (“Real Rate Report”) states that the rates for partners in Los Angeles are between \$840 and \$1,159 for
4 the middle and upper quartiles.

5 58. Importantly, the Real Rate Report data is not based on self-reported numbers, surveys,
6 or sampling – instead, these figures are based on an analysis of the actual amounts billed to clients
7 based on more than 160 billion in billing entries.

8 59. My requested rate is also reasonable, consistent and less than the rate found in the
9 Laffey Matrix (www.laffeymatrix.com), which indicates that the benchmark rate for an attorney that
10 graduated law school in 2006 is \$878.

11 60. My hourly rate has been approved by various courts in California, including the
12 following non-exhaustive list of recent settlements for which I have been the handing attorney:

13 a. *Robertson v. All Care*, Los Angeles Superior Court, Case No 20STCV18318
14 (March 17, 2022) (\$1.4M wage-and-hour class and PAGA settlement approved with lodestar cross-
15 check of \$650 rate).

16 b. *Morales v. VPET*, San Bernardino Superior Court, Case No. CIVSB2108161
17 (November 22, 2022) (\$250,000 wage-and-hour class and PAGA settlement approved with lodestar
18 cross-check of \$650 rate).

19 c. *Moreno v. JJ Kane*, Riverside Superior Court, Case No. CVRI2101236
20 (September 7, 2022) (\$235,000 wage-and-hour class and PAGA settlement approved with lodestar
21 cross-check of \$650 rate).

22 d. *Blanton v. CTDI*, San Joaquin Superior Court, Case No. STK-CV-UOE-2021-
23 0005136, (August 23, 2023) (\$2,000,000 wage-and-hour class and PAGA settlement approved with
24 lodestar cross-check of \$650 rate).

25 e. *Zuniga v. Desert AIDS Project*, Riverside Superior Court, Case No.
26 RIC2003219, (August 25, 2023) (\$400,000 wage-and-hour class and PAGA settlement approved with
27 lodestar cross-check of \$650 rate).
28

- 1 f. *Northrup v Guyou*, Riverside Superior Court Case No. CVRI2105858
2 (December 15, 2023) (\$300,000 wage-and-hour class and PAGA settlement approved with lodestar
3 cross-check of \$650 rate).
- 4 g. *Rodarte v. Wright Business Graphics*, San Bernardino Superior Court Case No.
5 CIVSB2206705, (December 6, 2023)(\$310,000 wage-and-hour class and PAGA settlement approved
6 with lodestar cross-check of \$650 rate).
- 7 h. *Zubia v. Procter & Gamble*, Los Angeles Superior Court Case No.
8 20STCV44506, (January 17, 2024) (\$3,750,000 wage-and-hour class and PAGA settlement approved
9 with lodestar cross-check of \$650 rate).
- 10 i. *Lopez v. Martinez Concrete*, San Bernardino Superior Court Case No.
11 20STCV44506, (February 27, 2024)(\$350,977.22 wage-and-hour class and PAGA settlement
12 approved with lodestar cross-check of \$650 rate).
- 13 j. *Valenzuela v. Clarkwestern*, Sacramento Superior Court Case No. 34-2021-
14 00307823, (April 12, 2024)(\$2,5000,000 wage-and-hour class and PAGA settlement approved with
15 lodestar cross-check of \$650 rate).
- 16 k. *Calderon v. Prudential*, Los Angeles Superior Court Case No. 22STCV13172
17 (July 3, 2024) (\$438,361 wage-an-hour class and PAGA settlement approved with lodestar cross-
18 check of \$650 rate).
- 19 l. *Hagon v. Transport America*, San Bernardino Superior Court Case No.
20 CIVSB2203409 (August 27, 2024) (\$515,000 wage-an-hour class and PAGA settlement approved
21 with lodestar cross-check of \$650 rate).
- 22 m. *Ramos v. White Lines*, San Bernardino Superior Court Case No. CIVSB2216314
23 (August 22, 2024) (\$825,000 wage-an-hour class and PAGA settlement approved with lodestar cross-
24 check of \$650 rate).

25 61. In the course of prosecuting this action, Plaintiff's counsel has incurred expenses that
26 were incidental and necessary to the effective representation of the Class. These costs include
27 mediation fees, filing fees, and other costs that include Attorney Service charges, CourtCall charges,
28

1 and process service fees. My firm's expenses total \$10,798.76 through the conclusion of this matter,
2 which includes costs of filing, serving and attend the approval hearing (see **Exhibit C** attached hereto).

3 **VI. CMO ¶ G(9): PLAINTIFF'S INDIVIDUAL SETTLEMENT**

4 **CMO ¶ G(9)(b)(i): Nature of the Alleged Violations**

5 62. Plaintiff alleged individual claims for the same underlying facts and violations as
6 raised in the PAGA case, in addition to an alleged 105 hours in unpaid PTO and 28 unpaid sick hours.
7 Thus, Plaintiff alleges that he was subjected to the same unpaid wage claims, same meal/rest break
8 issues, and the same wage statement violations, along with his additional claims.

9 **CMO ¶ G(9)(b)(ii): Maximum Value of Plaintiff's Individual Claims**

10 63. Plaintiff alleges that the total amount of damages, lost wages, penalties, attorneys' fees
11 and costs, interest, and other relief that she would be awarded on his individual claims, if they were
12 entirely successful at trial, is at least **\$112,468**. Additionally, Plaintiff alleges that the damages due to
13 claims that he was owed additional 105 hours of PTO and 28 hours of sick time if they were
14 successful at trial would be approximately **\$2,394**. This is based on the following estimates.

15 64. *First*, Plaintiff alleges that he was subjected to the same unpaid minimum and overtime
16 wage claims above and, since he was employed from approximately January 10, 2022, through
17 November 20, 2022, the maximum value of these claims is approximately **\$365** (8 hours total unpaid
18 (20 minutes on 10% of 225 shifts) at OT rate plus liquidated damages LC §1194.2 of \$24 = \$315 + an
19 estimated \$50 of unpaid OT due to regular rate issue).

20 65. *Second*, because of the unpaid wages, Plaintiff alleged that she was entitled to waiting
21 time penalties under Labor Code § 203, calculated at \$18 per hour x 30 days x 8.5 hours per day, for a
22 maximum value of **\$4,590**.

23 66. *Third*, as to meal period and rest break claims Plaintiff estimates that, based on the
24 number of shifts he worked, he was subjected to approximately 23 meal period violations and at least
25 34 rest break violations. At his hourly rate of \$18, this places the maximum value of the meal and rest
26 break claims at **\$1,013**.

27 67. *Fourth*, Plaintiff also alleged several other claims discussed above, including
28 Defendant's failure to provide accurate itemized wage statements, which would have a maximum value

1 of **\$4,000** at \$100 for 45 pay periods (with \$4,000 cap). He also believed that he would be entitled to
2 interest accrued on the unpaid wages and unpaid wage premiums of approximately **\$5,000**.

3 68. Finally, I estimate that my firm would incur at least **\$97,500** in recoverable attorneys'
4 fees and costs through trial if we were forced to litigate Plaintiff's individual claims based on an
5 estimated 150 hours of work at \$650/hour.

6 **CMO ¶ G(9)(b)(iii): Risk-Adjusted Value of Plaintiff's Individual Claims**

7 69. The maximum amounts above do not take into account the necessary risk adjustments
8 and what Plaintiff could reasonably expect if his claims proceeded to trial, taking into account the
9 likelihood of prevailing and other risks. And while Defendant would have many of the same defenses
10 to the individual claims as it has to the PAGA claims, Plaintiff believes that he would likely have a
11 very high chance of recovering the full amount given that many of Defendant's defenses were as to the
12 manageability of a representative PAGA action, whereas proving individual claims for unpaid wages
13 and meal/rest violations is much easier given that Plaintiff's testimony is all that is necessary.
14 Furthermore, Defendant would not be entitled to the discretionary reduction it could seek under
15 PAGA.

16 70. When considering those factors, Plaintiff estimates the risk-adjusted value for damages,
17 lost wages, penalties, attorneys' fees and costs, interest, and other relief that he would be awarded on
18 his individual claims is **\$13,329**— and the risk assessments track those in the PAGA action, discussed
19 above. Additionally, Plaintiff estimates the risk-adjusted value of the additional PTO/Sick time
20 claims (assuming a 10% risk) would amount to **\$2,155**. Moreover, Plaintiff waived his right to seek a
21 service award as the named Plaintiff for the PAGA action.

22 71. For example, Plaintiff assigns a 50% risk on the merits for his unpaid minimum wage
23 claim, and 25% reduction for the overtime wage claim which mirrors the merits risk on the PAGA
24 claims. Thus, Plaintiff's unpaid wage claim has a risk-adjusted value of \$196. Plaintiff assigned the
25 lower 25% risk to the waiting time penalty claim since it was based on the same facts and theories of
26 liability of the wage claims but also does not have the same manageability claims as with the PAGA-
27 thus making the risk-adjusted value of that claim **\$3,713**.

72. Plaintiff's meal and rest break claims are also based on the same facts as the PAGA case, and subject to the similar risk because Defendant had a compliant written policy. However, much of the risk in the PAGA case related to the evidentiary burden of providing competent and compelling evidence as to violations for all Aggrieved Employees. That does not exist on an individual basis, since Plaintiff only needs to submit evidence and convince a trier of fact that he personally was subjected to violations despite the written policies. For that reason, Plaintiff assigned only a 20% risk to the meal and rest break claims, making the risk adjusted value of the meal period claim \$324 [\$405 value x 20% risk] and the risk-adjusted value of the rest break claim is \$486 [\$608 value x 20% risk].

73. Plaintiff assigned a 25% risk on his 226 claims due— thus making the risk-adjusted value of this claim **\$3,000**.

74. Additionally, Plaintiff calculates roughly **\$3,456** in interest on the risk adjusted value.

CMO ¶ E(4)(c)(III): Consideration Paid to Plaintiff for Individual Claims

75. As set forth in the Settlement Agreement, the Parties settled Plaintiff's separate individual claims for a total of \$40,000 - with \$6,000 paid on an IRS Form W-2 to Plaintiff as wages, \$4,000 paid to Plaintiff as non-wage payment on an IRS Form 1099; and \$30,000 paid as attorney's fees and costs to "Lauby, Mankin & Lauby" on an IRS Form 1099.

76. The facts herein show that Plaintiff received only a fraction of the asserted value of his claims, meaning that he certainly did not receive a windfall as a result of the PAGA settlement and further confirming that Plaintiff and his counsel fairly and properly separated the individual settlements from the PAGA settlement.

VII. CMO ¶ 9(d): RELEASE OF CLAIMS FOR PAGA PENALTIES

77. The release in this Settlement fully complies and is in strict compliance with the Court's CMO.

Notably, as required by CMO ¶ G(9)(d), the Settlement Agreement states "[u]pon the Effective Date, the release of claims for PAGA penalties shall bind only the named plaintiff and the State of California. See CMO ¶ G(9)(d)(i). Thus, the Parties agree that Plaintiff – in his individual capacity and on behalf of the State of California and LWDA - shall completely release and discharge the PAGA

Released Parties from the PAGA Released Claims for the PAGA Release Period.” (S.A. ¶ 6.01(a)).

78. Moreover, the “Released Parties,” as defined in Section 1.01(l) of the Settlement Agreement, are defined as “means the Defendants named in the PAGA Complaint and Kelly Services USA, LLC, together with their respective officers, directors, employees and agents. See PAGA CMO ¶ G(9)(d)(ii)”

79. Finally, the full definition of Released Claims, at Section 1.01(m) of the Settlement Agreement, is expressly limited to claims “all claims for statutory penalties release all claims for statutory penalties that could have been sought by the Labor Commissioner for the violations identified in Plaintiff’s pre-filing letter to the LWDA to the extent they are alleged in the PAGA Complaint, including but not limited to, claims premised upon (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) failure to provide meal periods, (4) failure to provide rest breaks, (5) failure to pay vested vacation; (6) failure to timely pay wages each period, (8) failure to timely pay final wages, (9) failure to provide accurate itemized wage statements, and (10) all other claims for civil penalties recoverable under the Private Attorneys General Act, Labor Code §§ 2698 et seq. that were stated in the to be filed PAGA Complaint. The time period governing the PAGA Released Claims shall be any time during the PAGA Release Period. Plaintiff does not release any aggrieved employee’s claim for wages or damages. See PAGA CMO ¶ G(9)(d)(i-iv).”

IX. SUBMISSION TO THE LWDA

80. The Motion and declarations, including the PAGA Settlement Agreement, have concurrently been submitted to the LWDA through its online portal. (See **Exhibit E**).

X. EXHIBITS AND CONCLUSION

81. A true and correct copy of the LWDA letter is attached hereto as Exhibit A.

82. A true and correct copy of the PAGA Settlement Agreement is attached hereto as Exhibit B.

83. An itemized statement of my firm’s costs is attached hereto as Exhibit C.

84. The Proposed Letter to the Aggrieved Employees is attached here as Exhibit D.

85. The LWDA’s confirmation of receipt of this Motion and Declarations is attached hereto as Exhibit E.

1 86. For the foregoing reasons, it is respectfully requested that the Court approve the
2 settlement.

3 I declare under penalty of perjury under the laws of the State of California that the foregoing is
4 true and correct. Executed on July 3, 2025, at Claremont, California.

5
6 By: 
Misty M. Lauby

EXHIBIT “A”



LAUBY, MANKIN & LAUBY LLP

March 2, 2023

Submitted Via Online Filing to the LWDA

California LWDA
Attn: PAGA Administrator
455 Golden Gate Ave., 9th Fl.
San Francisco, CA 94102

Sent Via U.S. Mail and Certified Mail

Kelly Services Global, LLC
999 W. Big Beaver Rd., #401A
Troy, MI 48084

Cortech West Staffing, LLC
7120 Morgan Falls Rd.
Atlanta, GA 30350

Cortech West Staffing, LLC
8795 Folsom Boulevard, #105
Sacramento, CA 95826

Mitsubishi Motors North America, Inc.
PO Box 689040
Franklin, TN 37068

**Re: PAGA Civil Penalty Claim
*Virgel Allen v. Kelly Services Global, LLC, et al.***

To the Labor and Workforce Development Agency, Kelly Services Global, LLC, Cortech West Staffing, LLC, and Mitsubishi Motors North America, Inc.:

Pursuant to the Private Attorneys General Act of 2004 (“PAGA”), Labor Code §§ 2699, *et seq.*, this letter shall serve as notification of the PAGA civil penalty claim of aggrieved employee Virgel Allen (“Claimant”), on behalf of the State of California and all Aggrieved Employees, against his former joint employer(s), Kelly Services Global, LLC, Cortech West Staffing, LLC, and Mitsubishi Motors North America, Inc., and any affiliated entities (collectively, the “Company”), for violations of Labor Code §§ 200, 201, 202, 203, 204, 208, 210, 218.6, 226, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, and 1199, among possibly other sections inadvertently omitted, and/or sections of the applicable IWC Wage Order(s).

FACTUAL BACKGROUND

Claimant was employed by the Company from approximately December 2021 through November 2022 as a non-exempt employee at a Mitsubishi Motors distribution center. Claimant alleges that he and all other non-exempt employees employed at distribution centers in California by the Company (the “Aggrieved Employees”) were subjected to the same policies, working conditions, and corresponding wage and hour violations to Claimant was subjected during his employment.

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For instance, at all relevant times, Claimant and the Aggrieved Employees were not provided proper minimum, regular and overtime wages due to the Company's failure to accurately record and compensate for all hours worked. As one such example, during employment, Claimant and the Aggrieved Employees were only allowed to clock in once their supervisor arrived, so on days where the supervisor did not arrive on time, Claimant and Aggrieved Employees did not start getting paid until after the supervisor arrived resulting in unaccounted for compensable time. Moreover, the Company promised the employees a nondiscretionary attendance bonus. However, when the supervisor was late, the Claimant and Aggrieved Employees were also counted as being tardy which eliminated their right to the contractually agreed upon attendance bonus. Additionally, on the occasions when the Aggrieved Employees worked overtime hours and received additional earned compensation during the same workweek, the Company failed to properly include these amounts in the calculations for Claimant's regular rate of pay – in violation of California law and which led to the failure to pay proper overtime.

Claimant was also not provided 30-minute off-duty meal periods, as mandated by California law, during employment with the Company. As a result of the Company's policies and practices, Claimant was subjected to meal period violations when Claimant was: (1) unable to take a meal period due to workload, (2) forced to take an on-duty meal period while under the control of the Company, (3) forced to take a meal period after the 5th hour of work, and (4) not provided a mandated second meal period on occasions for shifts in excess of 10 hours.

The Company also failed to provide Claimant with 10 minutes of net rest break time for every 4 hours worked, or major fraction thereof, as mandated by California law. The Company did not schedule Claimant's rest breaks, Claimant was unable to leave the premises for breaks, and Claimant was often not authorized and/or permitted to take mandated rest breaks due to being overwhelmed by the hectic workload. Furthermore, on occasions when Claimant worked in excess of 10 hours in a shift, the Company failed to authorize and/or permit a third mandated rest break.

Moreover, at all relevant times, the Company utilized a policy and practice through which Claimant and the Aggrieved Employees accrued vacation and/or PTO hours (collectively, "vacation hours"). However, on the occasions when Claimant and the Aggrieved Employees had accrued but unused vacation hours upon separation of employment, Defendants failed to pay for these earned wages at all and when they did, failed to pay at the "final rate" as required by Labor Code § 227.3.

The Company also failed to comply with the mandates of Labor Code § 204 regarding the timing of the payment of wages to its employees each period, including meal and rest period premiums. Additionally, the Company failed to pay Claimant and the Aggrieved Employees their final wages within the timeframe required by Labor Code §§ 201 – 203. Finally, during employment with the Company, Claimant and the Aggrieved Employees received inaccurate and incomplete wage statements that failed to accurately state all necessary items required under Labor Code § 226(a).

Claimant alleges that he worked under the joint direction and control of the entities listed herein and their owners and is informed and believes that each of them acted in all respects pertinent to this action as the agent of the others, carried out a joint scheme, business plan or policy in all respect pertinent hereto, and the acts of each are legally attributable to the others. On information and belief, a unity of interest and ownership between each exists such that the entities listed herein and the Owners acted as a single employer of Claimant and the Aggrieved Employees. Furthermore, on information and belief, the entities listed herein and their owners are an integrated enterprise and should be treated as a single employer because the entities

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and their owners share an interrelation of operations, with common human resources and personnel policies and shared common offices and facilities. Upon information and belief, the entities listed herein and their owners share common management, a centralized control of labor operations, and common ownership or financial control.

Furthermore, Claimant alleges that the owners are now and at all relevant times were the owners of the entities listed herein and were Claimant's and the Aggrieved Employees' actual employer or, in the alternative, were individuals employed by the Company as managerial and/or supervisory employees and/or agents. In addition, Claimant alleges that at all relevant times the owners had the authority, in the interest of the entities listed herein to exercise independent judgment to hire, transfer, promote, discharge, assign, discipline, or take other similar actions against Claimant and the Aggrieved Employees, and were in Claimant's chain of command at the time of and direct participants in the wrongful conduct which constitutes the basis of Claimant's complaint herein. Claimant also alleges that the entities listed herein and the owners are the agents, servants, employees, partners, affiliates, and/or representatives of each other, and were, at all times herein mentioned, acting within the course, scope, and purpose of such relationship(s) and with the knowledge, consent and/or ratification of each other. Furthermore, in conducting themselves in the manner described herein, the entities listed herein and the owners were acting in active concert with on another such that the acts of each were fully attributable to the other in all material respects.

Claimant also alleges the entities listed herein and the owners were merely the alter-ego of the others in that there existed a unity of interest and ownership such that any separateness between them ceased to exist and each exercised undue dominance, control, influence, and management over the others. Claimant further alleges that, at all relevant times, the entities listed herein have been inadequately capitalized to conduct business, have failed to follow appropriate corporate formalities, and have simply been a shell and instrumentality through which the owners have conducted their personal affairs. Adherence to the fiction of the separate existence of the entities listed herein would permit abuse of the corporate privilege, thereby sanctioning fraud and promoting injustice. Accordingly, the corporate veil should be pierced, and any liability attached to the entities listed herein should be imposed jointly and severally against the owners.

In an additional separate, but not necessarily mutually exclusive, alternative theory of liability, the owners are liable for PAGA civil penalties under Labor Code § 558 as "other person(s)" who caused the violations regarding minimum wage among other claims. See *Atempa v. Pedrazzani* (2018) 27 Cal.App.5th 809, 820 ("if there is evidence and a finding that a party other than the employer 'violates, or causes to be violated' the overtime laws (§ 558(a)) or 'pays or causes to be paid to any employee' less than minimum wage (§ 1197.1(a)), then that party is liable for certain civil penalties regardless of the identity or business structure of the employer"); *Moua v. IBM* (N.D. Cal. 2019) 2019 U.S.Dist.LEXIS 40851 (same).

As a result of these violations, and others described below, Claimant alleges that he and other Aggrieved Employees were denied specific rights to which they are/were entitled under California law and the rules promulgated by the IWC Wage Orders, including the following:

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PAGA ASSESSMENT FOR FAILURE TO PAY ALL MINIMUM, REGULAR AND OVERTIME WAGES

(Labor Code §§ 204, 221-223, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198; IWC Wage Order §§ 3, 4(B))

As discussed above, the Company failed to pay all required minimum, regular, and overtime wages to Claimant and the Aggrieved Employees due to the Company's failure to accurately record and compensate for all hours worked and the failure to pay overtime. This resulted in earned, but unpaid, wages due and owing to Claimant and the Aggrieved Employees. Therefore, Claimants and the Aggrieved Employees performed work for the Company without receiving proper payment of the requisite minimum, overtime, and/or doubletime wages.

Accordingly, Labor Code §§ 210, 558, 1194.2, 1197.1, and 2699, among possibly others, impose various penalties upon the Company for each employee and each pay period in which it failed to pay all wages including, but not limited to, minimum, regular, and overtime wages in violation of the Labor Code and/or the IWC Wage Orders.

PAGA ASSESSMENT FOR DENIAL OF MEAL PERIODS, REST BREAKS, AND WAGE PREMIUMS

(Labor Code §§ 226.7(b) & (c), 512, 558; Cal. Admin. Code, Title 8, § 11090)

Labor Code § 226.7(b) states that "[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission ..." Labor Code § 512(a) states in pertinent part: "[A]n employer may not employ an employee for a work period of more than 5 hours per day without providing the employee with an uninterrupted meal period of not less than 30 minutes [...] [a]n employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes." Section 12 of applicable IWC Wage Order states in pertinent part: "Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof."

Here, Claimant and other Aggrieved Employees were regularly not provided compliant mandatory meal periods and paid rest breaks due to the Company's policies described above. Although the Company was required to pay Claimant and all Aggrieved Employees premium wages equal to an additional hour of pay at the employee's regular rate of pay for each violation under Labor Code § 226.7(c), the Company did not pay the mandatory one-hour wage premiums and did not do so at the proper rate. Labor Code § 558 imposes a penalty for each violation, plus an amount sufficient to recover the underpaid wages. Additionally, the civil assessment set forth in Labor Code § 2699 applies to these violations.

FAILURE TO PAY VESTED VACATION UPON SEPARATION OF EMPLOYMENT

(Labor Code § 227.3)

Pursuant to Labor Code § 227.3, an employer that has implemented a paid vacation, paid time off, or compensated time off policy must, upon an employee's separation from employment, pay to the employee all vested but unused vacation and/or paid time off at her final rate of pay. However, as alleged herein, the Company failed to pay all vested vacation upon separation of employment and, further, only paid vested

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vacation upon separation at the base rate of pay, leading to a violation on each such occasion. As a result of these violations, penalties may be assessed pursuant to Labor Code § 2699.

FAILURE TO PAY SICK TIME AT PROPER RATE OF PAY

(Labor Code § 246)

Labor Code § 246(l)(1) provides that paid sick time for non-exempt employees must be “calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek.” Additionally, Labor Code § 246(l)(2) states that the paid sick time must be “calculated by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days of employment.”

Here, Claimant and the Aggrieved Employees were compensated on an hourly basis plus additional compensation in the form of nondiscretionary bonuses. Here, the Company failed to pay sick time at all on certain occasions when paid sick days were taken. Also, on the occasions that the Aggrieved Employees took sick time and received paid sick leave, the Company only paid sick time at the base rate of pay (not factoring in the additional compensation as required by Labor Code §§ 246(l)(1-2)). As such, penalties may be assessed pursuant to Labor Code § 2699.

**PAGA ASSESSMENT FOR FAILURE TO PAY ALL WAGES DUE AND OWING
EACH PAYROLL PERIOD WITHIN THE TIME REQUIRED BY LAW**

(Labor Code §§ 204, 204.1, 208, 256 and 2699)

Labor Code § 204(a) states that all wages earned by a person are due and payable twice during each calendar month, and further states that wages earned during the first through fifteenth days of the month must be paid no later than the twenty-sixth day of the month, and that wages earned between the sixteenth and last day of the month must be paid by the tenth day of the following month. Labor Code § 204(d) states “[t]he requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.”

As a result of the Company’s failure to pay Claimant and the Aggrieved Employees all compensation to which they were entitled, the Company had a pattern and practice of failing to pay all wages due and owing to Claimant and the Aggrieved Employees within the time mandated by Labor Code § 204. As a result of these violations, penalties may be assessed pursuant to Labor Code §§ 203, 210, 256, and/or 2699.

PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY FINAL WAGES

(Labor Code §§ 201, 202, 203, 256 and 2699)

Labor Code § 201(a) provides in pertinent part: “If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” Labor Code § 202(a) states in pertinent part “If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours’ previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.” Labor Code § 203(a) states “If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of

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an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.”

The Company did not pay the Aggrieved Employees all wages that were due and owing within the required time following the end of their employment in accordance with Labor Code §§ 201-202. As a result, all such Aggrieved Employees are entitled to 30 days of wages as a “waiting time penalty.” (Labor Code § 203.) Labor Code § 2699 also imposes a penalty.

**PAGA ASSESSMENT FOR FAILURE TO PROVIDE ACCURATE,
ITEMIZED WAGE STATEMENTS**
(Labor Code §§ 226, 226.3, and 1174)

Labor Code § 226(a) requires an employer to provide its employees with itemized wage statements accurately stating gross wages earned, total hours worked, all deductions, net wages earned, the inclusive dates of the pay period, the employee’s name and the last four digits of his or her Social Security number (or employee identification number), the name and address of the legal entity that is the employer, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

At all times pertinent hereto, the Company failed to provide accurate itemized wage statements due to violations including: failure to accurately state total hours worked (the paystubs failed to accurately reflect total compensable hours); failure to accurately state gross wages earned, all deductions, and net wages earned (due to, for example, the failure to pay all required minimum and overtime wages); failure to state the applicable hourly rates (including the accurate overtime rate of pay); failure to state the accurate start and end dates of the pay period; failure to accurately state the name and address of the legal entity that is the employer, and; failure to accurately state the corresponding number of hours worked at each hourly rate. Additionally, the Company’s wage statements directly violated Labor Code § 226(a) each period due to the failure to pay and report premium wages for denied meal/rest breaks under § 226.7. Accordingly, Labor Code §§ 226.3 and 2699 impose civil penalties for these violations.

PAGA ASSESSMENT FOR VIOLATIONS OF LABOR CODE § 1199
(Labor Code § 1199)

An employer violates Labor Code § 1199 if said employer: (a) requires or causes an employee to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission; (b) pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission; or, (c) violates or refuses or neglects to comply with any provision of this chapter or any order or ruling of the commission. Labor Code § 2699.5 specifically enumerates Labor Code § 1199 as a section to which the civil penalties under the PAGA apply. Therefore, as a result of the Company’s violations described herein, the Company is subject to civil penalties in accordance with Labor Code § 2699.

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Mailing Address

5198 Arlington Avenue, PMB 513, Riverside, CA 92504



Toll Free
888.959.8508

Physical Address

11801 Pierce Street, Suite 200, Riverside, CA 92505

ATTORNEYS' FEES, INTEREST, AND PENALTIES

(Labor Code §§ 2699(f)(2), 2699(g)(1), 2699.5)

Labor Code § 2699(g)(1), give employees the right to recover in a civil action the unpaid balance of the full amount of wages, including interest thereon, penalties and other damages, as applicable, reasonable attorneys' fees, and costs of suit. Additionally, Claimant seeks the assessment of penalties, including civil penalties, under Labor Code §§ 203, 210, 225.5, 226.3, 1174.5, 1197.1, 2699, and/or § 20 of the IWC Wage Orders, among possibly other provisions inadvertently omitted herein. Furthermore, Claimant is entitled to bring a wage/hour claim on behalf of all current and former similarly situated employees of the Company. Thus, the Company is exposed to these same penalties for violations involving all Aggrieved Employees. Additionally, Claimant seeks attorney's fees pursuant to C.C.P. § 1021.5. Please construe this correspondence as Claimants' notification of alleged wrongdoing and attempted resolution in accordance with C.C.P. § 1021.5 and *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553.

CONCLUSION

Based on the foregoing, the Company may be liable for civil penalties related to the foregoing claims and remedies. If Claimant becomes aware of any additional claims for Labor Code violations related to his employment and/or other employees of the Company, he reserves the right to add new claims by supplementing this notice letter. Should you have any questions, please feel free to give me a call. In the meantime, I look forward to your response.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'Misty M. Lauby', with a stylized flourish at the end.

By: Misty M. Lauby Esq.

E-mail: misty@lmlfirm.com

Mailing Address

5198 Arlington Avenue, PMB 513, Riverside, CA 92504



Toll Free
888.959.8508

Physical Address

11801 Pierce Street, Suite 200, Riverside, CA 92505

EXHIBIT “B”

**INDIVIDUAL AND PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE § 2698
ET SEQ.) SETTLEMENT AGREEMENT**

Virgel Allen v. Kelly Services Global, LLC and Mitsubishi Motors North America, Inc.
Riverside County Superior Court, Case Nos. CVRI2301068 and CVRI2303841

IT IS HEREBY STIPULATED AND AGREED by and among the undersigned Parties, subject to the approval of the Court, that the settlement of these actions with respect to all claims brought in an individual and a representative capacity pursuant to the Private Attorneys General Act (“PAGA”) (Labor Code § 2698 *et seq.*) shall be effectuated upon and subject to the following terms and conditions. Capitalized terms used herein shall have the meanings set forth in Article I or elsewhere in this Individual and PAGA Settlement Agreement (“Agreement”).

This Agreement is made by and between Defendants Kelly Services Global, LLC (“Kelly”) and Mitsubishi Motors North America, Inc. (“Mitsubishi”) (each a “Defendant” and collectively “Defendants”) on the one hand, and Plaintiff Virgel Allen (“Plaintiff”), for himself and in his capacity as a representative of the State of California as the real party in interest on behalf of other Aggrieved Employees (defined below), on the other hand. (Defendants, Plaintiff and Aggrieved Employees, as defined herein, are sometimes collectively referred to as the “Parties.”)

The Parties agree that all representative claims brought pursuant to the PAGA in the Superior Court of California, County of Riverside, Case No. CVRI2303841 and all claims brought, or that could have been brought, in the Superior Court of California, County of Riverside, Case No. CVRI2301068 (together the “Litigation” or “Actions”) shall be, and hereby are, ended, settled, resolved, and concluded pursuant to the terms of this Agreement. As part of this Agreement, Defendant Kelly agrees to pay the sum of Forty-Five Thousand Dollars and Zero Cents (\$45,000.00) (hereinafter referred to as the “Gross Settlement Amount”) which includes settlement of the PAGA claims and penalties sought and any and all individual claims that were or could have been brought in the Litigation, and which shall be inclusive of Plaintiff’s attorneys’ fees and costs in connection with the Litigation, and general release payment to Plaintiff. The Parties further agree that this Agreement is a compromise of disputed claims and that nothing in this Agreement shall be construed as an admission of liability by any Defendant.

Article I.

Definitions.

Section 1.01 Definitions.

Unless otherwise defined herein, the following terms used in this Agreement shall have the meanings ascribed to them as set forth below:

- (a) “Aggrieved Employees” means all individuals who currently and/or formerly performed work for Kelly on assignment with Mitsubishi in California as hourly and/or non-exempt employees at any time from March 2, 2022 through September 10, 2024 (the “PAGA Release Period”). Defendant Kelly represents that the total number of Aggrieved

Employees is approximately 32 individuals who worked approximately 498 pay periods during the PAGA Release Period.

- (b) “Court” means the Superior Court for the State of California, County of Riverside.
- (c) “Class Action Complaint” means the Complaint filed by Plaintiff on or about March 2, 2023, which asserts eight causes of action for violations of Labor Code §§ 200, 201, 202, 203, 204, 226, 226.7, 227.3, 510, 512, 1194, 1194.2, and 1197, and Business and Professions Code § 17200, *et. seq.* in the Superior Court of California, County of Riverside, Case No. CVRI2301068.
- (d) “Class Action CMO” means the Class Action Case Management Order #1, filed on March 3, 2023 in Case No. CVRI2301068.
- (e) “PAGA CMO” means the Class Action Case Management Order #1, filed on August 4, 2023 in Case No. CVRI2303841.
- (f) “Effective Date” means the date on which (1) the Court approves this Agreement; (2) dismisses the PAGA Complaint, with prejudice; and (3) approves the dismissal of Plaintiff’s individual claims with prejudice and the remainder of the Class Action Complaint without prejudice. If the matters are dismissed on separate dates, the Effective Date shall be the latter of the two dismissals.

- (g) “Kelly Counsel” or “Counsel for Kelly” means:

Shireen Y. Wetmore, Esq.
Eisha Perry, Esq.
DUANE MORRIS LLP
Spear Tower
One Market Plaza, Suite 2200
San Francisco, CA 94105

- (h) “Mitsubishi Counsel” or “Counsel for Mitsubishi” means:

Janet L. Hickson
Laura M. Booth
SHOOK, HARDY & BACON L.L.P.
5 Park Plaza, Suite 1600
Irvine, CA 92614

- (i) “PAGA Complaint” means the operative Complaint filed by Plaintiff on or about July 26, 2023, which asserts eight causes of action under the PAGA predicated on underlying violations of Labor Code §§ 200, 201, 202, 203, 204, 226, 226.7, 227.3, 510, 512, 1194, 1194.2, and 1197 in the Superior Court of California, County of Riverside, Case No. CVRI2303841.

- (j) “PAGA Gross Settlement Amount” means \$5,000.00 allocated from the Gross Settlement Amount, intended by the Parties to resolve, settle, and conclude the allegations raised by Plaintiff in his March 2, 2023 notice to the California Labor & Workforce Development Agency (“LWDA”) memorializing claims against Defendants for violations of the California Labor Code and his July 26, 2023 PAGA Complaint.
- (k) “PAGA Release Period” means March 2, 2022 through September 10, 2024.
- (l) “PAGA Released Parties” means the Defendants named in the PAGA Complaint and Kelly Services USA, LLC, together with their respective officers, directors, employees and agents. *See* PAGA CMO ¶ G(9)(d)(ii).
- (m) “PAGA Released Claims” means all claims for statutory penalties release all claims for statutory penalties that could have been sought by the Labor Commissioner for the violations identified in Plaintiff’s pre-filing letter to the LWDA to the extent they are alleged in the PAGA Complaint, including but not limited to, claims premised upon (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) failure to provide meal periods, (4) failure to provide rest breaks, (5) failure to pay vested vacation; (6) failure to timely pay wages each period, (8) failure to timely pay final wages, (9) failure to provide accurate itemized wage statements, and (10) all other claims for civil penalties recoverable under the Private Attorneys General Act, Labor Code §§ 2698 *et seq.* that were stated in the to be filed PAGA Complaint. The time period governing the PAGA Released Claims shall be any time during the PAGA Release Period. Plaintiff does not release any aggrieved employee’s claim for wages or damages. *See* PAGA CMO ¶ G(9)(d)(i-iv).
- (n) “Plaintiff’s Counsel” means:

Misty M. Lauby, Esq.
LAUBY, MANKIN & LAUBY LLP
5198 Arlington Avenue, PMB 513
Riverside, California 92504

Article II.

Background.

Section 2.01 Background.

- (a) On March 2, 2023, Plaintiff, on behalf of himself and similarly situated employees, filed the Class Action Complaint in the Superior Court of the State of California, County of Riverside, entitled *Virgel Allen v. Kelly Services Global, LLC., et al.*, Case No. CVRI2301068, alleging Defendants’ failure to pay Plaintiff and other similarly situated employees all minimum wages earned in violation of Labor Code sections 200, 1194, 1194.2, 1197 and IWC Wage Order § 4; failure to pay Plaintiff and other similarly situated employees all overtime wages earned in violation of Labor Code sections 204 and 510 and

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IWC Wage Order § 3(A); failure to provide Plaintiff and other similarly situated employees meal periods in violation of Labor Code §§ 226.7 and 512 and IWC Wage Order §§ 11, 12; failure to provide Plaintiff and other similarly situated employees rest periods in violation of Labor Code §§ 226.7 and 512 and IWC Wage Order § 12; 2-2001; failure to pay Plaintiff and other similarly situated employees vested vacation time in violation of Labor Code section 227.3; failure to timely pay Plaintiff and other similarly situated employees final wages in violation of Labor Code sections 201, 202, and 203; failure to provide Plaintiff and other similarly situated employees with wage statements that fully and accurately itemized the requirements set forth in Labor Code section 226; and unfair and unlawful competition in violation of Business and Professions Code section 17200, *et seq.*

- (b) On July 24, 2023, upon Kelly’s motion, the Court compelled Plaintiff’s individual claims raised in the Class Action Complaint against Defendant Kelly to arbitration on the basis of an enforceable arbitration agreement and class action waiver entered into with Defendant Kelly, and stayed the Class Action Complaint pending arbitration between Plaintiff and Defendant Kelly.
- (c) On March 2, 2023, Plaintiff, on behalf of himself and similarly situated aggrieved employees, submitted a notice to the California Labor & Workforce Development Agency (“LWDA”) memorializing claims against Defendants for violations of the California Labor Code, including claims for failure to pay Plaintiff and other similarly situated employees all minimum wages earned, in violation of Labor Code sections 200, 1194, 1194.2, 1197 and IWC Wage Order § 4; failure to pay Plaintiff and other similarly situated employees all overtime wages earned in violation of Labor Code sections 204 and 510 and IWC Wage Order § 3(A); failure to provide Plaintiff and other similarly situated employees meal periods in violation of Labor Code §§ 226.7 and 512 and IWC Wage Order §§ 11, 12; failure to provide Plaintiff and other similarly situated employees rest periods in violation of Labor Code §§ 226.7 and 512 and IWC Wage Order § 12; 2-2001; failure to pay Plaintiff and similarly situated employees vested vacation in violation of Labor Code section 227.3; failure to timely pay final wages in violation of Labor Code sections 201, 202, and 203; failure to provide Plaintiff and other similarly situated employees with wage statements that fully and accurately itemized the requirements set forth in Labor Code section 226.
- (d) On July 26, 2023, Plaintiff filed his PAGA Complaint in the Superior Court of the State of California, County of Riverside, entitled *Virgel Allen v. Kelly Services Global, LLC., et al.*, Case No. CVRI2303841.
- (e) On September 10, 2024, the Parties engaged in mediation with Kelly A. Knight, Esq., an experienced and reputable wage and hour and PAGA action mediator. In advance of mediation, the Parties engaged in informal discovery to determine the total number of Aggrieved Employees and implicated pay periods at issue, together with a review of the pertinent policies and procedures. At all times, the Parties’ settlement negotiations have been non-collusive, adversarial, and at arm’s length.

- (f) Plaintiff, Kelly, and Mitsubishi have concluded that it is desirable that the individual and PAGA claims asserted in the Actions be settled in a manner and upon such terms and conditions set forth herein in order to avoid further expense, inconvenience and distraction of further legal proceedings, and the risk of an adverse outcome each of the Parties potentially face. Plaintiff and his counsel are of the opinion that the Agreement for the consideration and terms set forth herein is fair, reasonable, and adequate in light of all known facts and circumstances.
- (g) Through this Settlement, Plaintiff, Kelly, and Mitsubishi have agreed to resolve Plaintiff's individual claims as well as all claims under the PAGA, that were raised or could have been raised in the Actions.
- (h) This Agreement contemplates the (a) entry of an order by the Court approving the payment allocated for settlement of the PAGA Gross Settlement Amount; (b) dismissal and release of claims set forth in the PAGA Complaint; (c) general release and a 1542 waiver by Plaintiff of his individual claims; (d) dismissal of Plaintiff's individual claims with prejudice and the remainder of the Class Action Complaint claims without prejudice; and (e) all Parties bearing their respective fees and costs except as expressly provided in this Agreement. All dismissals shall be pursuant to the Class Action CMO and the PAGA CMO. These terms are material provisions of this Agreement.

Defendants deny each and every claim and contention alleged in the Actions, and have always maintained that Defendants, and each of them, have at all times maintained compliant policies and practices and have at no time engaged in any unlawful acts regarding any of the matters alleged in the Actions.

Article III.

Scope of the Aggrieved Employees.

Section 3.01 The scope of individuals encompassed under the Agreement, who are entitled to all benefits as authorized under the Agreement and subject to all obligations and duties required under the Agreement, shall include all Aggrieved Employees as defined in Section 1.01(a).

Article IV.

Approval and Implementation of Settlement.

Section 4.01 Cooperation.

The Parties will cooperate in obtaining, through a stipulation, or an unopposed motion to be filed by Plaintiff's Counsel, if required, an Order from the Court approving the payment of the PAGA Gross Settlement Amount as described in this Agreement at the earliest possible date. Concurrently with the submission of this Agreement to the Court, Plaintiff shall submit it to the LWDA as required by the PAGA.

The Parties agree to use their best efforts to expedite the preparation and submission of the settlement documents. The Parties further agree to fully cooperate in the drafting and/or filing of any further documents or filings reasonably necessary to be prepared or filed, shall take all steps that may be requested by the Court relating to, or that are otherwise necessary to, the approval and implementation of the payment of the PAGA Gross Settlement Amount and dismissal of the Actions as described in this Agreement.

The Court's approval of the payment of the PAGA Gross Settlement Amount as described in this Agreement shall be embodied in a written Order, which shall be transmitted by Plaintiff's Counsel to the LWDA within ten (10) calendar days upon entry, as required by the PAGA. Should the Court not grant approval of the payment of the PAGA Gross Settlement Amount as described in this Agreement or decline to dismiss the Action with prejudice, this Agreement shall be null and void and have no further effect, and all sums paid by Kelly, if any, shall be promptly returned to Kelly.

Section 4.02 Settlement Payment Procedures.

(a) Gross Settlement Amount.

- (1) Defendant Kelly shall pay the total amount of Forty-Five Thousand Dollars and Zero Cents (\$45,000.00) to settle the Actions. This amount, *i.e.*, the Gross Settlement Amount, shall cover, resolve, and fully satisfy any and all amounts owed to Plaintiff, the Aggrieved Employees, the State of California, and Plaintiff's Counsel, including all amounts allocated to attorneys' fees and costs, in settlement of all PAGA Released Claims, as defined herein, and Plaintiff's General Release set forth in Section 6.02, below. Defendant Mitsubishi expressly acknowledges and agrees that this Agreement fully resolves any and all claims it may have against Defendant Kelly related in any way to any of the claims or allegations made in the Class Action Complaint and/or PAGA Complaint, including potential claims for indemnification. The Parties agree that there are no circumstances that would require Defendant Kelly to pay any amount greater than the Gross Settlement Amount in connection with this Agreement unless the escalator clause in Section 7.15 herein is invoked. In the event that this Agreement is canceled, rescinded, terminated, voided or nullified, or if for any reason the Effective Date does not occur, however that may occur as permitted herein, or the settlement is barred by operation of law, invalidated, or ordered not to be carried out by a court of competent jurisdiction, Defendant Kelly shall have no obligation to pay any of the Gross Settlement Amount and the Parties' respective positions shall be restored to positions prior to the settlement. Further, in that event, nothing in this Agreement, the negotiations leading to this settlement, nor any papers prepared in connection with this Agreement shall be admissible in any proceeding for any purpose whatsoever.

(b) Allocation of PAGA Gross Settlement Amount.

- (1) Of the Gross Settlement Amount, Five Thousand Dollars and Zero Cents (\$5,000.00) shall be allocated as the PAGA Gross Settlement Amount, intended by the Parties to

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resolve, settle, and conclude the allegations raised by Plaintiff in his March 2, 2023 notice to the California LWDA memorializing claims against Defendants for violations of the California Labor Code and Plaintiff's July 26, 2023 PAGA Complaint, and to fully satisfy any and all amounts owed to Plaintiff, the Aggrieved Employees, and the State of California with respect to Plaintiff's March 2, 2023 LWDA notice and July 26, 2023 PAGA Complaint.

- (2) Plaintiff's Counsel will not seek an award of attorneys' fees apportioned from the PAGA Gross Settlement Amount.
- (3) The "Net PAGA Settlement Fund" shall be calculated by deducting from the PAGA Gross Settlement Amount Plaintiff's Counsel Payment. Seventy-five percent (75%) of the Net Settlement Fund, which shall be distributed to the LWDA, and the remaining twenty-five percent (25%) of the Net Settlement Fund shall be distributed to the Aggrieved Employees.
- (4) The Twenty-Five percent (25%) of the Net PAGA Settlement Fund to be distributed to the Aggrieved Employees will be divided by the total number of pay periods worked by all of them in California during the PAGA Release Period to yield the Pay Period Value. Each Aggrieved Employee will be paid an amount equal to their individual number of pay periods worked in California during the PAGA Release Period multiplied by the Pay Period Value.
- (5) Defendant Kelly shall pay the fees of the Settlement Administrator of Kelly's choosing separate and apart from the Gross Settlement Amount. Kelly may also, at its election, administer the PAGA payments itself, so long as it performs all duties of the settlement administrator described herein, with the exception of the requirement in subsection 4.02(6) below.
- (6) Defendant Kelly shall deposit the PAGA Gross Settlement Amount into a Qualified Settlement Fund pursuant to Section 468B(g) of the Internal Revenue Code set up by the Settlement Administrator no later than thirty (30) calendar days after the Effective Date.
- (7) Defendant Kelly will provide the Settlement Administrator with a confidential list of the names and addresses of the Aggrieved Employees, together with the number of their individual pay periods worked during the PAGA Release Period, within thirty (30) calendar days after the Effective Date. This information will be provided confidentially to the Settlement Administrator only, and the Settlement Administrator will treat the information as private and confidential and take all necessary precautions to maintain the confidentiality of such information. This information is to be used only to carry out the Settlement Administrator's duties as specified in this Agreement and will not be shared with any other Party.
- (8) No later than twenty-one (21) calendar days after Defendant Kelly's deposit of the PAGA Gross Settlement Amount, the Settlement Administrator shall transmit the Notice of

PAGA Settlement (attached hereto as Exhibit “A”), together with settlement checks containing their full individual settlement amounts, with no claims process required, to all Aggrieved Employees by first-class United States mail, postage prepaid, to the last known address of each recipient with directions to the Postmaster to forward the Notice of PAGA Settlement and return all undeliverable Notices. No later than twenty-one (21) calendar days after Defendant Kelly’s deposit of the PAGA Gross Settlement Amount, the respective shares shall be paid to Plaintiff’s Counsel, the Settlement Administrator, Plaintiff for his individual settlement and general release payment, and the LWDA to satisfy their payments herein.

- (9) For each settlement check and Notice of PAGA Settlement to Aggrieved Employees that is returned as undeliverable, the Settlement Administrator shall promptly attempt to locate the Aggrieved Employee by using an address refresher database. If no current address is located, the individual payment for that individual will be deemed undeliverable. If any Aggrieved Employees cannot be located within two attempts at mailings by the Settlement Administrator, the individual payment for that individual will be deemed undeliverable. The value of checks uncashed more than 180 days after issuance shall be paid to the Office of the California State Controller – Unclaimed Property Fund, to be held in the name of the respective Aggrieved Employees.
- (10) 100% of the PAGA Gross Settlement Amount is considered penalties and will not be subject to local, state or federal tax withholdings. All recipients of payments under this Agreement have their payments reported on an IRS Form 1099. The Settlement Administrator shall issue IRS Form 1099s (if required) to the Aggrieved Employees.

(c) Payment of Individual Settlement Amount

- (1) The remaining Forty Thousand Dollars and Zero Cents (\$40,000.00) of the Gross Settlement Amount, *i.e.* the Individual Settlement Amount, is intended by the Parties to resolve, settle, and conclude the individual allegations raised by Plaintiff in his Class Action Complaint, that have been compelled to individual arbitration with Defendant Kelly, and is full and complete consideration in exchange for:
 - 1) the release and discharge of any and all claims that were or could have been asserted against Defendants and the Released Parties and as set forth in Plaintiff’s General Release in Section 6.02 herein;
 - 2) the dismissal with prejudice of Plaintiff’s individual claims and without prejudice of the remaining Class Action Complaint claims in their entirety;
 - 3) and Plaintiff’s right to bring any other individual claim under the PAGA consistent with Plaintiff’s General Release set forth in Section 6.02, below.

The Individual Settlement Amount will be allocated as follows:

- 1) One wage payment in the total gross amount of \$6,000, less deductions and withholdings, payable to “Virgel Allen” on which a W-2 will be issued.
 - 2) One non-wage payment in the total gross amount of \$4,000, payable to “Virgel Allen” on which a 1099 will be issued.
 - 3) One payment in the total gross amount of \$30,000, for attorney’s fees and costs payable to “Lauby, Mankin and Lauby LLP” on which a 1099 will be issued.
- (2) Within seven (7) calendar days of the execution of this Agreement in full, Plaintiff shall file an Application for Dismissal of the Class Action Complaint, pursuant to the Class Action CMO, specifying dismissal as to Plaintiff’s individual claims is with prejudice and without prejudice to the remainder.
 - (3) Defendant Kelly shall pay the Individual Settlement Amount as set forth above within fifteen (15) calendar days of the Effective Date.

Article V.

Limitations On Use Of This Settlement.

Section 5.01 No Admission.

Defendants have denied and continue to deny all claims asserted in the Actions. It is understood and agreed by the Parties that this is a compromise and settlement of all disputed claims, and that the promises and payment in consideration of this Agreement shall not be construed to be an admission of any liability or obligation whatsoever by Defendants, and each of them, or any Released Parties or PAGA Released Parties to any other party or to any other person whomsoever. Defendants have agreed to resolve the asserted PAGA and individual claims in the Actions via this Agreement, but to the extent this Agreement is deemed void or the Court does not enter an order granting this Agreement, Defendants do not waive, and are expressly reserving, all rights to challenge all such claims and allegations in the Actions upon all procedural and factual grounds, including, without limitation, the ability to challenge representative or collective treatment on any grounds, as well as to assert any and all other potential defenses or privileges.

Section 5.02 Non-Evidentiary Use.

This Agreement is made for the sole purpose of settling the PAGA and individual claims asserted in the Actions, and may only be used as evidence of the resolution detailed herein. However, neither this Agreement, nor any of its terms, nor any of the negotiations connected with it or proceedings relating to this Agreement, payouts or anything else associated with it, shall be offered or used as evidence by any of the Parties, or their respective counsel in the Litigation or in any other action or proceeding, including to establish any liability or admission on the part of Defendants or any Released Parties or PAGA Released Parties or to establish the existence of any

condition constituting a violation of, or noncompliance with, federal, state, local or other applicable law; provided, however, this shall not prevent this Agreement from being used, offered, or received in evidence in any proceeding to enforce, construe, or finalize this Agreement. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it or proceedings relating to this Agreement, payouts or other events associated with it, shall be construed as an admission or concession by Defendants or any Released Parties or PAGA Released Parties, or establishment of any such violation(s) or failure(s) to comply with any applicable law. If the Court does not enter an order approving the Agreement, this Agreement shall be deemed null and void; it shall be of no force or effect whatsoever; it shall not be referred to or utilized for any purpose whatsoever; and the negotiation, terms, and entry of this Agreement shall remain subject to the provisions of California Evidence Code Sections 1119 and 1152, Federal Rule of Evidence 408, and any other analogous rules of evidence that may be applicable. Defendants specifically retain the right to defend, on the merits, against any non-settled claims brought by any Aggrieved Employees.

Section 5.03 Nullification.

(a) If the Court should for any reason fail to approve this Agreement, then (a) this Agreement shall be considered null and void, (b) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect, and (c) all Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court.

(b) Invalidation of any material portion of this Agreement shall invalidate this Agreement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect. Material terms of this Agreement include: the definition of Aggrieved Employees; the definition of Effective Date; the definition of PAGA Release Period; the definition of PAGA Released Claims; the definitions of PAGA Released Parties and Released Parties; the definition of Net Settlement Fund; the requirement for entry of an order by the Court approving this Agreement and dismissing the Actions with prejudice. The following terms are not material to this Agreement: Plaintiff's Counsel Payment and the allocation within the Net PAGA Settlement Fund.

Article VI.

Release and Waiver of Claims.

Section 6.01 Limited Release by Plaintiff and The State of California.

- (a) Upon the Effective Date, the release of claims for PAGA penalties shall bind only the named plaintiff and the State of California. *See* CMO ¶ G(9)(d)(i). Thus, the Parties agree that Plaintiff – in his individual capacity and on behalf of the State of California and LWDA - shall completely release and discharge the PAGA Released Parties from the PAGA Released Claims for the PAGA Release Period.

- (b) The Parties will not publicize the PAGA Settlement or disclose it to third parties prior to the Court granting approval, except as required or necessary to effectuate its terms and comply with law, including the payment of taxes. Plaintiff and Plaintiff's Counsel agree that they will not publicize the PAGA Settlement or this Agreement.

Section 6.02 General Release as to Plaintiff's Claims

Complete and General Release: In exchange for the consideration, promises and covenants contained in this Agreement, and subject to Defendant Kelly's full payment of the Gross Settlement Amount as provided herein, Plaintiff, on behalf of himself and his agents, representatives, attorneys, spouses, heirs, executors, administrators, successors and assigns, now or hereafter, hereby releases, waives and forever discharges Defendants, together with their former, present, and future owners, parents, affiliates, and subsidiaries, and all of their current, former and future officers, directors, members, managers, partners, shareholders, agents, employees, joint venturers, successors, assigns, attorneys, accountants, insurers, or legal representatives (the "Released Parties"), from any and all claims, liabilities, causes of action, charges, complaints, obligations, costs, losses, damages, injuries, attorneys' fees, and other legal responsibilities, of any form whatsoever, whether known or unknown, unforeseen, unanticipated, unsuspected, or latent, which Plaintiff or his heirs, administrators, executors, successors in interest, and/or assigns have incurred or expect to incur, or now own or hold, or have at any time heretofore owned or held, or may at any time own, hold, or claim to hold by reason of any matter or thing arising from any cause whatsoever prior to the date of Plaintiff's execution of this Agreement related in any way to his employment with Kelly, his placement at Mitsubishi, and/or separation from employment or placement ("Plaintiff's General Release").

The scope of Plaintiff's General Release extends to claims including, but not limited to, any alleged (a) violation of the National Labor Relations Act, Title VII of the Civil Rights Act, the California Fair Employment and Housing Act, the Americans With Disabilities Act of 1990, the Fair Labor Standards Act, the California Labor Code, any applicable California Wage Order, the California Private Attorneys General Act (to include but not limited to, acting as a PAGA representative), the Occupational Safety and Health Act, the Consolidated Omnibus Budget Reconciliation Act of 1985, the California Family Rights Act, the Employee Retirement Income Security Act (excluding vested benefits), the California Unfair Business Practices Act/Unfair Competition Law, the Family and Medical Leave Act, the California Family Rights Act, the Worker Adjustment and Retraining Notification Act, and any state law equivalent; (b) harassment, discrimination, and/or retaliation on the basis of age, race, color, ancestry, national origin (including language use restrictions), citizenship, religious creed (including religious dress and grooming practices), sex, marital status, domestic partnership status, sexual orientation, gender, gender identity or gender expression, veteran status, military status, political affiliation, family care or medical leave status or the denial of family and medical care leave, physical or mental disability, medical condition (including genetic characteristics), genetic information or any other basis protected by applicable federal, state and/or local laws, regulations, rules, ordinances and/or orders, failure to prevent harassment, discrimination, and/or retaliation, failure to accommodate, failure to engage in the interactive process, retaliation; (c) any whistleblower or retaliation claims

on the basis of any protected activity or other protected basis; (d) breach of any express or implied promise, contract or agreement (express or implied), or breach of the implied covenant of good faith and fair dealing; (e) any tort or common law claims, including wrongful discharge, intentional or negligent infliction of emotional distress, negligence, fraud, misrepresentation, defamation, interference with prospective economic advantage, or other tort or common law actions; (f) claims for misclassification, wage and hour, or other claims related to hours, conditions, or compensation related to work; and (g) any other violation of local, state, or federal law, constitution, statute, regulation or ordinance, public policy, contract, or tort or common law claim, whether for legal or equitable relief, having any bearing whatsoever on the terms and conditions of employment, or association or working relationship, with any of the Released Parties, including but not limited to any allegations for penalties, interest, costs and fees, including attorneys' fees, incurred in any of these matters, which Plaintiff ever had, now has, or may have prior to the date of Plaintiff's execution of this Agreement. All such claims, liabilities or causes of action (including, without limitation, claims for related attorneys' fees and costs) are forever barred by this Agreement regardless of the forum in which they may be brought. The Parties intend for Plaintiff's General Release to be as broad as possible.

Plaintiff represents and acknowledges that the Individual Settlement Payment contained herein shall constitute the entire consideration provided to Plaintiff and Plaintiff will not seek any further compensation for any claim, damage, cost, or attorney's fees in connection with the matters encompassed in the Agreement. Plaintiff represents and acknowledges that the Individual Settlement Payment contained herein constitutes a full satisfaction and accord of any claims Plaintiff has or may have against any of the Released Parties. Plaintiff acknowledges the Payment constitutes ample consideration, the sufficiency of which is hereby acknowledged, for Plaintiff's promises in the Agreement.

Section 1542 Waiver: Plaintiff stipulates and agrees that he expressly waives and relinquishes, to the fullest extent permitted by law, the provisions, rights, and benefits of Section 1542 of the California Civil Code, or any other similar provision under federal or state law, which provides:

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.

Plaintiff may hereafter discover facts in addition to or different from those he now knows or believes to be true with respect to the subject matter of the Release, but Plaintiff upon the Effective Date shall fully, finally, and forever settle and release any and all of the claims released pursuant to Plaintiff's General Release, whether known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or heretofore have existed upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct

that is negligent, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts.

Non-Waivable Rights: Plaintiff's General Release does not apply to any claims that cannot be released as a matter of law. The provisions of this Section 6.02 also do not preclude filing a charge or complaint with or from participating in an investigation or proceeding conducted by the Equal Employment Opportunity Commission ("EEOC"), the National Labor Relations Board ("NLRB"), the Occupational Safety and Health Administration ("OSHA"), or any other federal, state, or local agency charged with the enforcement of any employment laws, although Plaintiff understands that by signing this Agreement, he waives the right to recover any damages or to receive other relief directly from the Released Parties in any claim or suit brought by or through the EEOC, NLRB, OSHA or any other federal, state, or local agency on his behalf.

Section 6.03 Tax Treatment and Tax Indemnification.

Plaintiff, Plaintiff's counsel and Aggrieved Employees will assume their own tax obligations or consequences which may arise from this Settlement.

If any state or federal taxing authority contacts, investigates, or pursues any action against any Aggrieved Employees for their individual share of taxes related to any payments made under this Agreement, each Aggrieved Employee shall be responsible for his/her own defense of and payment for any claim of unpaid taxes, interest, or penalties brought by any state or federal taxing authority for the Aggrieved Employee's share of any state or federal tax obligation, and shall not seek any indemnification from Defendants in this regard. If an Aggrieved Employee has questions about any liability to any state or federal taxing authority, they shall their tax advisor. The Aggrieved Employees shall not contact Defendants, any of the Released Parties or PAGA Released Parties, or Kelly Counsel or Mitsubishi Counsel.

Section 6.04 Defendants Release of Claims

Defendants Kelly and Mitsubishi acknowledge that this Agreement constitutes the resolution of all claims in the Actions, including any claims or counter claims Defendants may have against Plaintiff or one another. Defendant Mitsubishi hereby releases and waives any and all rights to take any action against Defendant Kelly, the Released Parties, and/or the PAGA Released Parties for any and all claims related to or that could have arisen from the Actions, including but not limited to any right to seek indemnification or contribution.

Article VII.

Miscellaneous Provisions.

Section 7.01 Voluntariness and Advice of Counsel.

This Agreement is executed voluntarily and without duress or undue influence on the part of or on behalf of any of the Parties, or of any other person, firm or other entity. The Parties to this Agreement are represented by competent counsel, and they have had the opportunity to consult with competent counsel. Plaintiff, Defendants, and their respective legal counsel believe it is in their best interests to enter into this Agreement at this time. Plaintiff and his counsel, acting in what they believe to be the best interest of the Aggrieved Employees, wish to resolve this matter in a fair and cost-effective manner that benefits the Aggrieved Employees without the expense, delay, diversion, and risk of protracted and complex litigation. The Parties to this Agreement agree that it reflects a good faith compromise of their claims, based upon their assessment of the mutual risks and costs of further litigation.

Section 7.02 Amendments and Void *Ab Initio*.

The terms and provisions of this Agreement may be amended only by a written agreement that is both (a) signed by the Plaintiff, Kelly, and Mitsubishi who executed this Agreement and (b) approved by the Court. Any waiver of any provision of this Agreement shall not constitute a waiver of any other provision of this Agreement unless expressly so indicated otherwise.

If the Court does not enter an order granting approval of the Agreement, if the Court's approval of the settlement is reversed, if the Agreement is materially modified by the Court or on appellate review, or if the Effective Date does not occur, this Agreement shall be deemed Void *Ab Initio*. Void *Ab Initio* shall mean the Parties will be returned to the status quo prior to this Agreement being reached and it will be as if the Agreement was never entered into. If Void *Ab Initio*, the Agreement shall be of no force or effect whatsoever, it shall not be referred to or utilized for any purpose whatsoever, and the negotiation, terms and entry of the Agreement shall remain subject to the provisions of California Evidence Code Sections 1119 and 1152, Federal Rule of Evidence 408, and any other analogous rules of evidence that may be applicable. A material modification shall have the same meaning as that term is used in California law regarding contracts. This Agreement may not be discharged except by performance in accordance with its terms.

Section 7.03 Assignment.

None of the rights, commitments, or obligations recognized under this Agreement may be assigned by any Party, Aggrieved Employee, Plaintiff's Counsel, or Kelly or Mitsubishi Counsel without the express written consent of all other Parties and their respective counsel hereto. The representations, warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the Parties under this Agreement, and shall not be construed to confer any right or to avail any remedy to any other person. Plaintiff expressly warrants that he has not transferred to any person or entity any right or cause of action, or claim released by this Agreement.

Section 7.04 Governing Law.

This Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California, and shall in all cases

be interpreted in accordance with the plain meaning of its terms and not strictly for or against any of the Parties hereto.

Section 7.05 Headings and Captions.

Paragraph titles or captions contained in the Agreement are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement, or any provision thereof.

Section 7.06 No Press Release or Publicity Regarding the Terms of the Settlement.

Plaintiff and Plaintiff's Counsel, as well as Kelly and Mitsubishi, agree that they will not issue any media or press release, initiate any contact with the media or the press, respond to any media or press inquiry, or have any communications with the media or the press about the fact, amount, or terms of this Agreement, except to (i) Aggrieved Employees, but only upon inquiry, and (ii) the Court and the LWDA, but only as necessary to obtain Court approval of the Settlement. Plaintiff and his counsel also will not post any information about the Settlement on social media or their firms' websites.

Section 7.07 Counterparts.

This Agreement, and any amendments hereto, may be executed in any number of counterparts and any Party and/or their respective counsel hereto may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. It shall not be necessary in making proof of this Agreement or any counterpart hereof to produce or account for any of the other counterparts.

Section 7.08 Attorneys' Fees and Costs.

With respect to this Agreement, neither Plaintiff's Counsel nor any other attorneys acting for, or purporting to act for the Aggrieved Employees, or Plaintiff may recover or seek to recover any amounts for fees, costs, or disbursements from the Released Parties, PAGA Released Parties, or the PAGA Gross Settlement Amount except as expressly provided herein. Each Defendant shall bear their own attorney's fees and costs, and neither Plaintiff's Counsel, Aggrieved Employees or the Plaintiff shall be responsible for Defendants' attorney's fees and costs. If any party moves the Court to enforce this Agreement, the prevailing party shall be entitled to recover from the other party all attorneys' fees and costs incurred to enforce this Agreement.

Section 7.09 Dispute(s).

Should any dispute(s) arise among the Parties or their respective counsel regarding the implementation or interpretation of this Agreement, the Parties agree to submit any such dispute(s) to the Court. To the extent any Party seeks to enforce any of the terms of this Agreement in Court

or before the Court, the prevailing party shall be entitled to recover his/their/its reasonable attorneys' fees and costs.

Section 7.10 Binding.

The Parties, by signing this Agreement, are bound by the terms herein. The Parties waive their rights to file an appeal, writ, or any challenge whatsoever to the terms of this Agreement. This Agreement shall bind and inure to the benefit of the Parties hereto and to their respective successors, assigns, legatees, heirs, and personal representatives.

Section 7.11 Court's Retention of Jurisdiction.

The Court shall retain jurisdiction, pursuant to Code of Civil Procedure section 664.6 and otherwise as permitted by law, to enforce this Agreement.

Section 7.12 Escalator Provision.

This settlement is based on Defendant Kelly's representation that there are no more than approximately 498 pay periods at issue ("Affected Pay Periods") worked by approximately 32 Aggrieved Employees during the PAGA Release Period. If the actual number of pay periods in the PAGA Release Period is 5% higher or more on the Effective Date, Defendant Kelly shall have the option, in Kelly's sole discretion, to increase the PAGA Gross Settlement Amount by \$10.04 (\$5,000 divided by 498) for each additional Affected Pay Periods above 523 (5% more than 498), or to reduce the period covered by the PAGA Release Period to the date on which the total number of pay periods is 5% or less above 498. However, the PAGA Release Period may not be reduced to prior to September 10, 2024.

Section 7.13 Tolling Agreement.

The Plaintiff and KSG entered into a Tolling Agreement, executed on February 26, 2024, which will shall sunset upon the Effective Date. If the Effective Date is not achieved because the Court denies approval of this Settlement or dismissal of either or both Complaints, as contemplated herein, the tolling agreement shall expire upon the date of such denial.

Section 7.14 Entire Agreement

This Agreement with exhibits constitutes the entire Agreement among the Parties, and no oral or written representations, warranties, or inducements have been made to any Party concerning this Agreement other than the representations, warranties, and covenants contained and memorialized in such documents. All prior or contemporaneous negotiations, memoranda, agreements, understandings, and representations, whether written or oral, are expressly superseded hereby and are of no further force and effect. Each of the Parties acknowledges that they have not relied on any promise, representation, or warrant, express or implied, not contained in this Agreement. No rights hereunder may be waived except in writing.

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement on the date set forth below.

APPROVED AND ACCEPTED.

Dated: May 5, 2025

KELLY SERVICES GLOBAL, LLC

Signed by:
Robert Haddad
By D0E52CFB2F004E7...
Its VP, Law

Dated: May __, 2025

MITSUBISHI MOTORS NORTH AMERICA, INC.

By _____
Its _____

Dated: May __, 2025

By: _____
VIRGEL ALLEN

**APPROVED AS TO FORM AND
ATTORNEY OBLIGATIONS ONLY**

LAUBY, MANKIN & LAUBY LLP

Dated: May __, 2025

By: _____
Misty M. Lauby, Esq.
Attorneys for Plaintiff

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement on the date set forth below.

APPROVED AND ACCEPTED.

Dated: May __, 2025

KELLY SERVICES GLOBAL, LLC

By _____
Its _____

Dated: May __, 2025
5/8/2025

MITSUBISHI MOTORS NORTH AMERICA, INC.

By  _____
Its SVP, Chief Legal & Administrative Officer

Dated: May __, 2025

By: _____
VIRGEL ALLEN

APPROVED AS TO FORM AND ATTORNEY OBLIGATIONS ONLY

LAUBY, MANKIN & LAUBY LLP

Dated: May __, 2025

By: _____
Misty M. Lauby, Esq.
Attorneys for Plaintiff

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement on the date set forth below.

APPROVED AND ACCEPTED.

Dated: May __, 2025

KELLY SERVICES GLOBAL, LLC

By _____
Its _____

Dated: May __, 2025

MITSUBISHI MOTORS NORTH AMERICA,
INC.

By _____
Its _____

Dated: May 14 2025

By: 
Virgel Allen (May 14, 2025 07:27 PDT)
VIRGEL ALLEN

**APPROVED AS TO FORM AND
ATTORNEY OBLIGATIONS ONLY**

LAUBY, MANKIN & LAUBY LLP

Dated: May 14, 2025

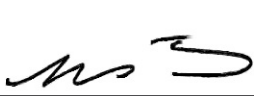
By:  
Misty M. Lauby, Esq.
Attorneys for Plaintiff

EXHIBIT A

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

VIRGEL ALLEN, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

KELLY SERVICES GLOBAL, LLC, a
Michigan Corporation; and MITSUBISHI
MOTORS NORTH AMERICA, INC., a
California Corporation, and DOES 1 through
20, inclusive,

Defendants.

Case No. CVRI2303841

**NOTICE OF SETTLEMENT OF
PRIVATE ATTORNEYS GENERAL ACT
CLAIM (CAL. LABOR CODE § 2698 *ET
SEQ.*)**

You have been identified as an individual who worked for Defendant Kelly Services Global, LLC or Kelly Services USA, LLC (together “Kelly”) on assignment at Mitsubishi Motors North America, Inc. (“Mitsubishi” and together with Kelly “Defendants”) in California, as a non-exempt employee at any time between March 2, 2022 and September 10, 2024, which makes you, for the purposed of this notice, and the settlement described below, an “Aggrieved Employee”.

On July 26, 2022, Plaintiff Virgel Allen (“Plaintiff”) commenced a lawsuit in the Superior Court of California, County of Riverside, Case Number CVRI2303841 to recover civil penalties (the “Lawsuit”). Plaintiff alleges in the lawsuit that Defendants failed to pay all minimum and overtime wages due, provide all meal and rest periods or premium compensation in lieu thereof, pay all earned and unused vacation pay upon separation of employment, timely pay all wages due upon separation of employment, and issue complete and accurate wage statements. For these alleged violations, Plaintiff seeks penalties pursuant to the California Labor Code’s Private Attorneys General Act of 2004, codified at Labor Code § 2698 *et seq.* (“PAGA”).

Defendants, and each of them, deny Plaintiff’s allegations and dispute all of Plaintiff’s claims. The Lawsuit was litigated and following an investigation, the Parties reached a settlement which takes into account the uncertainties and risks of proceeding with litigation.

The Court approved the settlement on [REDACTED] and has determined that the settlement is fair and reasonable. The payment which accompanies this notice is made to you pursuant to the terms of the Settlement.

The Court-approved settlement contains the following release of claims, to which you are bound:

Upon Court approval of the Settlement, dismissal of the action, and subject to Defendants' funding in full of the PAGA Gross Settlement Amount, Plaintiff and the State of California will fully and finally release and discharge Defendants, together with their respective officers, directors, employees and agents. (the "Released Parties"), from all claims, rights, demands, liabilities, and causes of action for civil penalties under the PAGA that arose during the PAGA Release Period that were alleged in the Action, including but not limited to the following claims: (a) failure to pay all wages owed; (b) failure to provide compliant meal periods, or premium pay for non-compliant meal periods; (c) failure to authorize and permit complaint rest periods, or premium pay for non-complaint rest periods; (d) failure to provide accurate, itemized wage statements; (e) failure to timely pay wages upon separation of employment; (f) failure to pay all earned and unused vacation pay at upon separation of employment; (g) all claims for PAGA penalties that could have been premised on the facts, claims, causes of action, or legal theories described above; and (h) all other claims under PAGA that could have been premised on the facts, claims, causes of action, or legal theories described above and in Plaintiff's PAGA Complaint, including but not limited to California Labor Code sections 200, 201, 202, 203, 204, 226, 226.7, 227.3, 510, 512, 1194, 1194.2, and 1197 (the "Released Claims").

Plaintiff and the State of California shall be deemed to have, and by operation of the Order granting approval of this Agreement, shall have fully, finally, and forever released, relinquished, and discharged each and all of the Released Parties from the Released Claims that arose during the PAGA Release Period. As a result of this release, Aggrieved Employees will be unable to bring a claim under, or recover in any other claim brought under the PAGA for any violations of the Released Claims that took place during the PAGA Release Period.

If you have any questions, please contact LAUBY, MANKIN & LAUBY LLP, counsel for Plaintiff, at (951) 320-1444.

EXHIBIT “C”

All Expenses

Lauby, Mankin & Lauby LLP

Staff Member = All (Inactive Included)
 Group By Staff Member Group
 Client - Project = 14000-00522 Allen v Kelly Svcs
 Global (Active Only)
 Activity Code = All
 Expense Code = All
 View = Original
 Approval Status = All
 Selected Expenses = All
 From Earliest To Latest

Entered	Status	Expense	Staff Member	Price	Mark Up %	Qty	Amount
<u>Virgel Allen</u> <u>14000-00522 Allen v Kelly Svcs Global</u>							
03-02-2023	Approved	E108 Postage	Charito, Tracie	38.16	0.00	1.00	38.16
	Postage for March 2023						
03-02-2023	Approved	E101 Copying	Charito, Tracie	0.20	0.00	104.00	20.80
	104 copies @ .20 each - letters to companies						
03-02-2023	Approved	E112 Court fees	Charito, Tracie	75.00	0.00	1.00	75.00
	Fees to LWDA to submit PAGA letter						
03-03-2023	Approved	Attorney Service	Charito, Tracie	1,510.02	0.00	1.00	1,510.02
	Onelgal Order #19934848 - File Complaint						
03-03-2023	Approved	Attorney Service	Charito, Tracie	17.24	0.00	1.00	17.24
	Onelgal Order #19941250 - file Summons						
03-10-2023	Approved	Attorney Service	Charito, Tracie	105.70	0.00	1.00	105.70
	Bosco Inv #8493380 Serve: Kelly Services Global, LLC, a Michigan Corporation Summons; Complaint; Civil Case Cover Sheet; Certificate of Counsel; Notice of Department Assignment; Notice of Case Management Conference (To: Brian Mankin); Notice of Case Management Conference (To: Virgel Allen); Notice of Case Management Conference (To: Kelly Services Global, LLC); Notice of Case Management Conference (To: Cortech West Staffing, LLC); Notice of Case Management Conference (To: Mitsubishi Motors North American, Inc.); ADR Court: Riverside County Superior Court - Central District Completed on: 03/07/2023						
03-10-2023	Approved	Attorney Service	Charito, Tracie	65.75	0.00	1.00	65.75
	Bosco Inv #8493397 Serve: Mitsubishi Motors North America, Inc., a California Corporation Summons; Complaint; Civil Case Cover Sheet; Certificate of Counsel; Notice of Department Assignment; Notice of Case Management Conference (To: Brian Mankin); Notice of Case Management Conference (To: Virgel Allen); Notice of Case Management Conference (To: Kelly Services Global, LLC); Notice of Case Management Conference (To: Cortech West Staffing, LLC); Notice of Case Management Conference (To: Mitsubishi Motors North American, Inc.); ADR Court: Riverside County Superior Court - Central District Completed on: 03/07/2023						
03-14-2023	Approved	Attorney Service	Charito, Tracie	209.39	0.00	1.00	209.39

All Expenses
Lauby, Mankin & Lauby LLP

Staff Member = All (Inactive Included)
Group By Staff Member Group
Client - Project = 14000-00522 Allen v Kelly Svcs
Global (Active Only)
Activity Code = All
Expense Code = All
View = Original
Approval Status = All
Selected Expenses = All
From Earliest To Latest

Entered	Status	Expense	Staff Member	Price	Mark Up %	Qty	Amount
<u>Virgel Allen</u> <u>14000-00522 Allen v Kelly Svcs Global</u>							
Bosco Inv #8493428							
Serve: Cortech West Staffing, LLC, a California Domestic LLC Summons; Complaint; Civil Case Cover Sheet; Certificate of Counsel; Notice of Department Assignment; Notice of Case Management Conference (To: Brian Mankin); Notice of Case Management Conference (To: Virgel Allen); Notice of Case Management Conference (To: Kelly Services Global, LLC); Notice of Case Management Conference (To: Cortech West Staffing, LLC); Notice of Case Management Conference (To: Mitsubishi Motors North American, Inc.); ADR Court: Riverside County Superior Court - Central District Completed on: 03/07/2023							
03-14-2023	Approved	Attorney Service	Charlito, Tracie	17.24	0.00	1.00	17.24
Onelgal Order #20009160 - file (3) Proofs of Service							
04-14-2023	Approved	Attorney Service	Charlito, Tracie	13.33	0.00	1.00	13.33
Onelgal Order #20219345 - submit RFD as to CorTech							
04-26-2023	Approved	Attorney Service	Charlito, Tracie	17.24	0.00	1.00	17.24
Onelgal Order #20288331 - file Joint Statement							
04-28-2023	Approved	Attorney Service	Charlito, Tracie	13.33	0.00	1.00	13.33
Onelgal Order # 20301087 - Submit Dec and Order re RFD							
04-28-2023	Approved	Attorney Service	Charlito, Tracie	17.24	0.00	1.00	17.24
Onelgal Order #20311413 - file dec and order re RFD of Cortech							
06-19-2023	Approved	Attorney Service	Charlito, Tracie	83.75	0.00	1.00	83.75
Bosco Inv #9042473							
E File: Declaration Opposition Court: Riverside County Superior Court - Central District Completed on: 6/16/2023							
06-27-2023	Approved	E112 Court fees	Charlito, Tracie	8.00	0.00	1.00	8.00
Receipt for RVSC for copy of case documents							
07-28-2023	Approved	Attorney Service	Charlito, Tracie	1,510.02	0.00	1.00	1,510.02
Onelgal Order #20878963 - file PGA complaint							
08-17-2023	Approved	Attorney Service	Charlito, Tracie	30.57	0.00	1.00	30.57
Onelgal Order #2105677 and 21024188 - file NAR for MMNA							
09-19-2023	Approved	Attorney Service	Charlito, Tracie	17.24	0.00	1.00	17.24
Onelgal Order #21236878 - file Joint Statement							
12-04-2023	Approved	Attorney Service	Charlito, Tracie	17.24	0.00	1.00	17.24
Onelgal Order #21740870 - file Joint Statement							

All Expenses
Lauby, Mankin & Lauby LLP

Staff Member = All (Inactive Included)
Group By Staff Member Group
Client - Project = 14000-00522 Allen v Kelly Svcs
Global (Active Only)
Activity Code = All
Expense Code = All
View = Original
Approval Status = All
Selected Expenses = All
From Earliest To Latest

Entered	Status	Expense	Staff Member	Price	Mark Up %	Qty	Amount
<u>Virgel Allen</u> <u>14000-00522 Allen v Kelly Svcs Global</u>							
02-06-2024	Approved	E125 Mediation fees Chiarito, Tracie		6,375.00	0.00	1.00	6,375.00
		JudicateWest Inv #621089 for 9/10/24 mediation with Kelly Knight, Esq.					
02-07-2024	Approved	Attorney Service Chiarito, Tracie		34.69	0.00	1.00	34.69
		Onelgal Order #22181557/22183689 - file Joint Statement					
10-16-2024	Approved	Attorney Service Chiarito, Tracie		42.64	0.00	1.00	42.64
		Onelgal Order #23913035 - file Stip and Order to Cont CMC (Class)					
01-30-2025	Approved	Attorney Service Chiarito, Tracie		17.50	0.00	1.00	17.50
		Onelgal Order #24604068 - File Stip and Order to Cont CMC					
01-31-2025	Approved	Attorney Service Chiarito, Tracie		23.02	0.00	1.00	23.02
		Onelgal Order #24613405 - file Ntc of Related Case (Class)					
02-03-2025	Approved	Attorney Service Chiarito, Tracie		23.02	0.00	1.00	23.02
		Onelgal Order #24613418 - file Notice of Related Case (PAGA)					
04-02-2025	Approved	Attorney Service Chiarito, Tracie		44.71	0.00	1.00	44.71
		Onelgal Order #25055035 - file Stip and Order to Cont CMC (Class)					
05-07-2025	Approved	Attorney Service Chiarito, Tracie		17.50	0.00	1.00	17.50
		Onelgal Order #2532116 - submit Stip to Cont FA					
05-08-2025	Approved	Attorney Service Chiarito, Tracie		44.71	0.00	1.00	44.71
		Onelgal Order #25336259 - file Stip to Cont FA (PAGA)					
05-31-2025	Approved	Attorney Service Chiarito, Tracie		17.50	0.00	1.00	17.50
		Onelgal Order #25446759 - submit Stip and Order to Cont Approval Hearing					
06-05-2025	Approved	Attorney Service Chiarito, Tracie		17.50	0.00	1.00	17.50
		Onelgal Order #25446759 - submit Stip to Cont Approval Hearing					
06-06-2025	Approved	Attorney Service Chiarito, Tracie		44.71	0.00	1.00	44.71
		Onelgal Order #25545334 - file Stip and Order to Cont Approval Hearing (PAGA)					
07-03-2025	Approved	Attorney Service Chiarito, Tracie		300.00	0.00	1.00	300.00
		Estimated costs to file Approval Motion and supporting documents via Onelgal					

Project Total 10,789.76
Client Total 10,789.76
Grand Total 10,789.76

EXHIBIT “D”

<<DATE>>

<<FIRST_NAME>> <<LAST_NAME>>

<<ADDRESS 1>>

<<ADDRESS 2>>

Re: Payment from *Allen v. KSG, et al.*

Dear <<FIRST_NAME>> <<LAST_NAME>>:

Enclosed is your payment from the settlement of a lawsuit entitled *Virgel Allen, on behalf of all aggrieved employees and the State of California v. Kelly Services Global, LLC, et al.*, which was pending in the Superior Court of the State of California for the County of Riverside, Case No. CVRI2303841 (the “Allen case” or “Lawsuit”).

The *Allen* case was initially filed on March 2, 2023, and in its current form the lawsuit brings claims against Kelly Services Global, LLC (“KSG”) and Mitsubishi Motors North America, Inc. (“MMNA”) (KSG and MMNA are collectively referred to as “Defendants”) pursuant to the California Private Attorneys General Act of 2004, Cal. Lab. Code § 2698 *et seq.* (“PAGA”). As such, the Lawsuit was brought on behalf of the State of California all individuals who currently and/or formerly performed work for Kelly on assignment with Mitsubishi in California as hourly and/or non-exempt employees at any time between March 2, 2022 through September 10, 2024 (the “Aggrieved Employees”).

Specifically, in the Lawsuit, Mr. Allen alleged that Defendants failed to pay all required minimum and overtime wages, failed to provide meal periods and rest breaks, failed to pay vested vacation, failed to timely pay wages owing during employment, including, but not limited to, failed to timely pay wages at termination, and failed to provide accurate itemized wage statements. As such, the lawsuit sought PAGA civil penalties for these violations.

Defendants denies the allegations and denies that it owes any penalties. In an effort to avoid the time, expense and uncertainty of litigation, Mr. Allen and Defendants agreed to settle the case. You have been identified as one of the alleged aggrieved employees on whose behalf Mr. Sheets filed his lawsuit, and for purposes of the Lawsuit, the Settlement, and the following paragraph, you are considered an “Aggrieved Employee.”

As such, the parties’ settlement resolves Mr. Allen’s claims on behalf of all Aggrieved Employees, including any and all PAGA claims that Plaintiff alleged against Defendants, on behalf of Aggrieved Employees and State of California, based on the facts stated in the operative Complaint in the Action and in the LWDA notice letter sent on March 2, 2023, including all PAGA claims seeking civil penalties premised upon (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) failure to provide meal periods, (4) failure to provide rest breaks, (5) Failure to Pay vested vacation; (6) failure to timely pay wages each period, (7) failure to timely pay final wages, (8) failure to provide accurate itemized wage statements, and (9) all other claims for civil penalties recoverable under the Private Attorneys General Act, Labor Code §§ 2698 *et seq.* that were stated in the Complaint and based solely upon the facts alleged in the Complaint and the notice sent by Plaintiff to the LWDA. **Please note: this settlement does not release any Aggrieved Employee’s individual claim for wages or damages.**

The Court approved the Settlement on [REDACTED], 2025. As a result, the enclosed settlement check has been issued and shall remain valid for one hundred eighty (180) days. Checks remaining uncashed for more than 180 days after issuance will be voided and funds represented thereby will be remitted by the State Controller’s Office for the State of California in the name of the each Aggrieved Employee that did not cash their check.

EXHIBIT “E”