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Attorneys for PHILLIP HEREDIA, on behalf of himself,
all others similarly situated, and on behalf of the general public

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO

PHILLIP HEREDIA on behalf of
himself, all others similarly situated,
and on behalf of the general public,

Plaintiffs,

v.

SUNBELT TOWING, INC.;
WESTERN TOWING, INC.; and
DOES 1-100,

Defendants.

Case No. 37-2023-00023634-CU-OE-CTL

*[Assigned for All Purposes to the
Honorable Gregory W. Pollack; Dept. C-71]*

**DECLARATION OF DAVID MARA, ESQ., IN
SUPPORT OF PLAINTIFF PHILLIP HEREDIA'S
MOTION FOR APPROVAL OF PAGA
SETTLEMENT**

Date: February 27, 2026
Time: 9:30 a.m.

Complaint Filed: September 23, 2024
Trial Date: None Set

1 I, DAVID MARA, declare the following:

- 2 1. I am President of Mara Law Firm, PC, and counsel of record for Plaintiff and the aggrieved
3 employees in this matter. I am duly admitted to practice before all the courts of the state of
4 California. The following facts are within my personal knowledge and, if called to testify, I
5 could and would competently testify thereto.
- 6 2. I graduated from California Western School of Law.
- 7 3. I was admitted to practice law in California in May 2004.
- 8 4. I extensively handle employment cases which involve violations of the California Labor Code
9 and Industrial Welfare Commission Wage Orders, such as wage and hour class actions and
10 cases alleging violations of the Private Attorneys General Act of 2004 ("PAGA").
- 11 5. I was co-class counsel in *Hohnbaum v. Brinker Restaurant Corp.* (San Diego County Superior
12 Court, Case No. GIC834348) which was the underlying case in the California Supreme Court's
13 landmark decision in *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, in
14 which the California Supreme Court delineated the scope of employer obligations to provide, and
15 employee rights to receive, meal and rest periods under California law.
- 16 6. I have authored Amicus Curiae briefs on behalf of Consumer Attorneys of California ("CAOC").
17 For example, I authored the Amicus Curiae briefs on behalf of CAOC in *Augustus v. ABM*
18 *Security Services, Inc.* (2016) 2 Cal.5th 257, (The California Supreme Court ruling that, like meal
19 periods, employers must relieve employees of all duty and relinquish all control to satisfactorily
20 discharge its obligation to authorize and permit rest periods.); *Frlekin v. Apple, Inc.* (2020) 8
21 Cal.5th 1038 (The California Supreme Court ruling that the time spent on the employer's premises
22 waiting for, and undergoing, required exit searches of packages, bags, or personal technology
23 devices voluntarily brought to work is compensable hours worked within the meaning of the
24 Wage Orders.); *Oliver v. Superior Court* (2021) California Court of Appeal Case No. H049185
25 (A brief asking the California Court of Appeal for the Sixth Appellate District to determine
26 whether mandatory drive time of personal vehicles should be considered hours worked within the
27 meaning of the Wage Orders' suffered or permitted test.). *Davidson v. O'Reilly Auto Enterprises,*
28 *LLC* (9th Cir., 2020; Docket No. 18-56188) (a brief seeking Review *En Banc* of an order denying

- 1 class certification in a wage and hour matter).
- 2 7. I was a member of CAOC's Amicus Committee that determines the cases in which the
- 3 organization will agree to provide amicus support.
- 4 8. I have also lectured as a panelist for California Employment Lawyers Association regarding a
- 5 host of wage and hour issues.
- 6 9. I have been named as class counsel in a number of wage and hour class actions in which the
- 7 Court granted the plaintiff's motion for class certification. For example, I have been named
- 8 class counsel in the following cases: *Mario Norona v. B&G Delivery System, Inc.* (Sacramento
- 9 County Superior Court, Case No. 34-2015-00186826-CU-OE-GDS); *Jerald Schroeder v. YRC,*
- 10 *Inc.; et al.* (Central District of California, Case No. 12-cv-01374-TJH); *John Martin v. Sysco*
- 11 *Corporation, et al.* (Eastern District of California, Case No. 1:16-cv-00990-DAD-SAB);
- 12 *William Smith v. Werner Enterprises, Inc. d/b/a C.L. Werner, Inc.* (District of Nebraska, Case
- 13 No. 8:15-cv-287); *Thomas Perez v. City of San Diego* (San Diego County Superior Court, Case
- 14 No. 37-2014-00016621-CU-OE-CTL); *Eric Mendez v. M&N Consulting, Inc. dba A-Line*
- 15 *Messenger Service* (San Bernardino County Superior Court, Case No. CIVDS1923624);
- 16 *Denson Sales v. Professional Auto Transport, Inc. et al.* (San Bernardino County Superior
- 17 Court, Case No. CIVDS2010153); *Sonny Williams v. Hansen and Adkins Auto Transport, Inc.;*
- 18 *et al.* (San Bernardino County Superior Court, Case No. CIVDS2020832); *Bobby Williams v.*
- 19 *Mohsen Transport, Inc.* (San Diego County Superior Court, Case No. 37-2019-00063361-CU-
- 20 OE-CTL); and *Ashton Harden vs. Mushiana Transport Inc.* (Sacramento County Superior Court,
- 21 Case No. 34-2021-00301950-CU-OE-GDS).
- 22 10. I have also been named as class counsel in numerous cases during the settlement process. Here
- 23 is a non-exhaustive list of cases where I have been named as class counsel in cases during the
- 24 settlement process: *Kenneth Cox v. 3PL Worx, et al.* (Yolo County Superior Court, Case No.
- 25 CV-18-100); *Brian Davidson v. A&B Trucking Services, Inc.* (Kern County Superior Court
- 26 Case No. BCV-16-102985); *Alex Vega, et al. v. Advance Beverage Co., Inc.* (Kern County
- 27 Superior Court, Case No. BCV-16-100848); *Jaime Ruiz v. Altura Centers for Health* (Kern
- 28 County Superior Court, Case No. BCV-19-101577); *George Zamudio v. AmeriPride Service,*

1 *Inc.* (Alameda County Superior Court, Case No. RG1809666); *Richard Hendricks v. Antonini*
2 *Freight Express, Inc.* (San Joaquin County Superior Court, Case No. STK-CV-UOE-2016-
3 6999); *Alton Davis v. Apria Healthcare Group, Inc.* (San Diego County Superior Court, Case
4 No. 37-2014-00004724-CU-OE-CTL); *Alan Atchison v. Ashley Furniture Industries, Inc., et*
5 *al.* (Central District of California, Case No. 17-cv-00528-JAK-SP); *Bernard Payton v. Atech*
6 *Logistics, Inc.* (Sonoma County Superior Court, Case No. SCV 258595); *Ramon Jenkins v.*
7 *Compass Group USA, Inc., et al.* (Yolo County Superior Court, Case No. CVCV-18-747);
8 *Timothy Spikes, et al. v. Bear Trucking, Inc., et al.* (San Bernardino County Superior Court,
9 Case No. CIVDS1715151); *Joshua Turpen v. Benjamin's Transfer Inc.* (Solano County
10 Superior Court, Case No. FCS048845); *Cesar Mendoza v. Bi-Rite Food Service, Inc.* (San
11 Mateo County Superior Court, Case No. 17CIV02044); *Terrance Bailey v. Blue Apron, LLC;*
12 *et al.* (Northern District of California, Case No. 18-cv-07000-VC); *Jeffrey Weast v. California*
13 *Aseptic Beverages, LLC* (San Bernardino County Superior Court, Case No. CIVDS1825256);
14 *Michael Valentich v. Hub Construction Specialties, Inc.* (San Bernardino County Superior
15 Court, Case No. JCCPDS4893); *Jose De Jesus Ortega Velazquez v. Hunter Landscape, Inc.;*
16 *et al.* (San Bernardino County Superior Court, Case No. CIVDS1928062); *Adrian Diaz v.*
17 *Keystone Automotive Operations, Inc.* (Riverside County Superior Court, Case No.
18 RIC1817450); *Arturo Gonzalez v. NCI Group, Inc. dba NCI Building Systems* (Eastern District
19 of California, Case No. 18-cv-00948-AWI-SKO); *Larry Perez v. The Nielsen Company (US),*
20 *LLC* (Orange County Superior Court, Case No. 30-2021-01194324-CU-OE-CXC); *Erik*
21 *Martinez v. Patrick Industries, Inc.* (San Bernardino County Superior Court, Case No.
22 CIVDS2009663); *Randolph Fitch v. Shaw Industries, Inc.; et al.* (San Bernardino County
23 Superior Court, Case No. CIVSB2024674); *Joshua Rael v. Intercontinental Hotels Group*
24 *Resources, Inc.* (Los Angeles County Superior Court, Case No. 19STCV16010); and *Aaron*
25 *Romero v. Vitro Flat Glass, LLC* (Kern County Superior Court, Case No. BCV-21-101357).

26 11. Plaintiff sent his Notice of Labor Code Violations Pursuant to Labor Code § 2699.3 on or about
27 March 13, 2023. In the letter, Plaintiff apprised the LWDA of his wage and hour claims against
28 Defendant. A copy of Plaintiff's Notice to the LWDA is attached hereto as **Exhibit 6**.

1 12. On or about June 6, 2023, Plaintiff filed a complaint asserting claims for civil penalties under
2 the Private Attorneys General Act of 2004 (“PAGA”). Plaintiff’s Complaint alleges causes of
3 action on behalf of Plaintiff and those similarly situated aggrieved employees under the PAGA
4 for Defendant’s alleged failure to pay all straight time wages, failure to pay all overtime wages,
5 failure to provide lawful meal periods, failure to provide lawful rest periods, failure to pay all
6 wages due at termination, failure to provide compliant wage statements, failure to adopt a
7 complaint sick pay/paid time off policy, and failure to reimburse for all business expenses.

8 13. After filing, the Parties conducted both formal and informal discovery. On March 13, 2025,
9 Plaintiff propounded one set of special interrogatories and one set of requests for production
10 of documents on Defendant. Defendant responded to this discovery on July 1, 2025, and
11 produced responsive documents. Thereafter, the Parties met and conferred over Defendant’s
12 discovery responses. In total, Defendant produced over 5,000 pages of documents. These
13 documents included policy documents that covered Plaintiff’s and the PAGA Members’
14 employment with Defendant. These documents also included Plaintiff’s personnel file,
15 Plaintiff’s tow records, Plaintiff’s time records, and Plaintiff’s wage records. In addition,
16 Defendant produced a sampling of time and wage records for PAGA Members. Defendant also
17 produced emails and text messages between Defendant and PAGA Members. Defendant
18 further produced a sampling of videos from the cameras in Defendant’s tow trucks.

19 14. The Parties engaged in informal settlement negotiations over the period of almost a year.
20 Through these settlement negotiations, the Parties were ultimately able to reach a settlement
21 in principle. Thereafter, the Parties negotiated the Settlement Agreement. The Parties’
22 Settlement Agreement is attached hereto as **Exhibit 1**.

23 15. Under California Labor Code section 512 and the IWC Wage Orders, no employer shall
24 employ any person for a work period of more than five hours without providing a meal period
25 of not less than thirty minutes. In *Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal.4th
26 1004, the California Supreme Court described Section 512’s mandate: “Employers must afford
27 employees uninterrupted half-hour periods in which they are relieved of any duty or employer
28 control and are free to come and go as they please.” *Brinker Rest. Corp. v. Superior Court*

1 (2012) 53 Cal.4th 1004, 1037.

2 16. In addition, an employer's obligation to provide its employees with rest periods arises under
3 the IWC Wage Orders. Wage Order 9-2001, Section 12(A) requires, "[e]very employer shall
4 authorize and permit all employees to take rest periods, which insofar as practicable shall be
5 in the middle of each work period." The California Supreme Court has said, "[w]hat makes
6 sense is to infer that employers' responsibilities are the same for meal and rest periods – an
7 inference that also reflects the protective purpose of both." *Augustus v. ABM Security Servs.,*
8 *Inc.* (2016) 2 Cal. 5th 257, 265.

9 17. Here, Plaintiff contends that Defendant does not provide drivers with meal and rest periods
10 that conform with California law. Plaintiff contends that Defendant does not provide duty and
11 control free meal and rest periods to drivers. Plaintiff contends that drivers must always be
12 available and ready to take a tow, including during meal and rest periods.

13 18. Defendant argues that it permits and authorizes lawful meal and rest periods. Defendant
14 contends that its meal and rest period policies are lawful and that employees are provided with
15 full thirty-minute meal periods and full ten-minute rest periods. Defendant further contends
16 that employees can take meal and rest periods that are duty and control free. Defendant asserts
17 that if the driver is on a break, they do not need to respond to dispatch calls. Defendant contends
18 that if a dispatch call comes in, drivers do not need to respond to it until they are off of their
19 meal or rest break. Defendant asserts that if it is time-sensitive and the driver does not respond
20 to the call because they are on a break, the dispatcher will re-assign the call to another available
21 driver. As such, Defendant asserts that drivers are not required to respond to dispatch calls
22 during meal or rest breaks and can take duty and control free breaks.

23 19. Employees must be paid for all "hours worked," as that phrase is defined in the Wage Order
24 and interpreted by California courts. Hours worked is defined in Wage Order 9-2001 – the
25 Wage Order that governs the employees members in this case - as "the time during which an
26 employee is subject to the control of an employer, and includes all the time the employee is
27 suffered or permitted to work, whether or not required to do so." Wage Order 9-2001, Subd.
28 2(H); *see also Mendiola v. CPS Security Solutions, Inc.*, 60 Cal. 4th 833 (2015). Under this

- 1 standard, “it is only necessary that the worker be subject to the control of the employer in order
2 to be entitled to compensation.” *Morillion v. Royal Packing Co.* (2000) 22 Cal. 4th 575, 584.
- 3 20. As just discussed, Plaintiff contends that drivers are owed wages for unpaid meal period time.
4 Plaintiff contends that meal periods are not duty and control free because Plaintiff contends
5 that drivers must always be available and ready to take a tow, including during meal and rest
6 periods.
- 7 21. Defendant disputes this and asserts that drivers are not subject to any duties or control during
8 meal periods. As discussed above with regard to meal and rest periods, Defendant contends
9 that drivers do not need to respond to any dispatch calls that come in until they return from
10 their meal periods. Accordingly, Defendant asserts that drivers are not owed any additional
11 wages for meal period time.
- 12 22. Labor Code section 510 and Wage Order 9 require employers to pay non-exempt employees
13 overtime wages of no less than one and one-half times their respective regular rates of pay for
14 all hours worked in excess of eight hours in one workday, all hours worked in excess of forty
15 hours in one workweek, and/or the first eight hours worked on the seventh consecutive day of
16 the workweek. The regular rate of pay under California law includes all remuneration for
17 employment paid to, on behalf of, the employee. In *Alvarado v. Dart Container Corporation*
18 *of California*, the California Supreme Court observed, “[r]egular rate of pay, which can change
19 from pay period to pay period, includes adjustments to the straight time rate, reflecting, among
20 other things, shift differentials and the per hour value of any nonhourly compensation the
21 employee has earned.” *Alvarado v. Dart Container Corporation of California* (2018) 4 Cal.
22 5th 542, 554.
- 23 23. Plaintiff contends that Defendant does not pay overtime wages to drivers at the appropriate
24 regular rate of pay because Plaintiff asserts that Defendant does not factor in non-discretionary
25 bonuses into the regular rate of pay. As such, Plaintiff contends that drivers are owed additional
26 overtime wages.
- 27 24. Defendant argues that the bonuses paid are entirely discretionary and, therefore, do not need
28 to be included in the regular rate of pay. Thus, the Parties have a dispute about whether

- 1 Defendant was required to adjust the regular rate of pay due to bonuses paid to employees.
- 2 25. Under Labor Code § 2802, the employer must “indemnify its employees for expenses they
- 3 necessarily incur in the discharge of their duties...” *Gattuso v. Harte-Hanks Shoppers, Inc.*
- 4 (2015) 169 P.3d 889. In *Cochran v. Schwan’s Home Service, Inc.* (2014) 228 Cal.App.4th
- 5 1137, 1140, it was held that § 2802 requires employers to always reimburse employees who
- 6 are required to use personal cell phones for work-related calls for a reasonable percentage of
- 7 their cell phone bills.
- 8 26. Plaintiff contends that Defendant requires employees to use their personnel cell phones for
- 9 business purposes but fails to reimburse employees for this expense.
- 10 27. Defendant asserts that it reimburses employees for all business expenses, including the use of
- 11 employees’ personal cell phones.
- 12 28. Plaintiff also pursued claims for failure to provide accurate itemized wage statements and
- 13 waiting time penalty claims. These claims are derivative of Plaintiff’s meal period, rest period,
- 14 and unpaid wages claims. Should Plaintiff’s meal period, rest period, and unpaid wages claims
- 15 fail, these claims would also fail.
- 16 29. In addition, Defendant contends that even if Plaintiff were successful in his meal and rest
- 17 period, she would have to prove Defendant “willfully” failed to pay employees the appropriate
- 18 wages due upon separation of employment. “A willful failure to pay wages within the meaning
- 19 of Labor Code Section 203 occurs when an employer intentionally fails to pay wages to an
- 20 employee when those wages are due. However, a good faith dispute that any wages are due
- 21 will preclude imposition of waiting time penalties under Section 203.” Cal. Code Regs. Tit. 8
- 22 § 13520. “A ‘good faith dispute’ that any wages are due occurs when an employer presents a
- 23 defense, based in law or fact, which would preclude any recovery on the part of the employee.
- 24 The fact that a defense is ultimately unsuccessful will not preclude a finding that a good faith
- 25 dispute did exist.” *Id.*
- 26 30. Defendant contends that any failure to pay meal period premiums, rest period premiums, or
- 27 additional wages was not willful. Defendant argues that it would not be liable for waiting time
- 28 penalties because a “good faith dispute” exists over the payment of those premium wages. *See*

1 Cal. Code Regs. Tit. 8 § 13520; *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157,
2 1201.

3 31. Further, Defendant contends that Plaintiff would also have to prove that Defendant “knowingly
4 and intentionally” failed to comply with the wage statement requirements under Labor Code §
5 226. *See Naranjo v. Spectrum Security Services, Inc.* (2024) 15 Cal.5th 1056. Defendant
6 maintains that it reasonably, and in good faith believes that it was providing a complete and
7 accurate wage statement in compliance with California law.

8 32. Defendant also argues that Plaintiff’s meal period, rest period, and unpaid wages claims cannot
9 form the basis of his wage statement claim. Defendant relies on the case *Maldonado v. Epsilon*
10 *Plastics, Inc.* (2018) 22 Cal.App.5th 1308, for the position that employees do not suffer injury
11 under California Labor Code § 226(a) so long as the wage statements correctly reflected the
12 hours worked and the pay received even if the pay is later determined to be inaccurate.

13 33. Defendant also argues that should litigation continue, it will bring a motion challenging the
14 manageability of trial as Defendant does not believe that this case can be tried manageably and
15 will require the testimony of every individual PAGA Member. Furthermore, while Defendant
16 do not concede that any of its wage and hour policies are unlawful, Defendant claims that any
17 challenges Plaintiff has posed to its policies are easily refuted by how they are implemented in
18 practice; as a result, no PAGA Member has suffered any damages.

19 34. Plaintiff claims that there are seven (7) potential violations under § 2699(f)(2) – failure to
20 provide lawful meal breaks, failure to provide lawful rest breaks, failure to pay all straight time
21 wages owed, failure to pay all overtime wages owed, failure to reimburse for business
22 expenses, failure to provide accurate itemized wage statements, and failure to pay wages owed
23 at the time of termination – of the Labor Code sections which give rise to PAGA penalties.

24 35. The PAGA allows the private enforcement of certain California Labor Code sections relating
25 to wage and hour violations. PAGA Section 2699(f)(2) reads, in part, as follows:

26 [T]he civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay
27 period for the initial violation and two hundred dollars (\$200) for each aggrieved
28 employee per pay period for each subsequent violation.

California courts have interpreted this language to require notice to the employer that an initial violation occurred before penalties for subsequent violations could be assessed. *See Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1210. Under *Amaral*, “subsequent” has a special meaning within the California Labor Code that triggers heightened statutory penalties only after an employer has learned that its conduct violates the Labor Code—that is, pursuant to *Amaral*, courts may reject a purely chronological understanding of the term “subsequent” and interpret its use in California Labor Code to require that “the employer has been notified that it is violated a Labor Code provision” before higher penalties are triggered. *Amaral*, 163 Cal.App.4th at 1157, 1207–09.

36. Each of Plaintiff’s claims, with the exception of Plaintiff’s claims waiting time penalties, occurred at least once in every pay period. Plaintiff’s claims for waiting time penalties only occurred in approximately 65 pay periods. Thus, Defendant’s maximum exposure under §2699(f)(2) is \$2,446,000:

$\$100 \times 7 \text{ PAGA violations} \times 3,485 \text{ pay periods} = \$2,439,500$

$\$100 \times 1 \text{ PAGA violations} \times 65 \text{ pay periods} = \$6,500$

Maximum Exposure: \$2,446,000

37. Defendant contends that Plaintiff would not be allowed to “stack” PAGA penalties. If the Court were to agree with this and only award one PAGA penalty per pay period, Defendant’s exposure would be \$348,500 (3,485 pay periods x \$100 = \$348,500).

38. In exploring the settlement of any PAGA action, the critical fact that the Court is permitted discretion to award a “lesser amount than the maximum penalty amount” must be heavily taken into consideration. *Lab. Code*. § (e)(2). Unlike the underlying violations upon which the plaintiffs seek to impose PAGA civil penalties, there is no set amount the Court must levy on an employer Defendant it finds to have violated the underlying claims. Under “the facts and circumstances of the particular case,” the Court is permitted wide discretion to slash civil penalty amounts. This discretion and how a particular court will exercise it is always an unknown variable in predicting the dollar outcome of any PAGA action when evaluating settlement. Under its wide discretion to award lesser amounts, a Court could side with Plaintiff

on his claims and find that the underlying Labor Code rights were violated but decide to substantially moderate the imposition of PAGA penalties for those violations.

39. Courts have used this discretion to massively discount PAGA penalties imposed where it found the defendant employer took its Labor Code obligations seriously, even if the employer fell short of complying with them. In *Thurman v. Bayshore Transit Management, Inc.* (“*Thurman*”) (2012) 203 Cal. App. 4th 1112, the court determined that an award of the maximum penalty allowed may be unjust in circumstances outside of when a defendant cannot afford to pay the maximum amount. *Thurman v. Bayshore Transit Management, Inc.* (2012) 203 Cal. App. 4th 1112, 1135-1136. The *Thurman* court found that penalties may be reduced when a defendant has taken its obligations to comply with the law seriously. *Id.* In *Kaanaana v. Barrett Business Services, Inc.* (2018) 29 Cal.App.5th 778, 788 & 809, the Court of Appeals took no issue with the trial court exercising its discretion in slashing PAGA civil penalties for violations of Labor Code section 512 to 13% of the total recoverable penalties. In *Carrington v. Starbucks* (2018) 30 Cal.App.5th 504, the plaintiff requested penalties in excess of \$70 million, based on a \$25 to \$75 penalty per violation. The court reduced the award, stating that awarding the maximum penalty would be unjust, arbitrary, and oppressive based on Starbucks’s good faith attempts to comply with the law. The lower court’s reduced award of \$150,000 was affirmed on appeal, which reflects .2% of the total recoverable penalties sought.¹

40. Thus, the projected value of PAGA claims is a variable value of two predictive indexes: (1) the likelihood that Plaintiff will succeed in proving the underlying claims were violated, and (2) the extent to which the Court will impose Civil Penalties permitted under PAGA. This is to be distinguished from the projected values of class claims of Labor Code and Wage Order violations. For instance, and relevant to the underlying claims in this action, class claims alleging California’s meal and rest break, minimum wage, and wage statement laws were violated, the predictive value for purposes of determining whether settlement values are fair

¹ These instances of judicial discretion imposing massive reductions in recoverable penalties is to be contrasted with *Bernstein v. Virgin Am., Inc.* (N.D. Cal. 2019) 365 F.Supp. 3d 980, 992, where the trial court reduced the recoverable PAGA penalties by only 25%. *Bernstein*, however, only amplifies the predictive blind spot of how a court can exercise its wide-discretion to reduce full PAGA exposure.

1 and reasonable rests only on the likelihood of prevailing on the merits and the exposure related
2 thereto, as there is no judicial discretion to award lesser amounts owed for adjudged violations.
3 It is for these reasons that, in assessing and judging the reasonableness of PAGA settlements,
4 the touchstone feature is the “remedial purpose” achieved in the settlement amount, which
5 takes into account the defendant employer’s “good faith” belief that it complied with the laws
6 claimed to be violated. *Bernstein*, 365 F. Supp. 3d at 991.

7 41. Based on this blind spot of how the Court would exercise its discretion in addition to the
8 likelihood the Court would side with Plaintiff on the underlying Labor Code violations,
9 Plaintiff necessarily had to discount the settlement value off of the full PAGA penalty amounts.
10 As discussed earlier, Defendant argues its meal and rest policies and practices track the Labor
11 Code and Wage Order requirements and the standards articulated in *Brinker* and *Augustus*.
12 Likewise, Defendant argues that it pays employees for all hours worked and provides accurate
13 itemized wage statements. Thus, even if Defendant were proven wrong on these fronts and
14 ultimately found to have violated the underlying Labor Code claims, the Court could find a
15 good faith reliance on California case law justifiably instructed Defendant’s actions and
16 thereby impose a massive reduction of PAGA penalties akin to the Courts in *Kaanaana* and
17 *Carrington*.

18 42. PAGA Counsel applies for an award of attorneys’ fees in the sum of \$100,000 (which is one-
19 third of the Gross PAGA Settlement Amount). The requested fee falls in the mid-range of
20 percentage class fee awards, which commonly range from 20% to 50% of a common fund, and
21 constitutes fair compensation for undertaking complex, risky, expensive, and time-consuming
22 litigation on a contingent basis and compensates PAGA Counsel for their efforts, as well as
23 the result achieved for the benefit of the State of California and the Aggrieved Employees.

24 43. Numerous state and federal courts in California routinely approve fee requests equal to or
25 greater than one-third of the common fund. In short, PAGA Counsel’s fee request of \$100,000
26 is in line with awards in California and nationwide and demonstrates that PAGA Counsel’s fee
27 request is consistent with market rates and is reasonable.

28 44. PAGA Counsel has worked 240 hours to date on this case and have calculated the lodestar fee

- 1 on those hours at \$182,600 at rates reflecting those currently earned in the marketplace.
- 2 45. All of the work and tasks performed by PAGA Counsel were reasonable and necessary to the
- 3 prosecution of this case and are reflected in the result achieved.
- 4 46. All services were performed by PAGA Counsel on a contingent basis.
- 5 47. As Class Counsel's lodestar fee is in excess of their fee request, a multiplier on their lodestar
- 6 fee is not sought herein.
- 7 48. PAGA Counsel's hourly rates are between \$650 and \$850 and are in line with rates typically
- 8 approved in wage and hour class action and PAGA litigation and which rates have been
- 9 approved by Courts in California in the Los Angeles, Sacramento, San Francisco, Alameda,
- 10 Orange and San Diego County Superior Courts.
- 11 49. I devoted 133 hours to this case. The following is a summary of my tasks and activities
- 12 performed in the litigation of this matter: initial case intake; prepare personnel file request and
- 13 retainer; review and revise PAGA notice; review and revise complaint; research and
- 14 investigate legal issues throughout case; interoffice discussions throughout case; review and
- 15 revise discovery to be served on Defendant; discussions with Plaintiff; conferences with
- 16 Defendant's Counsel; analyze records produced by Defendant relating to its policies, pay-
- 17 structures, and time keeping; review and revise settlement demand and damage and exposure
- 18 model; review Defendant's responses to settlement demand; review and revise the settlement
- 19 agreement and the Notice; review and revise PAGA settlement approval motion and supporting
- 20 papers; and draft declaration in support of approval.
- 21 50. My hourly rate is \$850. Based on my hourly rate and the hours expended, 133, my fee is
- 22 \$113,050, which is reasonable and necessary to the successful litigation of this matter.
- 23 51. Jill Vecchi is a partner at the Mara Law Firm, PC. Ms. Vecchi has been a member of the bar
- 24 since 2014. She has gained extensive experience handling wage and hour class actions and has
- 25 been substantially involved in all phases of this litigation and the following wage and hour
- 26 class actions: *Kenneth Cox v. 3PL Worx, et al.* (Yolo County Superior Court, Case No. CV-
- 27 18-100); *Brian Davidson v. A&B Trucking Services, Inc.* (Kern County Superior Court Case
- 28 No. BCV-16-102985); *Alex Vega, et al. v. Advance Beverage Co., Inc.* (Kern County Superior

1 Court, Case No. BCV-16-100848); *Alton Davis v. Apria Healthcare Group, Inc.* (San Diego
2 County Superior Court, Case No. 37-2014-00004724-CU-OE-CTL); *Timothy Spikes, et al. v.*
3 *Bear Trucking, Inc., et al.* (San Bernardino County Superior Court, Case No. CIVDS1715151);
4 *Terrance Bailey v. Blue Apron, LLC; et al.* (Northern District of California, Case No. 18-cv-
5 07000-VC); *Jeffrey Weast v. California Aseptic Beverages, LLC* (San Bernardino County
6 Superior Court, Case No. CIVDS1825256); *Michael Valentich v. Hub Construction*
7 *Specialties, Inc.* (San Bernardino County Superior Court, Case No. JCCPDS4893); *Jose De*
8 *Jesus Ortega Velazquez v. Hunter Landscape, Inc.; et al.* (San Bernardino County Superior
9 Court, Case No. CIVDS1928062); *Adrian Diaz v. Keystone Automotive Operations, Inc.*
10 (Riverside County Superior Court, Case No. RIC1817450); *Arturo Gonzalez v. NCI Group,*
11 *Inc. dba NCI Building Systems* (Eastern District of California, Case No. 18-cv-00948-AWI-
12 SKO); *Larry Perez v. The Nielsen Company (US), LLC* (Orange County Superior Court, Case
13 No. 30-2021-01194324-CU-OE-CXC); *Erik Martinez v. Patrick Industries, Inc.* (San
14 Bernardino County Superior Court, Case No. CIVDS2009663); *Randolph Fitch v. Shaw*
15 *Industries, Inc.; et al.* (San Bernardino County Superior Court, Case No. CIVSB2024674);
16 *Joshua Rael v. Intercontinental Hotels Group Resources, Inc.* (Los Angeles County Superior
17 Court, Case No. 19STCV16010); and *Aaron Romero v. Vitro Flat Glass, LLC* (Kern County
18 Superior Court, Case No. BCV-21-101357).

19 52. Ms. Vecchi devoted 107 hours to this case. The following is a summary of her tasks and
20 activities performed in the litigation of this matter: draft and revise PAGA notice; draft and
21 revise complaint; interoffice discussions throughout case; communications with Plaintiff
22 throughout case; draft discovery to propound on Defendant; review Defendant's discovery
23 responses; prepare meet and confer letter regarding Defendant's discovery responses; review
24 and analyze documents produced by Defendant; researching law; communications with
25 Defendant's counsel; draft and revise stipulations; draft and revise settlement demand and
26 damage model; review Defendant's responses to settlement demand; review and revise
27 settlement agreement; and draft and revise settlement approval motion.

28 53. Ms. Vecchi's hourly rate is \$650. Based on her hourly rate and the hours expended, 107, her

1 fee is \$69,550 which is reasonable and necessary to the successful litigation of this matter.
2 54. PAGA Counsel seeks reimbursement of the litigation costs and expenses of \$5,468.92. These
3 costs were all reasonable and necessary to the prosecution of this case and the results achieved,
4 and are fair, reasonable, and unopposed by Defendant.
5 55. A true and correct copy of the Westlaw Court's Express's Legal Billing Report, Volume 14,
6 Number 3, California Region for December 2012 is attached as **Exhibit 2**.
7 56. A true and correct copy of the Declaration of Richard M. Pearl in *Hohnbaum v. Brinker*
8 *Restaurant Corp.* SDSC GIC834348 is attached as **Exhibit 3**.
9 57. A true and correct copy of the 2012 National Law Journal Survey of Hourly Billing Rates for
10 Partners and Associates is attached as **Exhibit 4**.
11 58. A Summary of Time and Costs is attached hereto as **Exhibit 5**.
12 59. The settlement approval motion and supporting documents were uploaded to the Labor
13 Workforce Development Agency. Attached hereto as **Exhibit 7** is a confirmation received as
14 a result of this upload.
15 I hereby declare under penalty of perjury under the laws of the State of California that the
16 foregoing is true and correct.

17 **MARA LAW FIRM, PC**

18 Date: February 3, 2026

19 
20 David Mara, Esq.
21 Attorneys for Plaintiff PHILLIP HEREDIA
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Exhibit 1

PAGA SETTLEMENT AGREEMENT AND LIMITED RELEASE

This Private Attorneys General Act Settlement Agreement and Limited Release (“PAGA Settlement”) is by and between PHILLIP HEREDIA (“Plaintiff”), for himself and on behalf of the State of California and all allegedly aggrieved employees, and SUNBELT TOWING, INC. dba WESTERN TOWING (“Defendant”) (each, a “Party” and collectively, the “Parties”).

WHEREAS, Plaintiff sent a notice to the California Labor and Workforce Development Agency (“LWDA”) alleging violations of the Labor Code alleged to have occurred during Plaintiff’s employment with Defendant on behalf of Plaintiff and other purported aggrieved employees (“PAGA Notice”). The PAGA Notice defines “Aggrieved Employees” as non-exempt drivers beginning March 13, 2022.

WHEREAS, CLAIMANT filed a Private Attorneys General Act of 2004 (“PAGA”) Complaint Filed Pursuant to California Labor Code § 2698, *et seq.* in the Superior Court of California, County of San Diego, Case No. 37-2023-00023634-CU-OE-CTL entitled *Phillip Heredia on behalf of himself, all others similarly situated, and on behalf of the general public v. Sunbelt Towing, Inc.; Western Towing, Inc.; and DOES 1-100* alleging causes of action for (1) Violation of the PAGA for Failure to Pay Straight Time Wages; (2) Violation of the PAGA for Failure to Pay All Overtime Wages; (3) Violation of PAGA for Failure to Provide Meal Periods; (4) Violation of PAGA for Failure to Provide Rest Periods; (5) Violation of PAGA for Failure to Pay Wages Due at Termination of Employment; (6) Violation of PAGA for Knowing and Intentional Failure to Comply with Itemized Employee Wage Statements; (7) Violation of PAGA for Failure to Adopt a Compliant Sick Pay/Paid Time Off Policy and Failure to Provide Written Notice Setting Forth Amount of Sick Leave Available; and (8) Violation of PAGA for Failure to Reimburse Business Expenses Incurred in Discharging Duties (the “PAGA Complaint”).

WHEREAS, Plaintiff asserted the PAGA Claims against Defendant on behalf of himself and other non-exempt employees who were employed by Defendant between March 13, 2022 and the date the Court approves this PAGA Settlement Agreement. These claims are statutorily confined to a one-year time period, based on the aforementioned letter to the LWDA. Based on the filing dates of the PAGA Notice and the PAGA Complaint, the timeframe for alleged PAGA violations at issue in this case is March 13, 2022 through the date the court approves the PAGA Settlement (the “PAGA Period”).

WHEREAS, except for the PAGA Notice, Plaintiff did not file any claims – written, verbal, or otherwise – with the Department of Fair Employment and Housing, the Equal Employment Opportunity Commission, the California Department of Labor, the United States Department of Labor, or any other governmental, regulatory, investigative, or enforcement agency of any kind concerning his employment with Defendant.

WHEREAS, the above-referenced PAGA Notice and PAGA Complaint and all of the allegations contained within, are referred to herein as the “Action,” all of which are incorporated herein by reference.

WHEREAS, Defendant denies and continue to deny all of the allegations raised by Plaintiff.

WHEREAS, Plaintiff and Defendant mutually desire to compromise, settle, and release the claims asserted in the Action and any and all other claims whether known or unknown, arising out of or based on any fact, matter, or event which occurred prior to the date of the PAGA Settlement.

WHEREAS, the Parties understand, acknowledge, and agree that the PAGA Settlement constitutes a compromise of Plaintiff's and/or the Other Employees' PAGA Claims, and that it is the desire and intention of the Parties to effect a final and complete resolution of the Action and all representative claims, including the PAGA Claims, that Plaintiff and/or the Other Employees may have against Defendant. The Parties further acknowledge that the PAGA Settlement is a compromise of disputed claims and that nothing in this Agreement shall be construed as an admission by Defendant of liability.

WHEREAS, the Parties believe and agree that the PAGA Settlement provides for a fair, adequate, and reasonable resolution of the PAGA Claims, and have arrived at the settlement in extensive, arms-length negotiations, taking into account all relevant factors, present and potential.

NOW, THEREFORE, IT IS HEREBY AGREED, by and between Plaintiff and Defendant as follows:

A. Definitions

1. "Action" means the case entitled *Phillip Heredia on behalf of himself, all others similarly situated, and on behalf of the general public v. Sunbelt Towing, Inc.; Western Towing, Inc.; and DOES 1-100* pending in San Diego County Superior Court, Case No. 37-2023-00023634-CU-OE-CTL, and the Operative Complaint in that matter.

2. "Aggrieved Employee Settlement Fund" means twenty-five percent (25%) of the Net Settlement Amount. Individual Settlement Payments to PAGA Members will be made from the Aggrieved Employee Settlement Fund.

3. "Agreement" or "Settlement Agreement" shall mean this Private Attorneys General Act Settlement Agreement and Release.

4. "Attorneys' Fees" means such attorneys' fees as the Court may award to Plaintiff's Counsel in connection with the PAGA Settlement, and which shall not exceed One Third (1/3) of the Gross PAGA Settlement Amount (\$100,000.00).

5. "Attorneys' Costs" means such litigation costs as the Court may award to Plaintiff's Counsel for the costs they have incurred and will incur in the investigation, litigation, and resolution of the PAGA Claims, and in the administration of the PAGA Settlement, and which are not expected to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00).

6. “Weekly Value” means the quotient of the Aggrieved Employee Settlement Fund divided by the Total Weekly Pay Periods.

7. “Court” shall mean the San Diego County Superior Court, where the Action is venued, and specifically the Hon. Gregory W. Pollack, or such other judge as (a) may be assigned to the Action or (b) may sit in his stead.

8. “Defense Counsel” or “Defendant’s Counsel” means Amanda Heitlinger of Swingle, Van Egmond & Heitlinger, APC.

9. “Effective Date” means the date this Settlement is approved and the Court’s order granting Settlement Approval and entry of Final Judgment becomes final if no timely objection is filed by the LWDA or other party with standing to object to the terms of this Settlement. If there is no timely objection filed by the LWDA or other party with standing to object to the terms of this Settlement, the “Effective Date” shall mean the date this Settlement is approved and the Court’s order granting Settlement Approval and entry of Final Judgment becomes final and is no longer appealable. For purposes of this Settlement, “becomes final and is no longer appealable” shall mean the later of: (a) the day after the last date by which a notice of appeal to the applicable Court of Appeal of the order and judgment approving this Settlement may be timely filed and none is filed (i.e., 61 days from notice of entry of judgment); (b) if an appeal is filed, and the appeal is finally disposed of by ruling, dismissal, denial, or in any other manner that confirms the validity of the order and judgment, the day after the last date for filing a request for further review of the order and judgment approving this Settlement passes, and no further review is requested; or (c) if an appeal is filed and the order approving this Settlement is affirmed and further review of the order is requested, the day after the review is finally resolved and the order and judgment approving this Settlement is affirmed. In the event that: (i) the Court does not approve the Settlement; or (ii) the Effective Date does not occur for any other reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their respective positions. The Effective Date cannot occur, and Defendant will not be obligated to fund this Settlement, until and unless there is no possibility of an appeal or further appeal that could potentially prevent this Settlement Agreement from becoming final and binding.

10. “Final Judgment” means the order entered by the Court granting the entry of judgment in this Action and retaining jurisdiction only as set forth in Paragraph C(4) below.

11. “Funding Date” means the date that is fifteen (15) calendar days after the Effective Date. If the Funding Date falls on a weekend or holiday, it shall be extended to the following business day.

12. “Gross PAGA Settlement Amount” means the amount of Three Hundred Thousand Dollars and Zero Cents (\$300,000.00) that Defendant will pay if the Court approves this PAGA Settlement and the Effective Date occurs. The Gross PAGA Settlement Amount will fund: (a) the Aggrieved Employee Settlement Fund; (b) the LWDA Payment; (c) the award of Attorneys’ Fees to Plaintiff’s Counsel in connection with the PAGA Settlement; (d) the award of Attorneys’ Costs to Plaintiff’s Counsel in connection with the PAGA Settlement; and (e) the PAGA Settlement Administration Costs. Under no circumstances will Defendant be required to pay more than the

Gross PAGA Settlement Amount in order to settle the PAGA Claims, except as provided in Paragraph C(7). In no event will any PAGA Settlement funds revert to Defendant.

13. “Aggrieved Employee Settlement Payment” means the portion of the Aggrieved Employee Settlement Fund allocated to each PAGA Member, as calculated pursuant to Paragraph C(13) below. One hundred percent (100%) of the Aggrieved Employee Settlement Payments made to PAGA Members shall be deemed miscellaneous income for which a Form 1099-MISC will be issued.

14. “LWDA Payment” means seventy-five percent (75%) of the Net Settlement Amount. The LWDA Payment will be issued to the LWDA.

15. “Net PAGA Settlement Amount” means the Gross PAGA Settlement Amount minus the Attorneys’ Fees and Costs awarded in connection with the PAGA Settlement, and Settlement Administration Costs. Seventy-five percent (75%) of the Net Settlement Amount will be distributed to the LWDA and twenty-five percent (25%) will be distributed to PAGA Members.

16. “Notice” means the form of notice that will be sent to each PAGA Member accompanying their Aggrieved Employee Settlement Payments, which shall be substantially in the form attached hereto as **Exhibit A**.

17. “PAGA Members” means Plaintiff and all current or former non-exempt drivers of Defendants in the State of California during the PAGA Period.

18. “PAGA Member List” means the list of full names, most recent mailing addresses, most recent telephone numbers, Social Security numbers, and dates of employment or number of pay periods, as available and calculable, for all PAGA Members, which Defendant will diligently and in good faith compile from its records. To be eligible as a pay period, the PAGA Member must have worked at least one (1) shift during that pay period.

19. “PAGA Period” means the period from March 13, 2022 through the date that the Court enters an order approving the Settlement and entering Final Judgment.

20. “Plaintiff’s Counsel” means David Mara and Jill Vecchi of Mara Law Firm, PC, and Colette Mahon of Lawyers for Employee and Consumer Rights.

21. “Release” means Plaintiff’s agreement, in consideration of Defendant’s promises and agreements as set forth herein, to fully release and discharge the Released Parties from any and all Released Claims.

“Released Claims” means all claims for civil penalties under PAGA arising from the same facts and/or claims alleged in the Action, or reasonably related to claims that were pled or that reasonably could have been pled under PAGA based on the facts alleged in the Action, that accrue through the date the Court enters its order approving this PAGA Settlement. This includes, without limitation: (A) claims for civil penalties under the PAGA for violations of California Labor Code §§ 201-204, 218, 218.5, 226, 226.7, 246, 510, 512, 558, 1174, 1194, 1194.2, 1197, 1197.1, 2802, California Code of Regulations, Title 8 section 11050 *et seq.*, and any other applicable Industrial Welfare Commission (“IWC”) Wage

Orders, for failure to pay for all hours worked, unpaid minimum wages, unpaid overtime, failure to pay unpaid double time, failure to timely pay commission wages, failure to provide meal periods, failure to provide rest breaks, failure to pay meal period premiums, failure to pay rest break premiums, failure to pay meal period and rest break premiums at the proper rate of pay, failure to reimburse for reasonable business expenses, failure to pay all wages owed to discharged or resigned employees in a timely manner, failure to timely pay wages/failure to pay wages two times per month, failure to provide accurate, itemized wage statements, failure to comply with the wage statement requirements of Cal. Labor Code § 226, failure to provide notice of paid sick time and accrual, and failure to pay all earned wages in a timely manner, including but not limited to claims under California Labor Code; (B) all claims that Defendant is liable for the attorneys' fees and costs incurred in the prosecution of this Action on behalf of the PAGA Members; (C) all claims that Defendant is liable for any other remedies, penalties, or interest based on the PAGA claims; and (D) all claims that Plaintiff and/or the PAGA Members may have against the Released Parties relating to the payment, taxation, and allocation of attorneys' fees and costs to Plaintiff's Counsel pursuant to this PAGA Settlement Agreement. The period of the release shall extend to the limits of the PAGA Period. The *res judicata* effect of the judgment will be the same as that of the Release. Other than Plaintiff (who have agreed to release their individual claims against Defendants as provided in Section D), "Released Claims" does not include a release of individual claims the PAGA Members may have against the Released Parties. However, "Released Claims" does include a release of all Aggrieved Employee PAGA claims (as defined above in this paragraph) the PAGA Members have against the Released Parties.

22. "Released Parties" means Defendant and its past, present and future parents, affiliates, subsidiaries, divisions, predecessors, successors, partners, joint venturers, affiliated organizations, shareholders, insurers, reinsurers and assigns, and each of their past, present and future officers, directors, trustees, agents, employees, attorneys, contractors, representatives, benefits plans sponsored or administered by the Released Parties, divisions, units, and branches, and any other persons or entities acting on behalf of or in concert with any of the foregoing or any persons who Defendant has an obligation to indemnify on account of the Released Claims.

23. "PAGA Settlement Administrator" means, Simpluris, a third-party settlement administrator agreed upon by the Parties and appointed by the Court for the purposes of administering this PAGA Settlement. The Parties each represent that they have selected a PAGA Settlement Administrator that they do not have any financial interest in or otherwise have a relationship with the PAGA Settlement Administrator that could create a conflict of interest.

24. "PAGA Settlement Administration Costs" means the amount from the Gross PAGA Settlement Amount which shall be allocated, subject to the Court's approval, to the PAGA Settlement Administrator for services rendered in administering the PAGA Settlement, and which shall not exceed Six Thousand Five Hundred Dollars and Zero Cents (\$6,500.00).

25. “PAGA Settlement Approval” means the settlement approval order and Final Judgment that will be entered by the Court.

26. “PAGA Settlement Fund Account” means the bank account established by the PAGA Settlement Administrator pursuant to the terms of this PAGA Settlement Agreement, from which all monies payable under the terms of this PAGA Settlement shall be paid, as set forth herein.

27. “Total Weekly Pay Periods” means the total number of weekly pay periods worked by all PAGA Members during the PAGA Period.

28. “Void Date” means the 181st day after issuance of Aggrieved Employee Settlement Payment checks to PAGA Members, upon which the Aggrieved Employee Settlement Payment checks will no longer be valid and negotiable.

B. Consideration

1. No Admission of Liability. Defendant has contended and continues to contend that the allegations in the Action have no merit and do not give rise to liability. Defendant specifically denies all of the allegations in the Action. This PAGA Settlement Agreement is a compromise of disputed PAGA claims. Nothing contained in this PAGA Settlement Agreement, no documents referred to herein, and no action taken to carry out the terms of this PAGA Settlement Agreement may be construed or used as an admission by or against Defendant or any of the Released Parties of any fault, wrongdoing, or liability whatsoever.

2. Monetary Settlement Components. Provided that the Court approves the PAGA Settlement and the Effective Date occurs, Defendant will pay the Gross PAGA Settlement Amount. Defendant will deposit the Gross PAGA Settlement Amount into the PAGA Settlement Fund Account, which shall be administered by the PAGA Settlement Administrator. All amounts to be paid pursuant to this PAGA Settlement Agreement shall be paid out of the PAGA Settlement Fund Account.

- a. Attorneys’ Fees. In full satisfaction of all claims Plaintiff or Plaintiff’s Counsel may have for attorney’s fees arising out of the PAGA Claims, the Parties agree that in connection with the PAGA Settlement, Plaintiff’s Counsel will ask the Court for an amount not to exceed one-third (1/3) of the Gross PAGA Settlement Amount, or One Hundred Thousand Dollars and Zero Cents (\$100,000.00). Defendant will not oppose a request made by Plaintiff for an award of Attorneys’ Fees within this amount. The PAGA Settlement Attorneys’ Fees to be awarded to Plaintiff’s Counsel are subject to the approval of the Court and will be paid only from the Gross PAGA Settlement Amount. Any portion of the Attorneys’ Fees not awarded to Plaintiff’s Counsel will be added to the Net Settlement Amount. Plaintiff understands and agrees that this Settlement Agreement and Release shall remain in full force and effect even if the full amount of Attorneys’ Fees identified herein is not awarded by the Court.

However, Plaintiff's Counsel retains their right to appeal any decision by the Court regarding the Attorneys' Fees.

- b. Attorneys' Costs. In full satisfaction of all claims Plaintiff or Plaintiff's Counsel may have for litigation costs and expenses arising out of the PAGA Claims, the Parties agree that Plaintiff's Counsel will ask the Court for an amount not to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00) from the Gross PAGA Settlement Amount as Attorneys' Costs in connection with the PAGA Claims. Defendant will not oppose a request made by Plaintiff for an award of Attorneys' Costs within this amount. The Attorneys' Costs to be awarded to Plaintiff's Counsel in connection with the PAGA Claims are subject to the approval of the Court and will be paid only from the Gross PAGA Settlement Amount. Any portion of the Attorneys' Costs not awarded to Plaintiff's Counsel will be added to the Net Settlement Amount. Plaintiff understands and agrees that this Settlement Agreement and Release shall remain in full force and effect even if the full amount of Attorneys' Costs identified herein is not awarded by the Court. However, Plaintiff's Counsel retains their right to appeal any decision by the Court regarding the Attorneys' Costs.
- c. PAGA Settlement Administration Costs. A maximum of Six Thousand Five Hundred Dollars (\$6,500.00) from the Gross PAGA Settlement Amount will be allocated and paid to the PAGA Settlement Administrator. The PAGA Settlement Administration Costs to be paid to the PAGA Settlement Administrator are subject to the Court's approval and will be paid only from the Gross PAGA Settlement Amount.
- d. Net Settlement Amount. Seventy-five percent (75%) of the Net Settlement Amount will be paid to the LWDA in full satisfaction of all claims for PAGA civil penalties under the California Labor Code, Wage Orders, regulations, and/or other provisions of law alleged to have been violated in the PAGA Complaint in the Action with respect to PAGA Members. The remaining twenty-five percent (25%) of the Net Settlement Amount will be paid to all PAGA Members pursuant to the calculation method set forth in Section C(12), below.

PAGA Members' Release. Upon the Effective Date, Plaintiff, on behalf of himself, the State of California, and all PAGA Members, release the Released Parties from the Released Claims during the PAGA Period. PAGA Members may discover facts in addition to those they now know or believe to be true with respect to the subject matter of the Released Claims, but upon the Effective Date, PAGA Members shall be deemed to have, and by operation of the PAGA Settlement Approval shall have, fully, finally, and forever settled and released any and all of the Released Claims during the PAGA Period, without regard to the subsequent discovery or existence of such different or additional facts. PAGA Members agree not to sue or otherwise make a claim against any of the Released Parties that seeks recovery for any of the Released Claims during the PAGA Period. It is the intent of the Parties that the PAGA Settlement approval order and Final Judgment entered by the Court shall have full *res*

judicata effect and be final and binding upon PAGA Members regarding the Released Claims during the PAGA Period.

C. PAGA Settlement Administration Procedures

1. PAGA Settlement Approval Motion. Following full execution of this PAGA Settlement Agreement, Plaintiff will promptly request a hearing before the Court to seek approval of the PAGA Settlement on a mutually available date. In conjunction with such hearing, Plaintiff's Counsel will present this PAGA Settlement Agreement to the Court with a written motion for an order (a) approving and incorporating by reference the terms and conditions of the PAGA Settlement Agreement, (b) retaining jurisdiction over the parties under Code of Civil Procedure § 664.4 to enforce the PAGA Settlement Agreement, and (c) dismissing the entire Action with prejudice. Plaintiff's Counsel will be primarily responsible for drafting all documents necessary to obtain the above order and shall provide drafts of such documents for review by Defendant's counsel prior to the filing of same. Defendant shall provide any edits to such documents to Plaintiff's Counsel no later than the business day prior to the date the motion is due to be filed. Defendant will not oppose Plaintiff's motion for PAGA Settlement Approval unless the motion is inconsistent with the terms set forth in this PAGA Settlement Agreement.

2. No Right of PAGA Member to Object or Opt-Out. The Parties agree there is no statutory right for any PAGA Member to object, opt-out or otherwise exclude himself or herself from the PAGA Settlement. Nor is there any right for any PAGA Member to dispute the value of the Aggrieved Employee Settlement Payment provided to them under this PAGA Settlement. The Parties further agree there is no right or opportunity for any PAGA Member to appeal the approval of the PAGA Settlement by the Court.

3. LWDA Notice. Pursuant to California Labor Code § 2699(l)(2), Plaintiff will provide a copy of this PAGA Settlement to the LWDA concurrently with the filing of the motion for PAGA Settlement Approval. Plaintiff will also file a declaration in support of his motion for PAGA Settlement Approval confirming that he has submitted the Settlement to the LWDA in compliance with Labor Code § 2699(l)(2). Pursuant to California Labor Code § 2699(l)(3), a copy of the Court's judgment and any other order issued in connection with this PAGA Settlement Agreement shall be submitted by Plaintiff to the LWDA within ten (10) calendar days after entry of the judgment or order.

4. Judgment and Continued Jurisdiction. The Parties expressly request that, after entry of Final Judgment, the Court retain continuing and exclusive jurisdiction under Code of Civil Procedure § 664.6 for purposes of addressing: (a) the interpretation and enforcement of the terms of the PAGA Settlement Agreement; (b) matters relating to the administration of the Settlement; and (c) such post-judgment matters as may be appropriate under Court rules or as set forth in this Settlement Agreement.

5. PAGA Settlement Administrator. The Parties will retain APEX as the PAGA Settlement Administrator, subject to approval by the Court, to administer this PAGA Settlement.

The PAGA Settlement Administrator will be responsible for: establishing the PAGA Settlement Fund Account; calculating Aggrieved Employee Settlement Payments; preparing, printing, and mailing the Aggrieved Employee Settlement Checks and accompanying Notice to PAGA Members; disbursing payment of Attorney's Fees and Attorney's Costs to Plaintiffs' Counsel in connection with the PAGA Settlement; disbursing payment to the LWDA consisting of seventy-five percent (75%) of the Net PAGA Settlement Amount; printing and providing PAGA Members, Plaintiff, and Plaintiff's Counsel with IRS Forms 1099 as required under this PAGA Settlement Agreement and applicable law; providing a due diligence declaration for submission to the Court upon completion of the terms of the PAGA Settlement; and for such other tasks as the Parties mutually agree or the Court orders. The PAGA Settlement Administrator shall keep the Parties timely apprised of the performance of all PAGA Settlement Administrator responsibilities, and shall not mail any payments to Plaintiff, the LWDA, Plaintiff's counsel or any PAGA Member unless and until the PAGA Settlement Administrator receives approval by the Parties to do so. Any legally mandated tax reports, tax filings, or other tax documents required by the administration of this PAGA Settlement shall be prepared by the PAGA Settlement Administrator. Any expenses incurred in connection with such preparation shall be part of the PAGA Settlement Administration Costs.

6. PAGA Member List. On or before the Effective Date, Defendant will provide the PAGA Settlement Administrator with the PAGA Member List, which shall be used solely for the administration of this PAGA Settlement and for no other purpose, and which shall not be shared with any persons or entity not employed by the PAGA Settlement Administrator and working on the administration of this PAGA Settlement. Because PAGA Members' sensitive personal information is included in the PAGA Member List, the PAGA Settlement Administrator shall maintain the PAGA Member List securely and in confidence, maintaining the strictest standards of data privacy. Access to the PAGA Member List shall be limited to employees of the PAGA Settlement Administrator with a need to use the PAGA Member List for administration of this PAGA Settlement. The PAGA Settlement Administrator shall permanently delete and destroy all electronic and hard copies of the PAGA Member List in its possession once the PAGA Settlement Administration is concluded.

7. Number of PAGA Members and Pay Periods. This Settlement is premised on Defendant's representations that, as of October 1, 2025, there were approximately 140 PAGA Members and 3,485 pay periods within the PAGA Period.

8. Funding of the PAGA Settlement. On or before the Funding Date, Defendant shall fund the PAGA Settlement by depositing the Gross PAGA Settlement Amount into the PAGA Settlement Fund Account to be established by the PAGA Settlement Administrator.

9. Payment of Attorneys' Fees and Attorneys' Costs. Within ten (10) calendar days following the Funding Date, the PAGA Settlement Administrator shall pay from the PAGA Settlement Fund Account the Court-approved Attorneys' Fees and Attorneys' Costs to Plaintiff's Counsel in connection with the PAGA Settlement. Plaintiff's Counsel agrees to provide the PAGA Settlement Administrator with an executed IRS Form W-9 before such payments for Attorneys' Fees and Attorneys' Costs are issued. The PAGA Settlement Administrator shall issue an IRS Form 1099 to Plaintiff's Counsel for the payments made pursuant to this Paragraph.

Defendants' payment of the Attorneys' Fees and Attorneys' Costs to Plaintiff's Counsel in connection with the PAGA Settlement shall constitute full satisfaction of the obligation to pay any and all attorney's fees, expenses, and/or costs pertaining to the PAGA Claims or the PAGA settlement as set forth in this PAGA Settlement Agreement.

10. PAGA Settlement Administration Costs. Within ten (10) calendar days following the Funding Date, the PAGA Settlement Administrator shall pay from the PAGA Settlement Fund Account the Court-approved PAGA Settlement Administration Costs.

11. Payment to LWDA. Within ten (10) calendar days following the Funding Date, the PAGA Settlement Administrator shall issue from the PAGA Settlement Fund Account a check payable to the LWDA for seventy-five percent (75%) of the Net PAGA Settlement Amount.

12. Aggrieved Employee Settlement Payments. Within ten (10) calendar days following the Funding Date, the PAGA Settlement Administrator shall mail the Aggrieved Employee Settlement Payments to the PAGA Members' last known mailing address. Prior to mailing, the PAGA Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. Any checks returned as non-deliverable on or before the Void Date will be sent promptly via regular First Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the PAGA Settlement Administrator will promptly attempt to determine the correct address using a skip trace, or other search using the name, address or Social Security number of the PAGA Member involved, and will then perform a single re-mailing. Any check re-mailings will not extend the 180-day period to cash a check. Any checks issued to PAGA Members shall remain valid and negotiable for one hundred and eighty (180) calendar days from the date of their issuance and then shall become void on the 181st day after issuance, *i.e.*, the Void Date. Within fourteen (14) calendar days after the Void Date, any unclaimed funds in the PAGA Settlement Fund Account as a result of the failure to cash Aggrieved Employee Settlement Payment checks prior to the Void Date shall be sent to the California Controller's Unclaimed Property Fund in the name of the PAGA Member.

13. Calculation of Aggrieved Employee Settlement Payments. All PAGA Members will receive an Aggrieved Employee Settlement Payment. The amount of each PAGA Member's Aggrieved Employee Settlement Payment will be calculated based on the total number of weekly pay periods each PAGA Member worked as a non-exempt hourly employee in California during the PAGA Period. The PAGA Member must have worked one (1) or more shifts in order for a weekly pay period to count as "worked." The Weekly Value will be calculated once the Net PAGA Settlement Amount and Aggrieved Employee Settlement Fund are determined based on the amounts approved by the Court for the Attorneys' Fees and Costs in connection with the PAGA Settlement, and PAGA Settlement Administration Costs. The Weekly Value will be the quotient of dividing the Aggrieved Employee Settlement Fund by the Total Weekly Pay Periods. The Weekly Value will be rounded to the nearest cent. If there are any settlement funds remaining in the PAGA Settlement Fund Account due to rounding the Weekly Value to the nearest cent, those funds will be paid to the LWDA in addition to the LWDA Payment. The Aggrieved Employee Settlement Payment to each PAGA Member will be determined by multiplying the Weekly Value and the total number of weekly pay periods each PAGA Member worked as a PAGA Member in

California during the PAGA Period.

14. Tax Treatment of Aggrieved Employee Settlement Payments. One hundred percent (100%) of each Aggrieved Employee Settlement Payment shall be allocated to miscellaneous income for which an IRS Form 1099-MISC will issue, if required by law.

15. Administration of Taxes. The PAGA Settlement Administrator will be responsible for issuing to Plaintiff, PAGA Members, and Plaintiff's Counsel, IRS Form 1099s or other tax forms as may be required by law for all amounts paid pursuant to this PAGA Settlement, and for forwarding all penalties to the appropriate government authorities.

16. Certification of Completion. Upon completion of administration of the PAGA Settlement, the PAGA Settlement Administrator will provide a written declaration under oath to certify such completion to the Court and counsel for all Parties. Plaintiff's Counsel shall file this declaration with the Court within seven (7) calendar days of receipt.

D. Miscellaneous Provisions

1. No Effect on Employee Benefits. Amounts paid to Plaintiff and other PAGA Members pursuant to this PAGA Settlement Agreement do not count as earnings or compensation for purposes of any benefits (e.g., 401(k) plans or retirement plans) sponsored by Defendants.

2. Tax Liability. The Parties make no representation as to the tax treatment or legal effect of the payments called for hereunder, and the Parties are not relying on any statement, representation, or calculation by any of the Parties or by the PAGA Settlement Administrator in this regard.

3. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX

COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISOR TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISOR'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT. Defendant, Defendant's Counsel, Plaintiff and Plaintiff's Counsel make no representation as to the tax treatment or legal effect of the payments called for hereunder, and Plaintiff and PAGA Members are not relying on any statement, representation, or calculation by Defendant, Defendant's Counsel, or by the PAGA Settlement Administrator in this regard. Each party understands and agrees that they will each be solely responsible for payment of any taxes they may owe in connection with the payments described herein.

4. Responsibility for Taxes. Each party understands and agrees that they will each be solely responsible for payment of any taxes they may owe in connection with the payments described herein.

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

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

7. Voiding of PAGA Settlement. Defendant reserves the right to withdraw from this Settlement, upon notice to Plaintiff's counsel, should the following occur:

- a. The Court does not allow the scope and/or time period of the Released Claims and PAGA Period, respectively, as set forth and defined herein.

8. Entire Agreement. This PAGA Settlement Agreement and any attached Exhibits constitute the entirety of the Parties' PAGA settlement terms, and no oral or written representations, warranties or inducements have been made to any Party concerning this PAGA Settlement Agreement or its Exhibits other than the representations, warranties and covenants contained and memorialized in the PAGA Settlement Agreement and its Exhibits.

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

10. Authorization to Enter Into PAGA Settlement Agreement. The Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this PAGA Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this PAGA Settlement Agreement to effectuate its terms. The person or persons signing this PAGA Settlement Agreement on behalf of Defendant represent and warrant that he/she/they are authorized to sign this PAGA Settlement Agreement on behalf of Defendant. Plaintiff represents and warrants that he is authorized to sign this PAGA Settlement Agreement and that he has not assigned any claim covered by this PAGA Settlement to a third party.

11. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this PAGA Settlement, and further intend that this Agreement will be fully enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

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

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

14. Execution and Counterparts. This Agreement is subject only to the execution of all Parties. However, the PAGA Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including facsimile, scanned, and e-mailed copies of the signature page, will be deemed to be one and the same instrument.

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

16. Waiver of Certain Appeals. In the event the Court grants Approval of this PAGA Settlement, the Parties agree to waive appeals concerning this PAGA Settlement except as to the right to appeal Attorneys' Fees and/or Costs in the event it is not approved as described above.

17. Captions. The captions and paragraph numbers in this Agreement are inserted for the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the provisions of this Agreement.

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

19. Representation By Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Agreement, and that this Agreement has been executed with the consent and advice of counsel, and reviewed in full. Further, Plaintiffs and Plaintiffs' Counsel warrant and represent that there are no liens on the Agreement.

20. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Agreement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the PAGA Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this PAGA Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

21. Publicity. The Parties agree that Plaintiffs will not communicate the fact of, or the terms of, this Settlement to members of the press, including to Verdicts and Settlements. The Parties and their attorneys also agree not to publish the fact of, or terms of, this Settlement or any related information on their website, for advertising purposes and/or in publication materials generally available to the public.

22. Notices. Unless otherwise specifically provided, all notices, demands or other communications in connection with this Settlement Agreement shall be: (a) in writing; (b) deemed given on the third business day after mailing; and (c) sent via United States registered or certified mail, return receipt requested, addressed as follows:

Amanda J. Heitlinger
SWINGLE, VAN EGMOND & HEITLINGER, APC
1207 I Street
Modesto, California 95354
AHeitlinger@arata-law.com

David Mara
Jill Vecchi
MARA LAW FIRM, PC
3160 Camino Del Rio South, Suite 207
San Diego, California 92108
dmara@maralawfirm.com
jvecchi@maralawfirm.com

[SIGNATURES ON FOLLOWING PAGE]

PLEASE READ CAREFULLY BEFORE SIGNING. THIS CONFIDENTIAL SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS INCLUDES A GENERAL RELEASE OF ALL KNOWN AND/OR UNKNOWN CLAIMS.

I HAVE READ THIS AGREEMENT AND I AGREE WITH ALL OF ITS TERMS. I UNDERSTAND THAT I AM GIVING UP IMPORTANT RIGHTS. I SIGN THIS AGREEMENT FREELY AND VOLUNTARILY, WITHOUT DURESS OR COERCION.

Dated: 1/23/2026

DocuSigned by:
Phillip Heredia
PHILIP HEREDIA

Dated: Jan 29, 2026

Michelle Martin
Michelle Martin (Jan 29, 2026 08:26:13 PST)
Michelle Martin on behalf of Sunbelt Towing, Inc. dba
Western Towing

Heredia v. Western Towing SAR Individual [Heredia signed rcvd 01 23 26- FINAL)

Final Audit Report

2026-01-29

Created:	2026-01-29
By:	Amanda Heitlinger (aheitlinger@svhlaw.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAEQVcEhq_W9r30trxXZk6vsr3ycAg1GxJ

"Heredia v. Western Towing SAR Individual [Heredia signed rcvd 01 23 26- FINAL)" History

-  Document digitally presigned by DocuSign\, Inc. (enterprisesupport@docusign.com)
2026-01-23 - 8:36:00 PM GMT
-  Document digitally presigned by DocuSign\, Inc. (enterprisesupport@docusign.com)
2026-01-23 - 8:36:01 PM GMT
-  Document created by Amanda Heitlinger (aheitlinger@svhlaw.com)
2026-01-29 - 0:57:06 AM GMT
-  Document emailed to Western Towing (mmartin@westerntowing.com) for signature
2026-01-29 - 0:58:04 AM GMT
-  Email viewed by Western Towing (mmartin@westerntowing.com)
2026-01-29 - 4:25:09 PM GMT
-  Signer Western Towing (mmartin@westerntowing.com) entered name at signing as Michelle Martin
2026-01-29 - 4:26:11 PM GMT
-  Document e-signed by Michelle Martin (mmartin@westerntowing.com)
Signature Date: 2026-01-29 - 4:26:13 PM GMT - Time Source: server
-  Agreement completed.
2026-01-29 - 4:26:13 PM GMT

Exhibit A

CALIFORNIA SUPERIOR COURT, COUNTY OF SAN DIEGO

Phillip Heredia v. Sunbelt Towing, Inc.

Case No. 37-2023-00023634-CU-OE-CTL

NOTICE OF SETTLEMENT

This is not a solicitation.

This is not a lawsuit against you and you are not being sued.

The California Superior Court, County of San Diego has granted approval of a settlement in the above-captioned action. Because your rights are affected by this Settlement, it is important that you read this Notice of Settlement (“Notice”) carefully. The purpose of this Notice is to provide a brief description of the claims alleged in the action and the key terms of the settlement.

Based on the Sunbelt Towing, Inc.’s records, your Individual PAGA Payment is \$ [REDACTED]. This is based on the Sunbelt Towing, Inc.’s records showing that you worked [REDACTED] pay periods during the PAGA Period of March 13, 2022, through February 27, 2026.

WHAT INFORMATION IS IN THIS NOTICE

1. Why Have I Received This Notice? Page 1
2. What Is This Case About? Page 1
3. Who Are the Attorneys Representing the Parties? Page 2
4. How Does This Settlement Affect My Rights? Page 2
5. How Much Can I Expect to Receive From This Settlement? Page 3
6. How Can I Obtain Additional Information or Court Documents? Page 3

1. *Why Have I Received This Notice?*

Sunbelt Towing, Inc.’s (hereinafter referred to as “Defendant”) records indicate that you worked as a current or former non-exempt drivers of Defendant in the State of California at some time from March 13, 2022, through February 27, 2026.

A settlement hearing was held on February 27, 2026, in the California Superior Court, County of San Diego. The Court granted approval of the settlement. You are receiving this Notice to provide you with a brief description of the settlement and explain why you have received a settlement check.

2. *What Is This Case About?*

The action entitled *Phillip Heredia v. Sunbelt Towing, Inc.*, was commenced by Plaintiff Phillip Heredia (“Plaintiff”) in the San Diego County Superior Court (Case Number 37-2023-00023634-CU-OE-CTL).

On March 13, 2023, Plaintiff provided notice to the California Labor and Workforce Development Agency (“LWDA”) of the Private Attorneys General Act of 2004 (“PAGA”) violations he alleged against Defendant.

On June 6, 2023, Plaintiff filed a PAGA complaint in the San Diego County Superior Court against Defendant. The complaint alleged causes of action on behalf of Plaintiff and those similarly situated aggrieved employees under the PAGA for Defendant’s alleged failure to pay all straight time wages, failure to pay all overtime wages,

failure to provide lawful meal periods, failure to provide lawful rest periods, failure to pay all wages due at termination, failure to provide compliant wage statements, failure to adopt a compliant sick pay/paid time off policy, and failure to reimburse employees for business expenses.

The Court has not made any determination as to whether the claims advanced by Plaintiff have any merit. In other words, the Court has not determined whether any laws have been violated, nor has it decided in favor of Plaintiff or Defendant; instead, both sides agreed to resolve the lawsuit with no decision or admission of who is right or wrong. By agreeing to resolve the lawsuit, all parties avoid the risks and cost of a trial.

Defendant expressly denies that it did anything wrong or that it violated the law and further denies any liability whatsoever.

3. Who Are the Attorneys Representing the Parties?

Attorneys for Plaintiff Phillip Heredia	Attorneys for Defendant Sunbelt Towing, Inc.
MARA LAW FIRM, PC David Mara dmara@maralawfirm.com Jill Vecchi jvecchi@maralawfirm.com 3160 Camino Del Rio South, Suite 207 San Diego, CA 92108 Telephone: (619) 234-2833	SWINGLE, VAN EGMOND & HEITLINGER A Professional Law Corporation Amanda J. Heitlinger 1207 "I" Street (95354) Post Office Box 3287 Modesto, California 05353 Telephone: (209) 522-2211

4. How Does This Settlement Affect My Rights? What are the Released Claims?

All non-exempt, hourly employees who worked for Defendant in California at any time from March 13, 2022, through February 27, 2026 (referred to in this notice as "PAGA Members") release the Released Parties from the Released Claims, as defined below.

Released Parties: Defendant and its past, present and future parents, affiliates, subsidiaries, divisions, predecessors, successors, partners, joint venturers, affiliated organizations, shareholders, insurers, reinsurers and assigns, and each of their past, present and future officers, directors, trustees, agents, employees, attorneys, contractors, representatives, benefits plans sponsored or administered by the Released Parties, divisions, units, and branches, and any other persons or entities acting on behalf of or in concert with any of the foregoing or any persons who Defendant has an obligation to indemnify on account of the Released Claims.

Released Claims: All claims for civil penalties under PAGA arising from the same facts and/or claims alleged in the Action, or reasonably related to claims that were pled or that reasonably could have been pled under PAGA based on the facts alleged in the Action, that accrue through the date the Court enters its order approving this PAGA Settlement. This includes, without limitation: (A) claims for civil penalties under the PAGA for violations of California Labor Code §§ 201-204, 218, 218.5, 226, 226.7, 246, 510, 512, 558, 1174, 1194, 1194.2, 1197, 1197.1, 2802, California Code of Regulations, Title 8 section 11050 *et seq.*, and any other applicable Industrial Welfare Commission ("IWC") Wage Orders, for failure to pay for all hours worked, unpaid minimum wages, unpaid overtime, failure to pay unpaid double time, failure to timely pay commission wages, failure to provide meal

periods, failure to provide rest breaks, failure to pay meal period premiums, failure to pay rest break premiums, failure to pay meal period and rest break premiums at the proper rate of pay, failure to reimburse for reasonable business expenses, failure to pay all wages owed to discharged or resigned employees in a timely manner, failure to timely pay wages/failure to pay wages two times per month, failure to provide accurate, itemized wage statements, failure to comply with the wage statement requirements of Cal. Labor Code § 226, failure to provide notice of paid sick time and accrual, and failure to pay all earned wages in a timely manner, including but not limited to claims under California Labor Code; (B) all claims that Defendant is liable for the attorneys' fees and costs incurred in the prosecution of this Action on behalf of the PAGA Members; (C) all claims that Defendant is liable for any other remedies, penalties, or interest based on the PAGA claims; and (D) all claims that Plaintiff and/or the PAGA Members may have against the Released Parties relating to the payment, taxation, and allocation of attorneys' fees and costs to Plaintiff's Counsel pursuant to this PAGA Settlement Agreement. The period of the release shall extend to the limits of the PAGA Period.

5. *How Much Am I Receiving From This Settlement?*

The total maximum amount that Defendant is required to pay under the settlement is \$300,000 ("Gross Settlement Amount" or "GSA"). The "Net Settlement Amount" or "NSA" means the portion of the Gross Settlement Amount after the deduction of (1) the PAGA Representative Enhancement Payment to Plaintiff in an amount of \$10,000, for prosecution of the Action; (2) the Settlement Administration Costs to the Settlement Administrator in the amount of \$4,593; and (3) payment to Plaintiff's Counsel in the amount of \$100,000 (one-third of the Gross Settlement Amount) for attorneys' fees and an amount of \$5,468.92 for litigation costs. All of these payments were approved by the Court.

After deducting the above-referenced items, the remaining Net Settlement Amount, will be divided 75% to the LWDA, pursuant to California Labor Code § 2699, subdivision (i), for enforcement of labor laws, including the administration of this part, and for education of employers and employees about their rights and responsibilities under this code, to be continuously appropriated to supplement and not supplant the funding to the agency for those purposes; and 25% to the PAGA Members. Therefore, the LWDA will receive \$189,938.08 and \$47,484.52 is left for distribution to PAGA Members.

All PAGA Members will receive an Aggrieved Employee Settlement Payment. The amount of each PAGA Member's Aggrieved Employee Settlement Payment will be calculated based on the total number of weekly pay periods each PAGA Member worked as a non-exempt hourly employee in California during the PAGA Period. The PAGA Member must have worked one (1) or more shifts in order for a weekly pay period to count as "worked." The Weekly Value will be calculated once the Net PAGA Settlement Amount and Aggrieved Employee Settlement Fund are determined based on the amounts approved by the Court for the Attorneys' Fees and Costs in connection with the PAGA Settlement, and PAGA Settlement Administration Costs. The Weekly Value will be the quotient of dividing the Aggrieved Employee Settlement Fund by the Total Weekly Pay Periods. The Weekly Value will be rounded to the nearest cent.

The check included with this notice represents your settlement share based on this formula. For purposes of computing taxes, one-hundred percent (100%) of the amount of money you received is considered to be a civil penalty and has not been subjected to tax withholding.

It is strongly recommended that upon receipt of your Individual Settlement Share check, you immediately cash it or cash it before the **180-day** void date shown on each check. Funds represented by settlement checks returned as undeliverable and those settlement checks remaining un-cashed for more than 180 days after issuance will be transmitted to California State Controller's Office Unclaimed Property Fund in the name of the PAGA Member.

You will not be retaliated against for cashing the settlement check included with this notice.

6. *How Can I Obtain Additional Information or Court Documents?*

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact Plaintiff's Counsel listed above, or the Settlement Administrator at the telephone number listed below, toll free. Please refer to the Sunbelt Towing settlement.

PLEASE DO NOT CALL THE COURT OR COURT'S CLERK FOR INFORMATION ABOUT THIS SETTLEMENT.

Exhibit 2

Westlaw Court Express

LEGAL BILLING REPORT

VOLUME 14, NUMBER 3

December 2012

CA REGION

BY REGION, BY FIRM

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DLA Piper LLP	3
Gibson Dunn & Crutcher, LLP	3
Kornfeld, Nyberg, Bendes & Kuttner, P.C.	4
Loeb & Loeb	4
Pachnis Stang Ziehl Young Jones & Weintraub	4-5
Paul Hastings LLP	5
Seyfarth Shaw LLP	5
Slidley Austin LLP	6
Torjs LLP	7

California Report

FIRM		GRADUATED	ADMITTED	STATE	RATE	HOURS	TOTAL
Akin Gump Strauss Hauer & Feld LLP	Partner	1993	1993	CA	\$ 825.00	8.10	\$ 6,682.50
	David P. Simonds	1993	1993	CA	\$ 725.00	2.60	\$ 1,885.00
	Senior Counsel	1993	1993	CA	\$ 725.00	10.70	\$ 8,567.50
	Edward P. Christian						
TOTAL							
U.S.B.C. New York Southern							
Private Air/Inns Corp (12-11343 REG)							
From the fee application covering							
July 1, 2012 through October 31, 2012							
NJ Ranking: 40							
Firm Size: 791							
U.S.B.C. Delaware							
Trident Microsystems, Inc. (12-10063 CSS)							
From the fee application covering							
October 1, 2012 through October 31, 2012							
NJ Ranking: 2							
Firm Size: 3,348							
U.S.B.C. New York Southern							
LightSquared, Inc. (12-12080 SCC)							
From the fee application covering							
October 1, 2012 through October 31, 2012							
NJ Ranking: .21							
Firm Size: 1,039							

DLA Piper LLP		1999	1999	CA	\$ 790.00	0.60	\$ 474.00
Partner	Nate McQuirk	1979	1979	CA	\$ 780.00	39.40	\$ 30,732.00
Partner	Richard Yankovich	1999	1999	CA	\$ 780.00	90.30	\$ 68,176.50
Partner	Ann Lawrence	2000	2000	CA	\$ 765.00	1.30	\$ 916.50
Partner	Heather Dunn	1998	1998	CA	\$ 705.00	12.70	\$ 8,285.00
Partner	Jeffrey D. Aaronson	2002	2002	CA	\$ 640.00	3.10	\$ 1,984.00
Of Counsel	Ben Gipson	2004	2004	CA	\$ 630.00	170.00	\$ 107,100.00
Associate	Bethand Pan	2008	2008	CA	\$ 510.00	67.00	\$ 34,170.00
Associate	Diana M. Melzer	2011	2011	CA	\$ 470.00	1.80	\$ 846.00
Associate	Natasha Heleth	2000	2000	CA	\$ 400.00	4.10	\$ 1,640.00
Associate	Thia Bhanthall					390.30	\$ 254,254.00
TOTAL							
Gibson Dunn & Crutcher, LLP		2010	2010	CA	\$ 445.00	18.20	\$ 8,544.00
Associate	Virginia Pitt	2011	2011	CA	\$ 395.00	12.60	\$ 4,977.00
Associate	Matthew Bouslog					31.80	\$ 13,921.00
TOTAL							

California Report

FIRM

Kornfield, Nyberg, Bander & Kuhrner, P.C.,
Partner Eric A. Nyberg
Paraprofessional Nancy L. Nyberg

GRADUATED	ADMITTED	STATE	RATE	HOURS	TOTAL
1987	1987	CA	\$ 425.00	15.90	\$ 7,182.50
			90.00	0.30	24.00
				17.20	\$ 7,206.50
TOTAL					

U.S.B.C California Northern
Hawrey LLP(41-34376-DJ)
From the fee application covering
August 1, 2012 through August 31, 2012
NJ Ranking: n/a
Firm Size: 3

FIRM

Loeb & Loeb
Partner Lance N. Jurich
Partner Christopher W. Campbell
Associate Ryan M. Audin
Associate Jeanna C. Wanless
Paraprofessional S. Steadman

GRADUATED	ADMITTED	STATE	RATE	HOURS	TOTAL
1987	1987	CA	\$ 695.00	1.50	\$ 1,320.50
1999	2000	CA	550.00	46.20	30,030.00
2007	2007	CA	550.00	122.30	67,255.00
1993	1993	CA	435.00	18.20	7,917.00
			280.00	0.20	62.00
TOTAL					\$ 105,584.50

U.S.B.C California Central
American Medical Technologies(8-12-12339-MW)
From the fee application covering
July 1, 2012 to September 30, 2012
NJ Ranking: 144
Firm Size: 301

FIRM

Pachtulski Stang Ziehl Young Jones & Weintraub
Of Counsel James K. T. Hunter
Partner Samuel R. Matzel
Of Counsel Jeffrey Kandell
Partner Mahira S. Pagay
Partner Scotta McFarland
Of Counsel Mary Lane
Partner Nina Hong
Associate Teddy M. Kapur
Librarian Leslie A. Forrester
Paraprofessional Felice Harrison

GRADUATED	ADMITTED	STATE	RATE	HOURS	TOTAL
1976	1976	CA	\$ 745.00	0.10	\$ 74.50
1985	1985	CA	725.00	40.90	29,652.50
1984	1984	CA	615.00	0.50	307.50
1997	1997	CA	615.00	1.80	1,107.00
1980	1980	CA	615.00	47.80	29,397.00
1976	1976	CA	595.00	3.80	2,261.00
1995	1995	CA	595.00	0.50	297.50
2004	2006	CA	495.00	8.40	4,158.00
			295.00	1.10	324.50
			275.00	23.00	6,325.00
TOTAL					\$ 73,904.50

U.S.B.C California Central
American Medical Technologies(8-12-12339-MW)
From the fee application covering
July 1, 2012 to July 31, 2012
NJ Ranking: n/a
Firm Size: 55

California Report

FIRM:
Pecholski & Stang Ziehl Young Jones & Weintraub

	GRADUATED	ADMITTED	STATE	RATE	HOURS	TOTAL
Partner	1979	1979	CA	\$ 975.00	0.80	\$ 780.00
Partner	1982	1983	CA	\$ 875.00	12.80	\$ 11,200.00
Of Counsel	1975	1976	CA	\$ 745.00	4.00	\$ 2,980.00
Partner	1983	1983	CA	\$ 745.00	50.80	\$ 37,845.00
Partner	1983	1984	CA	\$ 725.00	11.10	\$ 8,047.50
Of Counsel	1987	1987	CA	\$ 675.00	15.80	\$ 10,452.50
Of Counsel	1987	1987	CA	\$ 595.00	5.20	\$ 3,094.00
Of Counsel	1980	1980	CA	\$ 575.00	4.30	\$ 2,472.50
Associate	2004	2010	CA	\$ 525.00	31.00	\$ 16,275.00
Paraprofessional				285.00	2.50	\$ 862.50
Paraprofessional				285.00	7.70	\$ 2,040.50
Paraprofessional				285.00	1.00	\$ 285.00
Case Management				185.00	5.40	\$ 993.00
Case Management				185.00	0.40	\$ 74.00
TOTAL					152.50	\$ 57,198.50

FIRM:
Paul Hastings LLP

Partner	1976	1976	CA	\$ 840.00	15.80	\$ 13,272.00
Of Counsel	1983	1983	CA	\$ 785.00	132.40	\$ 115,062.00
Associate	2006	2006	CA	\$ 615.00	31.10	\$ 19,126.50
Associate	2007	2008	CA	\$ 575.00	181.70	\$ 104,477.50
Associate	2009	2009	CA	\$ 485.00	87.10	\$ 42,343.50
Associate	2010	2010	CA	\$ 385.00	57.00	\$ 37,345.00
Associate	2010	2010	CA	\$ 385.00	160.20	\$ 81,577.00
TOTAL					725.30	\$ 393,203.50

FIRM:
Seyfarth Shaw LLP

Counsel	1996	1996	CA	\$ 580.00	2.40	\$ 1,832.00
Partner	1985	1985	CA	\$ 620.00	1.50	\$ 930.00
Counsel	1997	1997	CA	\$ 540.00	55.60	\$ 30,564.00
TOTAL					60.50	\$ 33,416.00

U.S.B.C Delaware
Trident Microsystems, Inc. (12-10089 (CSS))

From the fee application covering
September 1, 2012 through September 30, 2012

N.J. Ranking: n/a
Firm Size: 55

U.S.B.C New York Southern
AMR Corporation (11-15463 (SHL))

From the fee application covering
July 1, 2012 through July 31, 2012

N.J. Ranking: 30
Firm Size: 851

U.S.B.C New York Southern
Grubb & Ellis Company (12-10085 (MG))

From the fee application covering
July 2, 2012 through October 31, 2012

N.J. Ranking: 50
Firm Size: 733

California Report

FIRM Sidley Austin LLP

	GRADUATED	ADMITTED	STATE	RATE	HOURS	TOTAL
Partner	1995	1995	CA	\$ 875.00	18.10	\$ 12,217.50
Associate	2010	2010	CA	450.00	117.50	53,065.00
Associate	2011	2011	CA	355.00	41.00	14,555.00
TOTAL					177.00	\$ 79,827.50

U.S.B.C Delaware
Tribune Company, et al. (08-13144 FJCJ)

From the fee application covering
September 1, 2012 through September 30, 2012

NLI Ranking: 10
Firm Size: 1,592

Tenys LLP

Partner	1983	1983	CA	\$ 995.00	5.50	\$ 5,472.50
Partner	1974	1974	CA	995.00	0.40	398.00
Partner	1977	1977	CA	810.00	0.50	405.00
Associate	2008	2008	CA	695.00	21.10	14,564.50
Associate	2007	2007	CA	565.00	110.00	62,150.00
Associate	2008	2008	CA	500.00	0.50	250.00
Library				355.00	0.80	284.00
Law Clerk				395.00	43.90	13,389.50
Paraprofessional				250.00	28.20	7,332.00
Paraprofessional					210.90	\$ 104,345.50
TOTAL						

U.S.B.C Delaware
Nettel Networks Inc. (09-10138)

From the fee application covering
August 1, 2012 through October 31, 2012

NLI Ranking: n/a
Firm Size: 236

Westlaw Court Express

LEGAL BILLING REPORT

VOLUME 14, NUMBER 3

December 2012

CA REGION

BY BILLING RATE

California Rate Report

PROFESSIONAL	FIRM	GRADUATED	ADMITTED	STATE	RATE	HOURS	TOTAL
Partner	John Cameron	1983	1983	CA	\$ 995.00	5.50	\$ 5,472.50
Partner	Shelia Block	1974	1974	CA	\$ 995.00	0.40	398.00
Partner	Richard M. Pachulski	1979	1979	CA	\$ 975.00	0.80	780.00
Partner	Ira D. Kharasch	1982	1982	CA	\$ 875.00	12.80	11,200.00
Partner	J. AL Latham Jr.	1978	1978	CA	\$ 840.00	15.80	13,272.00
Partner	David P. Stronids	1983	1983	CA	\$ 825.00	9.10	6,682.50
Partner	Michael Rotszala	1977	1977	CA	\$ 810.00	0.50	405.00
Partner	Nate McKittick	1989	1989	CA	\$ 780.00	0.60	474.00
Partner	Richard Yankeiwich	1979	1979	CA	\$ 760.00	39.40	30,732.00
Partner	Ana Lawrance	1989	1989	CA	\$ 755.00	50.30	68,176.50
Of Counsel	Jennifer S. Baldocchi	1983	1983	CA	\$ 755.00	152.40	115,062.00
Of Counsel	James K-T. Hunter	1976	1976	CA	\$ 745.00	0.10	74.50
Of Counsel	James K-T. Hunter	1976	1976	CA	\$ 745.00	4.00	2,980.00
Partner	John D. Fiero	1989	1989	CA	\$ 745.00	50.80	37,846.00
Senior Counsel	Edward P. Christian	1985	1985	CA	\$ 725.00	2.60	1,885.00
Partner	Samuel R. Malzel	1985	1985	CA	\$ 725.00	40.90	29,632.50
Partner	Bruce Grohschal	1983	1984	CA	\$ 725.00	11.10	8,047.50
Partner	Heather Dunn	2000	2000	CA	\$ 705.00	1.30	916.50
Partner	Lance N. Jurth	1987	1987	CA	\$ 695.00	1.90	1,320.50
Associate	Jessica Bullock	2003	2003	CA	\$ 695.00	21.10	14,684.50
Counsel	Ellen Sueda	1983	1983	CA	\$ 675.00	2.40	1,632.00
Of Counsel	Henry Hochman	1987	1987	CA	\$ 675.00	16.50	10,462.50
Partner	Max C. Fischer	1985	1985	CA	\$ 675.00	18.10	12,217.50
Partner	Jeffrey D. Karanson	1988	1988	CA	\$ 650.00	12.70	8,255.00
Partner	Christopher W. Campbell	1989	1989	CA	\$ 650.00	46.20	30,030.00
Of Counsel	Ben Gibson	2002	2002	CA	\$ 640.00	3.10	1,984.00
Associate	Bertrand Pan	2004	2004	CA	\$ 630.00	170.00	107,100.00
Partner	Colleen M. Regan	1985	1985	CA	\$ 620.00	1.50	930.00
Of Counsel	Jeffrey Kamel	1984	1984	CA	\$ 615.00	0.50	307.50
Partner	Malhar S. Pargy	1984	1984	CA	\$ 615.00	1.60	1,107.00
Partner	Scott McFarland	1980	1980	CA	\$ 615.00	47.80	29,337.00
Associate	Melinda A. Gordon	2009	2009	CA	\$ 615.00	31.10	19,126.50
Of Counsel	Mary Lane	1976	1976	CA	\$ 595.00	3.90	2,261.00
Partner	Nina Hong	1986	1986	CA	\$ 595.00	0.90	535.50
Of Counsel	Gabriele Rohrer	1997	1997	CA	\$ 595.00	5.20	3,094.00

California Rate Report

PROFESSIONAL	FIRM	GRADUATED	ADMITTED	STATE	RATE	HOURS	TOTAL
Of Counsel	Pachulski Stang Ziehl Young Jones & Weintraub	1980	1980	CA	\$ 575.00	4.30	\$ 2,472.50
William Ramseyer	Paul Hastings LLP	2007	2008	CA	\$ 575.00	191.70	104,477.50
Robert E. Zivner	Tony's LLP	2007	2007	CA	\$ 555.00	110.00	62,160.00
Adam Siverts	Loeb & Loeb	2007	2007	CA	\$ 550.00	122.30	67,265.00
Ryan M. Aulich	Seyfarth Shaw LLP	1997	1997	CA	\$ 40.00	56.60	30,854.00
Holger Basch	Pachulski Stang Ziehl Young Jones & Weintraub	2004	2010	CA	\$ 525.00	31.00	16,275.00
John W. Lucas	DLA Piper LLP	2008	2008	CA	\$ 510.00	87.00	34,170.00
Diana M. Malzer	Tony's LLP	2008	2008	CA	\$ 500.00	0.50	250.00
Madhew Akoy	Pachulski Stang Ziehl Young Jones & Weintraub	2004	2008	CA	\$ 495.00	8.40	4,158.00
Teddy M. Kumar	Paul Hastings LLP	2009	2009	CA	\$ 485.00	87.10	42,243.00
Liam M. Paez	DLA Piper LLP	2011	2011	CA	\$ 470.00	1.80	846.00
Natasha Hsieh	Sidley Austin LLP	2010	2010	CA	\$ 450.00	117.50	53,055.00
Michael T. Gustafson	Gibson Dunn & Crutcher, LLP	2010	2010	CA	\$ 445.00	19.20	8,544.00
Virginia FRI	Loeb & Loeb	1993	1993	CA	\$ 435.00	18.20	7,917.00
Jeanne C. Wanlass	Kornfield, Nyberg, Bendes & Kuhner, P.C.	1987	1987	CA	\$ 425.00	16.90	7,182.50
Eric A. Nyberg	DLA Piper LLP	2000	2000	CA	\$ 400.00	4.10	1,640.00
Tina Bhattachali	Gibson Dunn & Crutcher, LLP	2011	2011	CA	\$ 395.00	12.60	4,977.00
Matthew Bourisog	Paul Hastings LLP	2010	2010	CA	\$ 385.00	97.00	37,545.00
Ji Hae Kim	Paul Hastings LLP	2010	2010	CA	\$ 385.00	160.20	61,677.00
Mario C. Ortega	Sidley Austin LLP	2011	2011	CA	\$ 355.00	41.00	14,555.00
Francis S. Lum	Tony's LLP	2000	2000	CA	\$ 305.00	0.80	264.00
Clare Mauro	Tony's LLP	2000	2000	CA	\$ 305.00	43.90	13,389.50
Bradley Tordick	Pachulski Stang Ziehl Young Jones & Weintraub	2000	2000	CA	\$ 285.00	1.10	324.50
Leslie A. Forrester	Pachulski Stang Ziehl Young Jones & Weintraub	2000	2000	CA	\$ 275.00	23.00	6,325.00
Paraprofessional Felicia Harrison	Pachulski Stang Ziehl Young Jones & Weintraub	2000	2000	CA	\$ 265.00	2.50	662.50
Paraprofessional Patricia Cuniff	Pachulski Stang Ziehl Young Jones & Weintraub	2000	2000	CA	\$ 265.00	7.70	2,040.50
Paraprofessional Louise Tuzchak	Pachulski Stang Ziehl Young Jones & Weintraub	2000	2000	CA	\$ 265.00	1.00	265.00
Paraprofessional Cheryl A. Krotts	Loeb & Loeb	2000	2000	CA	\$ 260.00	0.20	52.00
Paraprofessional S. Steadman	Tony's LLP	2000	2000	CA	\$ 260.00	28.20	7,332.00
Paraprofessional Dianna Rajah	Pachulski Stang Ziehl Young Jones & Weintraub	2000	2000	CA	\$ 185.00	5.40	595.00
Case Manager Sharita Filman	Pachulski Stang Ziehl Young Jones & Weintraub	2000	2000	CA	\$ 185.00	0.40	74.00
Case Manager Dina K. Whaley	Kornfield, Nyberg, Bendes & Kuhner, P.C.	2000	2000	CA	\$ 80.00	0.30	24.00
Paraprofessional Nancy L. Nyberg							

Exhibit 3

1 DEBRA L. HURST (SBN 106118)
2 KYLE VAN DYKE (SBN 171186)
3 JULIE CORBO RIDLEY (SBN 234274)
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Additional Counsel Listed After Signature Page
Attorneys for Plaintiffs and the certified Class

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO, CENTRAL DIVISION

ADAM HOHNBAUM, ILLYA HAASE,
ROMEO OSORIO, AMANDA JUNE RADER,
and SANTANA ALVARADO and ROES 1
through 500, Inclusive on behalf of themselves
and all others similarly situated, and on behalf
of the general public,

Plaintiffs,

v.

BRINKER RESTAURANT CORPORATION,
BRINKER INTERNATIONAL, INC. and
BRINKER INTERNATIONAL PAYROLL
COMPANY, LP a Delaware Corporation; and
DOES 1 through 500, Inclusive

Defendants.

CASE NO.: GIC834348

CLASS ACTION

DECLARATION OF RICHARD M.
PEARL IN SUPPORT OF PLAINTIFFS'
UNOPPOSED MOTION FOR FINAL
APPROVAL AND OF CLASS ACTION
SETTLEMENT AND MOTION FOR
AWARD OF ATTORNEYS' FEES,
COSTS, CLASS REPRESENTATIVE
SERVICE PAYMENTS, AND CLAIMS
ADMINISTRATION EXPENSES

Date: December 12, 2014

Time: 1:30 p.m.

Dept.: C-69

Judge: Hon. Katherine A. Bacal

Complaint Filed: August 16, 2004

1 I, RICHARD M. PEARL, hereby declare the following:

2 1. I am a member in good standing of the California State Bar. I am in
3 private practice as the principal of my own law firm, the Law Offices of Richard
4 M. Pearl, in Berkeley, California. I specialize in issues related to court-awarded
5 attorneys' fees, including the representation of parties in fee litigation and
6 appeals, serving as an expert witness, and serving as a mediator and arbitrator in
7 disputes concerning attorneys' fees and related issues. In this case, I have been
8 asked by Plaintiffs' counsel to render my opinion on the reasonableness of the
9 hourly rates they are requesting in this matter. I make this Declaration in Support
10 of Plaintiffs' Motion for Award of Reasonable Attorneys' Fees.

11 **Professional Background**

12 1. Briefly summarized, my background is as follows: I am a 1969
13 graduate of Boalt Hall School of Law, University of California, Berkeley,
14 California. I took the California Bar Examination in August 1969 and passed it in
15 November of that year, but because I was working as an attorney in Atlanta,
16 Georgia for the Legal Aid Society of Atlanta (LASA), I was not admitted to the
17 California Bar until January 1970. I worked for LASA until summer of 1971,
18 when I then went to work in California's Central Valley for California Rural Legal
19 Assistance, Inc. (CRLA), a statewide legal services program. From 1977 to 1982,
20 I was CRLA's Director of Litigation, supervising more than fifty attorneys. In
21 1982, I went into private practice, first in a small law firm, then as a sole
22 practitioner. Martindale Hubbell rates my law firm "AV." I also have been
23 selected as a Northern California "Super Lawyer" in Appellate Law for 2005,
24 2006, 2007, 2008, 2010, 2011, 2012, 2013, and 2014. A copy of my current
25 Resume is attached hereto as Exhibit A.

26 2. Since 1982, my practice has been a general civil litigation and
27 appellate practice, with an emphasis on cases and appeals involving court-awarded
28 attorneys' fees. I also am the author of *California Attorney Fee Awards* (3d ed.

1 Cal. CEB 2010) and its February 2011, 2012, 2013, and March 2014 Supplements,
2 as well as all its previous editions and annual supplements. California appellate
3 courts have cited this treatise on more than 35 occasions. *See, e.g., Graham v.*
4 *DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 576, 584; *Lolley v. Campbell* (2002)
5 28 Cal.4th 367, 373; *Chacon v. Litke* (2010) 181 Cal.App.4th 1234, 1259; *Syers*
6 *Properties III, Inc. v. Rankin* (2014) 226 Cal.App.4th 691, 698, 700. I also have
7 lectured and written extensively on court-awarded attorneys' fees. I have been a
8 member of the California State Bar's Attorneys' Fees Task Force and have
9 testified before the State Bar Board of Governors and the California Legislature on
10 attorneys' fee issues. In addition, I authored a federal manual on attorneys' fees
11 entitled *Attorneys' Fees: A Legal Services Practice Manual*, published by the
12 Legal Services Corporation. I also co-authored the chapter on "Attorney Fees" in
13 Volume 2 of CEB's *Wrongful Employment Termination Practice*, 2d Ed. (1997).

14 3. More than 90% of my practice is devoted to issues involving court-
15 awarded attorneys' fees. I have been counsel in over 180 attorneys' fee
16 applications in state and federal courts, primarily representing other attorneys. I
17 also have briefed and argued more than 40 appeals, at least 25 of which have
18 involved attorneys' fees issues. I have successfully handled five cases in the
19 California Supreme Court involving court-awarded attorneys' fees: (1) *Maria P. v.*
20 *Riles* (1987) 43 Cal.3d 1281, a landmark early decision on the scope of California
21 Code of Civil Procedure section 1021.5; (2) *Delaney v. Baker* (1999) 20 Cal.4th
22 23, which held that heightened remedies, including attorneys' fees, are available in
23 suits against nursing homes under California's Elder Abuse Act; (3) *Ketchum v.*
24 *Moses* (2001) 24 Cal.4th 1122, which held, *inter alia*, that contingent risk
25 multipliers remain available under California attorney fee law, despite the United
26 States Supreme Court's contrary ruling on federal law (note that in *Ketchum*, I was
27 primary appellate counsel in the Court of Appeal and "second chair" in the
28 Supreme Court); (4) *Flannery v. Prentice* (2001) 26 Cal.4th 572, which held that in

1 the absence of an agreement to the contrary, statutory attorneys' fees belong to the
2 attorney whose services they are based upon; and (5) *Graham v. DaimlerChrysler*
3 *Corp.* (2004) 34 Cal.4th 553, which held, *inter alia*, that the "catalyst" theory was
4 still valid under California law despite federal Supreme Court authority to the
5 contrary. I also represented and argued on behalf of *amicus curiae* in
6 *Conservatorship of McQueen* (2014) 59 Cal.4th 602, and, along with Richard
7 Rothschild, filed an *amicus curiae* brief in *Vasquez v. State of California* (2009) 45
8 Cal.4th 243. I also have handled numerous other appeals involving attorney's fees,
9 including: *Davis v. City & County of San Francisco* (9th Cir. 1992) 976 F.2d 1536;
10 *Mangold v. CPUC* (9th Cir. 1995) 67 F.3d 1470; *Moore v. Bank of America* (9th
11 Cir. 2007) 245 Fed.Appx. 613; *Velez v. Wynne* (9th Cir. 2007) 2007
12 U.S.App.LEXIS 2194; *Camacho v. Bridgeport Financial, Inc.* (9th Cir. 2008) 523
13 F.3d 973; *Center for Biological Diversity v. County of San Bernardino* (2010) 185
14 Cal.App.4th 866; and *Environmental Protection Information Center v. California*
15 *Dept. of Forestry & Fire Protection et al* (2010) 190 Cal.App.4th 217. For an
16 expanded list of my representative decisions, see Exhibit A.

17 4. I also have been retained by various governmental entities, including
18 the State of California, at my then current rates to consult with them regarding their
19 affirmative attorney fee claims.

20 5. I am frequently called upon to opine about the reasonableness of
21 attorneys' fees, and numerous federal and state courts have cited my testimony on
22 that issue favorably. The reported cases referencing my testimony include the
23 following California appellate courts: *Laffite v. Robert Half Int'l* (2014)
24 __Cal.App.4th __, 2014 Cal.App.LEXIS 1059; *In re Tobacco Cases I* (2013) 216
25 Cal.App.4th 570; *Heritage Pacific Financial LLC v. Monroy* (2013) 215
26 Cal.App.4th 972, 1009; *Children's Hospital & Medical Center v. Bonta* (2002) 97
27 Cal.App.4th 740; *Wilkinson v. South City Ford* (2010) 2010 Cal.App.Unpub.
28 LEXIS 8680; *Church of Scientology v. Wollersheim* (1996) 42 Cal.App.4th 628

1 (anti-SLAPP case). My declaration also has been favorably referenced by the
2 following federal courts: *Prison Legal News v. Schwarzenegger* (9th Cir. 2010)
3 608 F.3d 446, 455, in which the expert declaration referred to in that opinion is
4 mine; *Antoninetti v. Chipotle Mexican Grill, Inc.* (9th Cir. 2012) Order filed Dec.
5 26, 2012; *In re TFT-LCD (Flat Panel) Antitrust Litigation* (N.D.Cal. 2013) No. M
6 07-1827 SI, MDL, No. 1827, Report and Recommendation of Special Master re
7 Motions for Attorneys' Fees etc., filed Nov. 9, 2012, adopted in relevant part, 2013
8 U.S.Dist.LEXIS 49885; *Rosenfeld v. United States Dept. of Justice* (N.D. Cal.
9 2012) 904 F.Supp.2d 988; *Stonebrae v. Toll Bros.* (N.D. Cal. 2011) 2011
10 U.S.Dist.LEXIS 39832, at *9 (thorough discussion), *aff'd* (9th Cir. 2013) 2013
11 U.S.App.LEXIS 6369; *Hajro v. United States Citizenship & Immigration Service*
12 (N.D.Cal 2012) 900 F.Supp.2d 1034, 1054; *Armstrong v. Brown* (N.D. Cal. 2011)
13 2011 U.S.Dist.LEXIS 87428; *Californians for Disability Rights, Inc. v. California*
14 *Dept. of Transportation* (N.D. Cal. 2010) 2010 U.S.Dist.LEXIS 141030; *Prison*
15 *Legal News v. Schwarzenegger* (N.D. Cal. 2008) 561 F.Supp.2d 1095 (an earlier
16 motion); *Oberfelder v. City of Petaluma* (N.D. Cal. 2002) 2002 U.S.Dist.LEXIS
17 8635, *aff'd* (9th Cir. 2003) 2003 U.S.App.LEXIS 11371; *Bancroft v. Trizechahn*
18 *Corp.*, C.D. Cal. No. CV 02-2373 SVW (FMOx), Order Granting Reasonable
19 Attorneys' Fees etc., filed Aug. 14, 2006; *Willoughby v. DT Credit Corp.*, C.D.
20 Cal. No. CV 05-05907 MMM (Cwx), Order Awarding Reasonable Attorneys' Fees
21 After Remand, filed July 17, 2006; *A.D. v. California Highway Patrol* (N.D.Cal.
22 2009) 2009 U.S.Dist.LEXIS 110743, *rev's'd on other grounds* (9th Cir. 2013) 712
23 F.3d 446, *reaffirmed and additional fees awarded on remand* at 2013
24 U.S.Dist.LEXIS 169275; *National Federation of the Blind v. Target Corp.*
25 (N.D.Cal. 2009) 2009 U.S.Dist.LEXIS 67139. In addition, numerous trial courts
26 have relied upon my testimony in unpublished fee orders.

27 6. I also have extensive experience litigating the merits of class actions,
28 including numerous housing, government benefits, and consumer class actions.

1 See, e.g., *Employment Dev. Dept. v. Superior Court (Boren)* (1981) 30 Cal.3d 256.

2 I also have represented Class Counsel on their fee requests in numerous highly-
3 contested class actions, including *Davis v. City & County of San Francisco, supra*,
4 *Duran v. First National Bank*, Alameda County Superior Court No. 2001-035537,
5 and *Molina, et al. v. Lexmark International, et al.*, Los Angeles County Superior
6 Court No. BC339177.

7 7. In this matter, I have reviewed several documents from the underlying
8 litigation and fee motion, including the entire Motion for Preliminary Approval, as
9 well as the declarations of Plaintiffs' principal counsel filed in support of the
10 instant motion. I also have discussed the case with class counsel Julie Corbo-
11 Ridley.

12 **PLAINTIFFS' ATTORNEYS' HOURLY RATES ARE**
13 **REASONABLE**

14 8. Through my writing and practice, I have become knowledgeable
15 about the non-contingent market rates charged by attorneys in California and
16 elsewhere. I have obtained this knowledge in several ways: (1) by handling
17 attorneys' fee litigation; (2) by preparing expert declarations in numerous cases;
18 (3) by discussing fees with other attorneys; (4) by obtaining declarations regarding
19 prevailing market rates in cases in which I represent attorneys seeking fees; and (5)
20 by reviewing attorneys' fee applications and awards in other cases, as well as
21 surveys and articles on attorneys' fees in the legal newspapers and treatises.

22 9. I am aware of the hourly rates being requested by Plaintiffs' attorneys
23 in this case, their experience and qualifications, the nature of the work performed,
24 and the results achieved. Under California law, Plaintiff's attorneys are entitled to
25 their requested rates if those rates are "within the range of reasonable rates charged
26 by and judicially awarded comparable attorneys for comparable work." *Children's*
27 *Hosp. & Med. Ctr. v. Bonta [CHMC]* (2002) 97 Cal.App.4th 740, 783. In my
28 opinion, the information about non-contingent hourly rates I have gathered, some

1 of which is summarized below, shows that the rates requested by Plaintiffs'
2 counsel in this matter are well within the range of the non-contingent market rates
3 charged by California and San Diego attorneys of reasonably comparable
4 experience, skill, and expertise for reasonably comparable services. I base that
5 opinion in large part on the following data:

6 **Court Awards**

7 10. Several of the Plaintiffs' law firms have had the hourly rates requested
8 here, or their equivalent rates in prior years, approved by the courts in other class
9 actions. For example, Hurst & Hurst's rates were found reasonable in *Serochi v.*
10 *Bosa Development California II, Inc., et al.*, San Diego Superior Court Case No.:
11 37-2009-00096686-CU-BT-CTL. Similarly, Ms. Lorens's 2012 rate of \$795/hour
12 was approved in November 2012 in *Hoch v. Rockin' Baja Coastal Cantina, et al.*,
13 San Diego Superior Court Case No. 37-2012-00095176-CU-OE-CTL/*Mojica v.*
14 *Rockin' Baja Coastal Cantina, et al.*, San Diego Superior Court Case No. 37-2012-
15 00091490-CU-OE-CTL. This is highly probative evidence of the reasonableness
16 of their rates in subsequent reasonably similar cases.

17 11. Counsel's rates are also consistent with the following court awards
18 from the Southern District of California¹:

19 (1) In *Hartless v. Clorox*, 273 F.R.D. 630, 644 (S.D. Cal. 2011), the
20 Court found, *inter alia*, that class counsel's requested rates were consistent with
21 the hourly rates found reasonable in numerous other class actions and with rates
22 charged by other firms in the San Diego area, including rates of \$795 per hour for a
23 25-year attorney and \$675 per hour for an experienced partner. 273 F.R.D. at 644.

24
25 ¹ In my experience, for purposes of the hourly rates charged and found reasonable by the courts,
26 the differences between types of class actions (i.e. wage and hour class actions versus consumer
27 class actions) are not significant, either factually or legally. See, e.g., *Heritage Pacific Financial,*
28 *LLC v. Monroy*, 215 Cal.App.4th 972, 1009 (2013); *Camacho v. Bridgeport Financial, Inc.*, 523
F.3d 973, 979 (9th Cir. 2008).

1 Given the rate increases that have occurred over the ensuing three years, counsel's
2 rates here are certainly within the same range.

3 (2) In *Shames v. Hertz Corp.*, 2012-2 Trade Case. (CCH) ¶78,120 (S.D.
4 Cal. 2012), the Court, relying on *Hartless*, found that plaintiffs' San Diego
5 Counsel there were comparable in skill and experience to the attorneys whose rates
6 were found reasonable in *Hartless*. At *59-61.

7 (3) In *Briarwood Capital LLC v. HCC Investors LLC*, San Diego
8 Superior Court No. GIC877446, on March 30, 2011, the court (Judge William R.
9 Nevitt Jr.) found that the 2009 hourly rates charged by the San Diego office of
10 Bernstein Litowitz Berger & Grossman LLP -- \$725 for partners, \$490-550 for
11 associates -- were reasonable.

12 (4) Similarly, in the same case, the court found that the 2009 rates
13 charged by the Century City office of O'Melveny & Myers LLP, including rates of
14 \$860-950 for a 36-37 year attorney and \$700-710 for 16-18 year attorneys also
15 were reasonable for San Diego litigation. Again, given the rate increases that have
16 occurred over the past three years, Plaintiffs' attorneys' current rates here are in the
17 same range as those found reasonable in *Briarwood Capital*.

18 (5) In *Atlas v. Accredited Home Lenders Holdings, Co.* Case No. 07-
19 CV-488-H-CAB (S.D. Cal. 2009), the court (Judge Marilyn Huff) found the 2009
20 rates charged by Bernstein Litowitz's San Diego office reasonable. Again, those
21 rates ranged from \$490 to \$550 for associates, and \$725 for a partner.

22 (6) In *In re Virgil's Tours*, Case No. 08-30659 (Bank. N.D. Cal. 2008),
23 the court found reasonable the 2008 rates requested by Morrison & Foerster LLP's
24 San Diego office. Those rates ranged from \$600 to \$675 for partners, from \$350 to
25 \$485 for associates, and from \$220 to \$245 for paralegals.

26 (7) In *Qualcomm, Inc. v. Broadcom, Inc.* Case No. 05-CV-1958-B,
27 2008 WL 2705161 (S.D. Cal. 2008), the court found the 2007 hourly rates
28 requested by Wilmer Cutler, Pickering, Hale & Dorr LLP reasonable for San

1 Diego-based litigation. Those rates ranged from \$45 to \$300 for staff and
2 Paralegals, from \$275 to \$505 for associates and counsel, and from \$435 to \$850
3 for partners.

4 12. In addition to local courts, the following hourly rates have been
5 found reasonable by various California courts for reasonably similar services:

6 **2014**

7 (1) *IPVX Patent Holdings, Inc. v. Voxernet LLC*, N.D. Cal. No.
8 5:13-CV-01708-HRL, a patent infringement case, in which the court found the
9 following hourly rates reasonable:

<u>Years of Experience</u>	<u>Rate</u>
<u>2014</u>	
45	\$750
35	750
23	725
19	695
5	400
3	350
Paralegal	125
<u>2013</u>	
18	\$755
11	595
2	425
<u>2012</u>	
40	\$865
17	755
10	595
1	375

23 (2) *Doe v. United Healthcare Insurance Co., et al.*, C.D. Cal. No.
24 SACV 13-0864 DOC(JPRx), Order Granting Attorney's Fees and Costs, filed
25 October 15, 2014, a multi-Plaintiff consumer action, in which the court found the
26 following hourly rates reasonable:

<u>Whatley Kallas</u>	
<u>Years of Experience</u>	<u>Rate</u>
36	\$950

Whatley Kallas

<u>Years of Experience</u>	<u>Rate</u>
27	900
32	800
33	750
21	700
10	600
4	400
2	375
Paralegal	225
Intern	125

Consumer Watchdog

35	\$925
19	650
4	425

(3) *Rose v. Bank of America Corp.*, N.D. Cal. No. 5:11-CV-02390-EJD; 5:12 CV-04009-EJD, Order Granting Motion for Final Approval of Settlement; Granting in Part and Denying in Part Motion for Attorney's Fees and Costs, filed August 29, 2014, a consumer class action involving the Bank's loan servicing calls, in which the court found the following hourly rates reasonable:

Partners: \$775-350

Associates: \$525-325

(4) *Carpio v. California Department of Social Services, Los Angeles County Superior Court*, No. BS 135127, Order Granting Petitioner's Motion For Attorney's Fees, filed July 24, 2014, a government benefits writ of mandate, in which the court found the following hourly rates reasonable:

<u>Years</u>	<u>Rate</u>
39	\$750
35	730
13	500
8	460
6	440

(5) *Cornell v. City & County of San Francisco*, San Francisco County

1 Superior Court No. CGC-11-509240, Order Granting Motion for Reasonable
2 Attorneys' Fees, Subject to Modifications, filed May 15, 2014, an individual police
3 misconduct/employment action, in which the court found the following hourly
4 rates reasonable, plus a 1.25 lodestar multiplier for merits work:

<u>Years of Experience</u>	<u>Rate</u>
45	\$750
35	750
23	725
19	695
5	400
3	350
Paralegal	125

11 **2013 Rates**

12 (1) *Ellis v. Costco Wholesale Corp.*, N.D. Cal. No. C04-3341 EMC,
13 Order Granting Motion for Final Approval of Class Action Settlement, filed May
14 27, 2014, an employment class action, in which the court found the following
15 hourly rates reasonable:

<u>Years of Experience</u>	<u>Rate</u>
38	\$700
35	825
30	650-825
29	875
19	725
9	500
8	460
7	425-575
6	435
3	315
Paralegals	155-295
Law Clerks	185-275

25 (2) *In re Pacific Bell Late Fee Litigation*, Contra Costa County Superior
26 Ct. No. MSC10-00840, Order Awarding Attorneys' Fees, Costs and Expenses and
27 Authorizing Payment of Incentive Award to the Class Representative, filed
28 October 18, 2013, a consumer class action, in which the court found the following

hourly rates reasonable:

<u>Years of Experience</u>	<u>Rate</u>
17	\$850
16	680
11 (partner)	680
36	675
32	675
28 (assoc.)	620
4	400
3	390
Paralegals and Litigation Support	160-180

(3) *Reuters America LLC v. The Regents of the Univ. of Calif.*, Alameda County Superior Court No. RG12-613664, Order Granting in Part Motion of Petitioner for Attorneys' Fees filed May 2, 2013, reversed on the merits sub nom *Regents of U.C. v. Superior Court* (2014) 222 Cal.App.4th 383, a California Public Records Act action, in which the trial court found the following hourly rates reasonable, before applying a 1.3 lodestar multiplier:

<u>Years of Experience</u>	<u>Rate</u>
31	\$785
27	600
6	400

(4) *Recouvreur v. Carreon* (N.D. Cal. 2013) 940 F.Supp.2d 1063, a Lanham Act/ sanctions fee motion, in which the court found the following hourly rate reasonable:

<u>Years of Experience</u>	<u>Rate</u>
20+	\$700

2012 Rates

(1) *In re TFT-LCD (Flat Panel) Antitrust Litigation* (N.D.Cal. 2013) No. M 07 1827 SI, MDL, No. 1827, an antitrust class action, in which the court found the following hourly rates reasonable:

Zelle Hofman

<u>Bar Admission</u>	<u>Rate</u>
1967	\$1000
1978	861
2001	619
2002	525
2005	500
2006	472
2009	417

Steyer, Lowenthal et al.

<u>Bar Admission</u>	<u>Rate 2012</u>	<u>Rate 2011</u>	<u>Rate 2010</u>
1981	\$820	\$770	\$730
1995	660	640	590
2007	380	360	320
2008	380	360	320
1982	750	710	680
Paralegal	190		

Cooper & Kirkham

<u>Bar Admission</u>	<u>Rates 2010-2012</u>
1964	\$950
1975	825
2001	550

(2) *Rosenfeld v. United States Dept. of Justice* (N.D. Cal. 2012) 904 F.Supp.2d 988, a Freedom of Information Act action, in which the court found the following hourly rates reasonable:

<u>Years of Experience</u>	<u>Rate</u>
28	\$700
21	550
1	200
Law students	160-180

(3) *Williams v. H&R Block Enterprises, Inc.*, Alameda County Superior Ct. No. RG08366506, Order of Final Approval and Judgment filed November 8, 2012, a wage and hour class action, in which the court found the following hourly

1 rates reasonable:

<u>Year of Bar Admission</u>	<u>Rate</u>
1970	\$785
1976	775
1981	750
1993	650-700
1994-1997	500-650
2004	500
2005	470
2006	445-475
2007	450
2008	400
2009	350

11 (4) *American Civil Liberties Union v. Drug Enforcement Administration*,
12 N.D. Cal. No. C-11-01977 RS, Order Granting Motion for Attorneys' Fees and
13 Litigation Costs Pursuant to 5 U.S.C. §552, filed November 8, 2012, a Freedom of
14 Information Act case, in which the court found the following hourly rates
15 reasonable:

<u>Year of Bar Admission</u>	<u>Rate</u>
1970	\$700
1996	595
1999	575
Law Clerks	150

20 (5) *Luquetta v. The Regents of the Univ. of California*, San Francisco
21 Superior Ct. No.CGC-05-443007, Order Granting Plaintiff's Motion for Common
22 Fund Attorneys' Fees and Expenses, filed October 31, 2012, a class action to
23 recover tuition overcharges, in which the court found the following hourly rates
24 reasonable:

<u>Year of Bar Admission</u>	<u>Rate</u>
1977	\$850
1986	785
1991	750
1994	700
1998	625

2000	570
2001	550
2002	520
Law Clerks	250
Paralegals	215

(6) *Davis v. Prison Health Services* (N.D. Cal. 2012) 2012 U.S. Dist. LEXIS 138556, an individual Fair Employment and Housing Act case, in which the court found the following hourly rates reasonable:

<u>Years of Experience</u>	<u>Rate</u>
33	\$750
29	675
4	300
6	265

2011 Rates

(1) *Pierce v. County of Orange* (C.D. Cal. 2012) 905 F.Supp.2d 1017, a civil rights class action brought by pre-trial detainees, in which the court approved a lodestar, including appellate fees, based on the following 2011 rates:

<u>Years of Experience</u>	<u>Rate</u>
42	\$850
32	825
23	625
18	625
Law Clerks	250
Paralegals	250

(2) *Davis v. Prison Health Services* (N.D. Cal. 2012) 2012 U.S. Dist. LEXIS 138556, an individual Fair Employment and Housing Act case, in which the court found the following hourly rates reasonable:

<u>Years of Experience</u>	<u>Rate</u>
33	\$750
29	675
4	300
6	265

(3) *Holloway et. al. v. Best Buy Co., Inc.* (N.D. Cal. 2011) No. 05-5056

1 PJH, Order dated November 9, 2011, a class action alleging that Best Buy
2 discriminated against female, African American and Latino employees by denying
3 them promotions and lucrative sales positions, in which the court approved a
4 lodestar award based on the following rates:

<u>Years of Experience</u>	<u>Rate</u>
37	\$825
Associates	
8	490
6	405
Law Clerks	225
Paralegals	215

10 (3) *Molina, et al. v. Lexmark International, et al.*, Los Angeles County
11 Superior Court No. BC339177, Order Granting Petitioners' Motion for Attorneys'
12 Fees and Costs in the Amount of \$5,722,008.07, filed October 28, 2011, *aff'd*
13 (2013) 2013 Cal.App.Unpub. LEXIS 6684, a class action to recover forfeited
14 vacation pay, in which the court found the following hourly rates reasonable
15 (before applying a 2.0 multiplier):

<u>Years of Experience</u>	<u>Rate</u>
42	\$675
25	550
24	655-675
23	625
20	550
17	600
9	475
6	350
Paralegals	210
Paralegals	210

23 **2010 Rates**

24 (1) *Californians for Disability Rights, Inc., et al. v. California*
25 *Department of Transportation, et al.* (N.D.Cal. 2010) 2010 U.S.Dist.LEXIS
26 141030, adopted by Order Accepting Report and Recommendation filed February
27 2, 2011, a disability-access class action, in which the court found the following
28

2010 hourly rates reasonable:

<u>Years of Experience</u>	<u>Rate</u>
49	\$835
34	730
26	740
25	730
19	660
10	570
9	560
7	535
6	500
5	475
3	350
2	290
1	225-265
Senior Paralegals	265
Law Clerks	175
Case Clerks	165

Rate Information from Surveys

12. I also base my opinion on several credible surveys of legal rates, including the following:

- The 2014 *Laffey Matrix* is a survey of District of Columbia hourly rates that is often relied upon in other jurisdictions, with appropriate adjustments for differences in income levels, to determine reasonable hourly rates. See, e.g., *Syers Properties III, Inc. v. Rankin* (2014) 226 Cal.App.4th 691, 695. A copy of that survey is attached hereto as Exhibit B. It shows that for attorneys with 20+ years out of law school, the prevailing market in the period between June 1, 2013, and May 31, 2014 was \$771 per hour. For lawyers with 11-19 years out of law school, the prevailing rate for the same period was \$640 per hour. The difference in the Local Pay Tables for the Washington D.C. area and the San Diego-Carlsbad-San Marcos areas are de minimis -- .03%.

- 1 • On January 13, 2014, the National Law Journal published an article
2 about its most recent rate survey. That article included a chart listing
3 the billing rates of the 50 firms that charge the highest average hourly
4 rates for partners. A true and correct copy of that article is attached
5 hereto as Exhibit C. Of the 50 firms listed, several have offices in the
6 San Diego area and many others have significant litigation experience
7 in this area. And, although the rates that Plaintiffs' counsel are
8 requesting here are significantly *lower* than many of the rates charged
9 by the top 50 firms, the NLJ chart does show the *range* of rates
10 charged for similar services, which *is* the applicable standard. *See*
11 *CHMC*, 97 Cal.App.4th at 783.
- 12 • In an article entitled "On Sale: The \$1,150-Per Hour Lawyer,"
13 written by Jennifer Smith and published in the Wall Street Journal on
14 April 9, 2013, the author describes the rapidly growing number of
15 lawyers billing at \$1,150 or more revealed in public filings and major
16 surveys. A true and correct copy of that article is attached hereto as
17 Exhibit D. The article also notes that in the first quarter of 2013, the
18 50 top-grossing law firms billed their partners at an *average* rate
19 between \$879 and \$882 per hour.
- 20 • In an article published April 16, 2012, the Am Law Daily described
21 the 2012 Real Rate Report, an analysis of \$7.6 billion in legal bills
22 paid by corporations over a five-year period ending in December
23 2011. A true and correct copy of that article is attached hereto as
24 Exhibit E. That article confirms that the rates charged by experienced
25 and well-qualified attorneys have continued to rise over the five-year
26 period between 2006 and 2011, particularly in large urban areas. It
27 also shows, for example, that the top quartile of lawyers bill at an
28 *average* of "just under \$900 per hour."

1 **Rates Charged by Other Law Firms**

2 14. The standard hourly non-contingent rates for comparable civil
3 litigation stated in court filings, depositions, surveys, or other reliable sources by
4 numerous California law firms or law firms with offices or practices in California
5 also support counsel's rates. The following hourly rates are those charged where
6 full payment is expected promptly upon the rendition of the billing and without
7 consideration of factors other than hours and rates. If any substantial part of the
8 payment were to be contingent or deferred for any substantial period, for example,
9 the fee arrangement would be adjusted accordingly to compensate the attorneys for
10 those factors. These rates include, in alphabetical order:²

11 **Altshuler Berzon LLP****

12 **2014 Rates:** Years of Experience Rate
13 38 \$895

14 **2012 Rates:** Years of Experience Rate
15 34 \$850
16 26 785
17 21 750
18 18 700
19 14 625
20 12 570
21 11 550
22 10 520
23 6 410
24 5 385
25 4 335

26 Law Clerks 250
27 Paralegals 215

28 **2011 Rates:** Years of Experience Rate
 43 \$825
 17 675
 12 575
 10 520
 Law Clerks 225

² Firms based in San Diego are marked with an *. Firms with substantial class action practices, which tend to be statewide, are marked "***".

Altshuler Berzon LLP**

Paralegals	215
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Arnold Porter LLP

<u>2013 Rates:</u>	Average Partner	\$815
	Highest Partner	950
	Lowest Partner	670
	Average Associate	500
	Highest Associate	610
	Lowest Associate	345

The Arns Law Firm LLP **

<u>2014 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	37	\$950
	Law Clerks	165

Bernstein Litowitz Borger & Grossman LLP
(San Diego Office) *, **

<u>2009 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	\$725
	Associates	490-550

Bingham McCutchen

<u>2013 Rates:</u>	Average Partner	\$795
	Highest Partner	1,080
	Lowest Partner	670
	Average Associate	450
	Highest Associate	605
	Lowest Associate	185

<u>2011 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	30	\$780

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	13	\$655
	4	480
	2	400

Blood Hurst & O'Reardon *, **

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	22	\$655
	17	585

Blood Hurst & O'Reardon*, **

6	510
5	410
1	305
Paralegals	260

Burson & Fisher**

<u>2013 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	16	\$680-850
	11	680
	4	400
	3	390
	2	375
	1	300
	Law Clerks	225
	Litigation Support Specialists	180

Chavez & Gertler*

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	33	\$750
	29	725
	32	675
	21	575
	11	535
	7	475
	Legal Assistant	185

<u>2011 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	32	\$725
	28	700
	10	550
	9	510
	5	425
	Paralegals	225

Coblentz Patch & Duffy

<u>2013 Rates:</u>	<u>Year of Bar Admission</u>	<u>Rate</u>
	1979	\$720
	1994	575
	2008	320
	Paralegals/Case Clerks	295

Cohelan Khoury & Singer

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	38	\$750
	28	750
	11	400
	Paralegal	170

Cooper & Kirkham

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	48	\$950
	37	825
	11	600

Covington Burling

<u>2013 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	28	\$750
	16	670
	14	670
	7	510
	2	375
	5	490
	Litigation Support	110-355

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	27	\$730
	15	632-650
	13	650

<u>2011 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	26	\$710
	14	640
	12	600
	9	565
	7	550
	5	425
	3	390
	1	320

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	25	\$710
	13	640
	11	575-600
	8	550-565

Covington Burling

6	525-550
4	390-425
2	350-390

Farella Braun & Martell LLP

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	31	\$715

Fenwick & West

<u>2014 Rates</u>	<u>Years of Experience</u>	<u>Rate</u>
	45	\$750
	35	750
	23	725
	19	695
	5	400
	3	350
	Paralegal	125
<u>2013 Rates</u>	18	\$755
	11	595
	2	425
<u>2012 Rates</u>	40	\$865
	17	755
	10	595
	1	375

Furth Firm LLP**

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	51	\$875
	39	750
	38	600
	33	775
	25	550
	23	650
	21	625
	19	610
	18	600
	17	585
	16	570
	15	560

Furth Firm LLP**

14	550
13	525
12	515
11	510
10	505
9	500
7	460
4	435
Law Clerks	125-260

Gibson Dunn & Crutcher LLP

<u>2013 Rates:</u>	Average Partner	\$980
	Highest Partner	1,800
	Lowest Partner	765
	Average Associate	590
	Highest Associate	930
	Lowest Associate	175

Goldstein, Borgen, Dardarian & Ho**

<u>2014 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	33	\$795
	27	750
	8	500
	4	395
	3	350
	1	300
	Law Clerks/Paralegals	160-250

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	42	\$785
	36	750
	31	700
	18	650

	Associates	
	7	470
	6	445
<u>2011 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	41	\$725
	35	725

Goldstein, Borgen, Dardarian & Ho**

30	700
24	650
18	600
17	600
16	550

2010 Rates:

Years of Experience Rate

Partners

40	\$700
34	700
29	675
23	625
17	575
16	575

Of Counsel

40	725
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Associates

15	\$500
11	440
6	375
5	365
4	355
3	340
2	325
1	305

Law Clerks

Paralegals	195
	150-225

Greenberg, Traurig, LLP

2010 Rates:

<u>Years of Experience</u>	<u>Rate</u>
22	\$850

Greines, Martin, Stein & Richland

2012 Rates:

<u>Years of Experience</u>	<u>Rate</u>
41	\$850
29	850
23	650
18	500
Law Clerks	100

**Hadsell, Stormer, Keeny, Richardson &
Renick****

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	38	\$825
	33	775
	22-23	625
	17	600
	12	525
	10	425
	4	275
	3	250

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	36	\$800
	31	750
	20-21	600
	15	575
	10	475-500
	8	425
	4	325
	2	275
	1	250

Hausfeld LLP**

<u>2014 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	45	\$985
	37	935-895
	15	610-510
	14	600
	7	490
	3	370
	Paralegals	300-320
	Law Clerks	325

Irell & Manella

<u>2013 Rates:</u>		
	Average Partner	\$890
	Highest Partner	975
	Lowest Partner	800
	Average Associate	535
	Highest Associate	750
	Lowest Associate	395

Janssen Malloy LLP

<u>2014 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	33	\$775
	Paralegals	175

Jones Day

<u>2013 Rates:</u>		
	Average Partner	\$745
	Highest Partner	975
	Lowest Partner	670
	Average Associate	435
	Highest Associate	775
	Lowest Associate	205

Kaye, McLane, Bednarski & Litt **

<u>2013 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	44	\$925
	27	725
	24	725
	7	525
	5	475

Keker & Van Nest, LLP

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	32	\$775
	Other Partners	525-975
	Associates	340-500
	Paralegals/Support Staff	120-260

Kemnitzer, Barron & Krieg

<u>2014 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	38	\$750
	32	750
	8	475
	3	350
	Senior Paralegal	250

Kiesel, Boucher, Larson LLP *, **

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	27-28	\$890

Kiesel, Boucher, Larson LLP *, **

Associates 625-325

Kingsley & Kingsley**

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	14	\$655
	8	475-515
	7	475
	6	485
	5	375
	3	350
	2	300

Kirkland & Ellis

<u>2013 Rates:</u>		
	Average Partner	\$825
	Highest Partner	995
	Lowest Partner	670
	Average Associate	540
	Highest Associate	715
	Lowest Associate	235

Knapp, Petersen & Clarke

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	36	\$753
	9	554
	6	383

Knobbe Martin Olson & Bear LLP

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	\$395-710
	Associates	285-450

Latham & Watkins

<u>2013 Rates:</u>		
	Average Partner	\$990
	Highest Partner	1,100
	Lowest Partner	670
	Average Partner	895
	Average Associate	605
	Highest Associate	725
	Lowest Associate	465

**Lewis Feinberg Lee, Renaker & Jackson,
P.C. ****

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	38	\$825
	29	750
	24	725
	21	700
	8	450
	7	425
	3	375
	Senior Paralegals	250
	Law Clerks	225

Litt, Estuar, & Kitson, LLP**

<u>2011 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	42	\$825
	18	625
	17	625
	5	425
	3	375
	Senior Paralegals	125-235
	Law Clerks	225

Manatt, Phelps & Phillips

<u>2013 Rates:</u>	<u>Average Partner</u>	<u>\$740</u>
	Highest Partner	795
	Lowest Partner	670
	Lowest Partner	640
<u>2010 Rates:</u>	Partners	525-850
	Associates	200-525

McKenna Long & Aldridge LLP

<u>2014 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	30	\$775
	9	650

McKenna Long & Aldridge LLP

5	420
Litigation Support Mgr.	350
Paralegals	225

Minami Tamaki LLP

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	36	\$750
	15	525
	5	395
	Paralegals	175

Morrison Foerster LLP

<u>2013 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Average Partner	\$865
	Highest Partner	1,195
	Lowest Partner	670
	Lowest Partner	595
	Average Associate	525
	Highest Associate	725
	Lowest Associate	230

<u>2011 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	22	\$775
	11	625
	10	620
	1	335

<u>2009 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	24	\$750

O'Melveny & Myers

<u>2013 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Average Partner	\$715
	Highest Partner	950
	Lowest Partner	615

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	12	\$695
	4	495

Patton Boggs

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
---------------------------	----------------------------	-------------

Patton Boggs

Partners	
14	\$830
29	750
20	750
33	700
27	700
13	575
24	550
14	530
Of Counsel	
30	600
15	500
Associates	
9	450
7	425
3	340
2	315
Senior Paralegals	200-265
Paralegals	170

Pillsbury Winthrop Shaw Pittman LLP

<u>2013 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Average Partner	\$865
	Highest Partner	1,070
	Lowest Partner	670
	Average Associate	520
	Highest Associate	860
	Lowest Associate	375
<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	30	\$705-775
	Other Partners	595-965
	Associates	320-650
	Paralegals/Support Staff	85-380

Quinn Emanuel Urquhart & Sullivan

<u>2013 Rates:</u>	Average Partner	\$915
	Highest Partner	1,075
	Lowest Partner	810
	Average Associate	410

Quinn Emanuel Urquhart & Sullivan

Highest Associate	675
Lowest Associate	320

Reed Smith LLP

<u>2013 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partner	
	36	\$830
	30	805
	17	610-615
	14	570
	Associates	
	8	450-535
	6	495

Robbins Geller Rudman & Dowd LLP *, **

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	26	\$695
	19	575
	Associates	535-345
	Paralegals	295

Rosen, Bien, Galvan & Grunfeld LLP

<u>2013 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	51	\$875
	33	780
	29	660
	16	630
	Of Counsel	
	30	580
	Associates	
	20	550
	10	480
	9	465
	8	445-450
	7	440
	6	435
	5	405
	4	375

Rosen, Bien, Galvan & Grunfeld LLP

3	355
Paralegals	220-280
Litigation Support/ Paralegal clerk	170
Law Clerk/Students	250
Word Processing	80

2012 Rates:

Years of Experience Rate

Partners

50	\$860
32	760
28	640
15	610

Of Counsel

29	570
----	-----

Associates

19	540
10	470
9	460
7	400
6	400
5	380
4	360
3	340

Paralegals 215-280

Litigation Support/ 150

Paralegal clerk

Law Clerk/Students 240

Word Processing 80

2011 Rates:

Years of Experience Rate

Partners

49	\$840
31	740
27	625
14	590

Of Counsel

28	540
----	-----

Associates

18	525
11	465
10	450

Rosen, Bien, Galvan & Grunfeld LLP

9	440
8	420
6	385
5	365
4	350
3	325
2	315
Paralegals	205-275
Litigation Support/ Paralegal clerk	140-220
Law Clerk/Students	225
Word Processing	75

2010 Rates:

Years of Experience Rate

Partners

48	\$800
30	700
26	575
13	560
Of Counsel	
27	520

Associates

17	510
13	490
9	430
8	415
7	390
5	360
3	325
1	285
Paralegals	200-275
Litigation Support/ Paralegal clerk	135-220
Law Clerk/Students	190
Word Processing	70

Rudy, Exelrod, Zieff & Lowe LLP

2010 Rates:

Years of Experience Rate

Partners

42	\$725
32	725

Rudy, Exelrod, Zieff & Lowe LLP

15	625
Associates	
21	495
13	485
8	450

**Schneider Wallace Cottrell Brayton Konecky
LLP****

<u>2014 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	13-22	\$750
	Associates/Of Counsel	575
	20	535-345
	37	295
	10-13	650
	0-3	350-475
	Paralegals/Law Clerks	135-300

**Schonbrun, DeSimone, Seplow, Harris &
Hoffman****

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	27	\$695
	22	630

Sheppard, Mullin, Richter & Hampton

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	\$495-820
	Associates	270-620

Sidley Austin

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	33	\$900
	Senior Partners	1,100
	Legal Assistants	120-280

Skadden, Arps, Slate, Meagher & Flom

<u>2013 Rates:</u>	Average Partner	\$1,035
	Highest Partner	1,150
	Lowest Partner	845

1 **Skadden, Arps, Slate, Meagher & Flom**

2	Average Associate	620
3	Highest Associate	845
4	Lowest Associate	340

5 **Spiro Moore LLP****

6	<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
7		30+	\$700
8		17	600

9 **Law Offices of Michael D. Thamer**

10	<u>2014 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
11		31	\$775

12 **Townsend and Townsend and Crew**

13	<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
14		Partners	\$470-475
15		Associates	260-460

16 **Wilson Sonsini Goodrich & Rosati PC**

17	<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
18		28	\$875
19		Other Partners	650-975
20		Associates	290-610
21		Paralegals/Litigation	120-300
22		Support	

23 **Zelle Hofmann Voelbel & Mason, LLP****

24	<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
25		Partners	Up to \$950
26		Associates	Up to \$540
27		Paralegals	Up to \$290
28		Law Clerks	Up to \$250
29	<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
30		Partners	
31		38	\$800
32		26	685
33		23	650
34		22	640
35		Associates	
36		9	500

1 **Zelle Hofmann Voelbel & Mason, LLP****

2	4	435
3	3	415
4	2	405
5	1	395
6	Paralegals	210-290

7 13. The declaration of San Diego attorneys Vincent J. Bartolotta and
8 Timothy Blood, filed with this motion, also support the rates requested here. All of
9 this evidence shows that Plaintiffs' requested rates are well within the range of
10 rates charged in this forum by comparably qualified and experienced attorneys for
11 comparably difficult work.

12 14. In my experience, fee awards are almost always determined based on
13 current rates, *i.e.*, the attorney's rate at the time a motion for fees is made, rather
14 than the historical rate at the time the work was performed. This is a common and
15 accepted practice to compensate attorneys for the delay in being paid. The hourly
16 rates set forth above are those charged where full payment is expected promptly
17 upon the rendition of the billing and without consideration of factors other than
18 hours and rates. If any substantial part of the payment were to be deferred for any
19 substantial period of time, for example, the fee arrangement would be adjusted
20 accordingly to compensate the attorneys for those factors.

21 15. If called as a witness, I could and would competently testify from my
22 personal knowledge to the facts stated herein. I declare under penalty of perjury
23 that the foregoing is true and correct. Executed this 25th day of November 2014, in
24 Berkeley, California.

25 

26 Richard M. Pearl

1 **ADDITIONAL COUNSEL FOR PLAINTIFFS AND THE CERTIFIED CLASS**

2 Timothy D. Cohelan (Bar No. 60827)

3 Michael D. Singer (Bar No. 115301)

4 COHELAN KHOURY & SINGER

5 605 "C" Street, Suite 200

6 San Diego, CA 92101

7 Telephone: (619) 595-3001

EXHIBIT A

RESUME OF RICHARD M. PEARL

RICHARD M. PEARL
LAW OFFICES OF RICHARD M. PEARL
1816 Fifth Street
Berkeley, CA 94710
(510) 649-0810
(510) 548-5074 (facsimile)
rpearl@interx.net (e-mail)

EDUCATION

University of California, Berkeley, B.A., Economics (June 1966)
Boalt Hall School of Law, Berkeley, J.D. (June 1969)

BAR MEMBERSHIP

Member, State Bar of California (admitted January 1970)
Member, State Bar of Georgia (admitted June 1970) (inactive)
Admitted to practice before all California State Courts; the United States Supreme Court; the United States Court of Appeals for the District of Columbia and Ninth Circuits; the United States District Courts for the Northern, Central, Eastern, and Southern Districts of California, for the District of Arizona, and for the Northern District of Georgia; and the Georgia Civil and Superior Courts and Court of Appeals.

EMPLOYMENT

LAW OFFICES OF RICHARD M. PEARL (April 1987 to Present): Civil litigation practice (AV rating), with emphasis on court-awarded attorney's fees, class actions, and appellate practice. Selected Northern California "Super Lawyer" in Appellate Law for 2005, 2006, 2007, 2008, 2010, 2011, 2012, 2013, and 2014.

QUALIFIED APPELLATE MEDIATOR, APPELLATE MEDIATION PROGRAM, Court of Appeal, First Appellate District (October 2000 to 2013) (program terminated).

ADJUNCT PROFESSOR, HASTINGS COLLEGE OF THE LAW (January 1988 to Present): Teach Public Interest Law Practice, a 2-unit course that focuses on the history, strategies, and issues involved in the practice of public interest law.

PEARL, McNEILL & GILLESPIE, Partner (May 1982 to March 1987): General civil litigation practice, as described above.

RICHARD M. PEARL

Page 2

CALIFORNIA RURAL LEGAL ASSISTANCE, INC. (July 1971 to September 1983) (part-time May 1982 to September 1983):

Director of Litigation (July 1977 to July 1982)

Responsibilities: Oversaw and supervised litigation of more than 50 attorneys in CRLA's 15 field offices; administered and supervised staff of 4-6 Regional Counsel; promulgated litigation policies and procedures for program; participated in complex civil litigation.

Regional Counsel (July 1982 to September 1983 part-time)

Responsibilities: Served as co-counsel to CRLA field attorneys on complex projects; provided technical assistance and training to CRLA field offices; oversaw CRLA attorney's fee cases; served as counsel on major litigation.

Directing Attorney, Cooperative Legal Services Center (February 1974 to July 1977) (Staff Attorney February 1974 to October 1975)

Responsibilities: Served as co-counsel on major litigation with legal services attorneys in small legal services offices throughout California; supervised and administered staff of four senior legal services attorneys and support staff.

Directing Attorney, CRLA McFarland Office (July 1971 to February 1974) (Staff Attorney July 1971 to February 1972)

Responsibilities: Provided legal representation to low income persons and groups in Kern, King, and Tulare Counties; supervised all litigation and administered staff of ten.

HASTINGS COLLEGE OF THE LAW, Instructor, Legal Writing and Research Program (August 1974 to June 1978)

Responsibilities: Instructed 20 to 25 first year students in legal writing and research.

CALIFORNIA AGRICULTURAL LABOR RELATIONS BOARD, Staff Attorney, General Counsel's Office (November 1975 to January 1976, while on leave from CRLA)

Responsibilities: Prosecuted unfair labor practice charges before Administrative Law Judges and the A.L.R.B. and represented the A.L.R.B. in state court proceedings.

ATLANTA LEGAL AID SOCIETY, Staff Attorney (October 1969 to June 1971)

Responsibilities: Represented low-income persons and groups as part of 36-lawyer legal services program located in Atlanta, Georgia.

RICHARD M. PEARL

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PUBLICATIONS

Pearl, *California Attorney Fee Awards, Third Edition* (Cal. Cont. Ed. Bar 2010) and February 2011, 2012, 2013, and 2014 Supplements

Pearl, *California Attorney Fee Awards, Second Edition* (Cal. Cont. Ed. Bar 1994), and 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, and 2008 Supplements

Graham v. DaimlerChrysler Corp. and *Tipton-Whittingham v. City of Los Angeles*, Civil Litigation Reporter (Cal. Cont. Ed. Bar Feb. 2005)

Current Issues in Attorneys' Fee Litigation, California Labor and Employment Law Quarterly (September 2002 and November 2002)

Flannery v. Prentice: Shifting Attitudes Toward Fee Agreements and Fee-Shifting Statutes, Civil Litigation Reporter (Cal. Cont. Ed. Bar Nov. 2001)

A Practical Introduction to Attorney's Fees, Environmental Law News (Summer 1995)

Wrongful Employment Termination Practice, Second Edition (Cal. Cont. Ed. Bar 1997) (co-authored chapter on "Attorney Fees")

California Attorney's Fees Award Practice (Cal. Cont. Ed. Bar 1982) (edited), and 1984 through 1993 Supplements

Program materials on attorney fees, prepared as panelist for CEB program on Attorneys' Fees: Practical and Ethical Considerations in Determining, Billing, and Collecting (October 1992)

Program materials on Attorney's Fees in Administrative Proceedings: California Continuing Education of the Bar, prepared as panelist for CEB program on Effective Representation Before California Administrative Agencies (October 1986)

Program materials on Attorney's Fees in Administrative Proceedings: California Continuing Education of the Bar, prepared as panelist for CEB program on Attorneys' Fees: Practical and Ethical Considerations (March 1984)

Settlers Beware/The Dangers of Negotiating Statutory Fee Cases (September 1985) Los Angeles Lawyer

Program Materials on Remedies Training (Class Actions), sponsored by Legal Services Section, California State Bar, San Francisco (May 1983)

RICHARD M. PEARL

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Attorneys' Fees: A Legal Services Practice Manual (Legal Services Corporation 1981)

PUBLIC SERVICE

Member, Attorneys' Fee Task Force, California State Bar

Chairperson, Board of Directors, California Rural Legal Assistance Foundation

REPRESENTATIVE REPORTED CASES

Alcoser v. Thomas

(2011) 2011 Cal.App.Unpub.LEXIS 1180

Boren v. California Department of Employment

(1976) 59 Cal.App.3d 250

Cabrera v. Martin

(9th Cir. 1992) 973 F.2d 735

Camacho v. Bridgeport Financial, Inc.

(9th Cir. 2008) 523 F.3d 973

Campos v. E.D.D.

(1982) 132 Cal.App.3d 961

Center for Biological Diversity v. County of San Bernardino

(2010) 185 Cal.App.4th 866

Committee to Defend Reproductive Rights v. A Free Pregnancy Center

(1991) 229 Cal.App.3d 633

David C. v. Leavitt

(D. Utah 1995) 900 F.Supp. 1547

Delaney v. Baker

(1999) 10 Cal.4th 23

Employment Development Dept. v. Superior Court (Boren)

(1981) 30 Cal.3d 256

Environmental Protection Information Center, Inc. v. Pacific Lumber Co.

(N.D. Cal. 2002) 229 F. Supp.2d 993, *aff'd* (9th Cir. 2004) 103 Fed. Appx. 627

Center for Biological Diversity

(2010)

Center for Biological Diversity

RICHARD M. PEARL

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Flannery v Prentice

(2001) 26 Cal. 4th 572

Graham v. DaimlerChrysler Corp.

(2004) 34 Cal. 4th 553

Horsford v. Board of Trustees of Univ. of Calif.

(2005) 132 Cal.App.4th 359

Ketchum v. Moses

(2001) 24 Cal.4th 1122

Kievlan v. Dahlberg Electronics

(1978) 78 Cal.App.3d 951, cert. denied (1979)
440 U.S. 951

Lealao v. Beneficial California, Inc.

(2000) 82 Cal.App.4th 19

Lewis v. California Unemployment Insurance Appeals Board

(1976) 56 Cal.App.3d 729

Local 3-98 etc. v. Donovan

(N.D. Cal. 1984) 580 F.Supp. 714,
Aff'd (9th Cir. 1986) 792 F.2d 762

Mangold v. California Public Utilities Commission

(9th Cir. 1995) 67 F.3d 1470

Maria P. v. Riles

(1987) 43 Cal.3d 1281

Martinez v. Dunlop

(N.D. Cal. 1976) 411 F.Supp. 5,
aff'd (9th Cir. 1977) 573 F.2d 555

McQueen, Conservatorship of

(2014) 59 Cal.4th 602 (argued for *amici curiae*)

McSomebodies v. Burlingame Elementary School Dist.

(9th Cir. 1990) 897 F.2d 974

RICHARD M. PEARL

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Representative Reported Cases (cont.)

McSomebodies v. San Mateo City School Dist.
(9th Cir. 1990) 897 F.2d 975

Molina v. Lexmark International
(2013) 2013 Cal.App. Unpub. LEXIS 6684

Moore v. Bank of America
(9th Cir. 2007) 2007 U.S. App. LEXIS 19597

Moore v. Bank of America
(S.D. Cal. 2008) 2008 U.S. Dist. LEXIS 904

Mora v. Chem-Tronics, Inc.
(S.D. Cal. 1999) 1999 U.S. Dist. LEXIS 10752,
5 Wage & Hour Cas. 2d (BNA) 1122

Nadaf-Rahrov v. Nieman Marcus Group
(2014) 2013 Cal.App. Unpub. LEXIS 6975

Pena v. Superior Court of Kern County
(1975) 50 Cal.App.3d 694

Ponce v. Tulare County Housing Authority
(E.D. Cal 1975) 389 F.Supp. 635

Ramirez v. Runyon
(N.D. Cal. 1999) 1999 U.S. Dist. LEXIS 20544

Rubio v. Superior Court
(1979) 24 Cal.3d 93 (amicus)

Sokolow v. County of San Mateo
(1989) 213 Cal. App. 3d 231

S.P. Growers v. Rodriguez
(1976) 17 Cal.3d 719 (amicus)

Tongol v. Usery
(9th Cir. 1979) 601 F.2d 1091,
on remand (N.D. Cal. 1983) 575 F.Supp. 409,
revs'd (9th Cir. 1985) 762 F.2d 727

RICHARD M. PEARL

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Tripp v. Swoap

(1976) 17 Cal.3d 671 (amicus)

United States (Davis) v. City and County of San Francisco

(N.D. Cal. 1990) 748 F.Supp. 1416, *aff'd in part*
and revs'd in part sub nom Davis v. City and County
of San Francisco (9th Cir. 1992) 976 F.2d 1536,
modified on rehearing (9th Cir. 1993) 984 F.2d 345

United States v. City of San Diego

(S.D.Cal. 1998) 18 F.Supp.2d 1090

Vasquez v. State of California

(2008) 45 Cal.4th 243 (amicus)

Velez v. Wynne

(9th Cir. 2007) 2007 U.S. App. LEXIS 2194

REFERENCES

Furnished upon request.

September 2014

Furnished upon request

10/1/2011

EXHIBIT B

LAFFEY MATRIX

History

Easy Link

Expert Opinion

See the Matrix

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Link

Year	Adjustmt Factor**	Paralegal/ Law Clerk	Years Out of Law School *				
			1-3	4-7	8-10	11-19	20 +
6/01/13- 5/31/14	1.0244	\$175	\$320	\$393	\$567	\$640	\$771
6/01/12- 5/31/13	1.0258	\$170	\$312	\$383	\$554	\$625	\$753
6/01/11- 5/31/12	1.0352	\$166	\$305	\$374	\$540	\$609	\$734
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05-5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04-5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03-6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02-5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01-5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00-5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99-5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98-5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424
6/1/97-5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406
6/1/96-5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389
6/1/95-5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375
6/1/94-5/31/95	1.0237	\$82	\$151	\$185	\$267	\$301	\$363

The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., McDowell v. District of Columbia, Civ. A. No. 00-594 (RCL), LEXSEE 2001 U.S. Dist. LEXIS 8114 (D.D.C. June 4, 2001); Salazar v. Dist. of Col., 123 F.Supp.2d 8 (D.D.C. 2000).

* "Years Out of Law School" is calculated from June 1 of each year, when most law students graduate. "1-3" includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). "4-7" applies to attorneys in their 4th, 5th, 6th and 7th years of

practice. An attorney who graduated in May 1996 would be in tier "1-3" from June 1, 1996 until May 31, 1999, would move into tier "4-7" on June 1, 1999, and tier "8-10" on June 1, 2003.

** The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.

EXHIBIT C

\$1,000 Per Hour Isn't Rare Anymore; Nominal billing levels rise, but discounts ease blow.

The National Law Journal

January 13, 2014 Monday

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**THE NATIONAL
LAW JOURNAL**

Section: NLJ'S **BILLING SURVEY**; Pg. 1; Vol. 36; No. 20

Length: 1860 words

Byline: KAREN SLOAN

Body

As recently as five years ago, law partners charging \$1,000 an hour were outliers. Today, four-figure hourly rates for indemand partners at the most prestigious firms don't raise eyebrows-and a few top earners are closing in on \$2,000 an hour.

These rate increases come despite hand-wringing over price pressures from clients amid a tough economy. But everrising standard billing rates also obscure the growing practice of discounts, falling collection rates, and slow march toward alternative fee arrangements.

Nearly 20 percent of the firms included in The National Law Journal's annual survey of large law firm billing rates this year had at least one partner charging more than \$1,000 an hour. Gibson, Dunn & Crutcher partner Theodore Olson had the highest rate recorded in our survey, billing \$1,800 per hour while representing mobile satellite service provider LightSquared Inc. in Chapter 11 proceedings.

Of course, few law firm partners claim Olson's star power. His rate in that case is nearly the twice the \$980 per hour average charged by Gibson Dunn partners and three times the average \$604 hourly rate among partners at NLJ 350 firms. Gibson Dunn chairman and managing partner Ken Doran said Olson's rate is "substantially" above that of other partners at the firm, and that the firm's standard rates are in line with its peers.

"While the majority of Ted Olson's work is done under alternative billing arrangements, his hourly rate reflects his stature in the legal community, the high demand for his services and the unique value that he offers to clients given his extraordinary experience as a former solicitor general of the United States who has argued more than 60 cases before the U.S. Supreme Court and has counseled several presidents," Doran said.

In reviewing billing data this year, we took a new approach, asking each firm on the NLJ 350-our survey of the nation's 350 largest firms by attorney headcount-to provide their highest, lowest and average billing rates for associates and partners. We supplemented those data through public records. All together, this year's survey includes information for 159 of the country's largest law firms and reflects billing rates as of October.

The figures show that, even in a down economy, hiring a large law firm remains a pricey prospect. The median among the highest partner billing rates reported at each firm is \$775 an hour, while the median low partner rate is \$405. For associates, the median high stands at \$510 and the low at \$235. The average associate rate is \$370.

Multiple industry studies show that law firm billing rates continued to climb during 2013 despite efforts by corporate counsel to rein them in. TyMetrix's 2013 Real Rate Report Snapshot found that the average law firm billing rate increased by 4.8 percent compared with 2012. Similarly, the Center for the Study of the Legal Profession at the Georgetown University Law Center and Thomson Reuters Peer Monitor found that law firms increased their rates by an average 3.5 percent during 2013.

Richard Pearl

\$1,000 Per Hour Isn't Rare Anymore; Nominal billing levels rise, but discounts ease blow.

Of course, rates charged by firms on paper don't necessarily reflect what clients actually pay. Billing realization rates-which reflect the percentage of work billed at firms' standard rates- have fallen from 89 percent in 2010 to nearly 87 percent in 2013 on average, according to the Georgetown study. When accounting for billed hours actually collected by firms, the realization rate falls to 83.5 percent.

"What this means, of course, is that- on average-law firms are collecting only 83.5 cents for every \$1.00 of standard time they record," the Georgetown report reads. "To understand the full impact, one need only consider that at the end of 2007, the collected realization rate was at the 92 percent level."

In other words, law firms set rates with the understanding that they aren't likely to collect the full amount, said Mark Medice, who oversees the Peer Monitor Index. That index gauges the strength of the legal market according to economic indicators including demand for legal services, productivity, rates and expenses. "Firms start out with the idea of, 'I want to achieve a certain rate, but it's likely that my client will ask for discounts whether or not I increase my rate,'" Medice said.

Indeed, firms bill nearly all hourly work at discounts ranging from 5 percent to 20 percent off standard rates, said Peter Zeughauser, a consultant with the Zeughauser Group. Discounts can run as high as 50 percent for matters billed under a hybrid system, wherein a law firm can earn a premium for keeping costs under a set level or for obtaining a certain outcome, he added. "Most firms have gone to a two-tier system, with what is essentially an aspirational rate that they occasionally get and a lower rate that they actually budget for," he said.

Most of the discounting happens at the front end, when firms and clients negotiate rates, Medice said. But additional discounting happens at the billing and collections stages. Handling alternative fee arrangements and discounts has become so complex that more than half of the law firms on the Am Law 100-NLJ affiliate The American Lawyer's ranking of firms by gross revenue-have created new positions for pricing directors, Zeughauser said.

THE ROLE OF GEOGRAPHY

Unsurprisingly, rates vary by location. Firms with their largest office in New York had the highest average partner and associate billing rates, at \$882 and \$520, respectively. Similarly, TyMetrix has reported that more than 25 percent of partners at large New York firms charge \$1,000 per hour or more for contracts and commercial work.

Washington was the next priciest city on our survey, with partners charging an average \$748 and associates \$429. Partners charge an average \$691 in Chicago and associates \$427. In Los Angeles, partners charge an average \$665 while the average associate rate is \$401.

Pricing also depends heavily on practice area, Zeughauser and Medice said. Bet-the-company patent litigation and white-collar litigation largely remain at premium prices, while practices including labor and employment have come under huge pressure to reduce prices.

"If there was a way for law firms to hold rates, they would do it. They recognize how sensitive clients are to price increases," Zeughauser said. But declining profit margins-due in part to higher technology costs and the expensive lateral hiring market-mean that firms simply lack the option to keep rates flat, he said.

BILLING SURVEY METHODOLOGY

The National Law Journal's survey of billing rates of the largest U.S. law firms provides the high, low and average rates for partners and associates.

The NLJ asked respondents to its annual survey of the nation's largest law firms (the NLJ 350) to provide a range of hourly billing rates for partners and associates as of October 2013.

For firms that did not supply data to us, in many cases we were able to supplement billing-rate data derived from public records.

In total, we have rates for 159 of the nation's 350 largest firms.

Richard Pearl

\$1,000 Per Hour Isn't Rare Anymore; Nominal billing levels rise, but discounts ease blow.

Rates data include averages, highs and low rates for partners and associates. Information also includes the average full-time equivalent (FTE) attorneys at the firm and the city of the firm's principal or largest office.

We used these data to calculate averages for the nation as a whole and for selected cities.

Billing Rates at the Country's Priciest Law Firms

Here are the 50 firms that charge the highest average hourly rates for partners.

Billing Rates at the Country's Priciest Law Firms

FIRM NAME	LARGEST AVERAGE		PARTNER ASSOCIATE		HOURLY HOURLY		AVERAGE	HIGH	LOW	
	U.S. OFFICE*	FULL-TIME EQUIVALENT ATTORNEYS*	RATES	RATES	RATES	RATES				
			AVERAGE		HIGH		LOW		AVERAGE	
* Full-time equivalent attorney numbers and the largest U.S. office are from the NLJ 350 published in April 2013. For complete numbers, please see NLJ.com .										
** Firm did not exist in this form for the entire year.										
Debevoise & Plimpton	New York	615	\$1,055	\$1,075	\$955	\$490	\$760	\$120		
Paul, Weiss, Riffkind, Wharton & Garrison	New York	803	\$1,040	\$1,120	\$760	\$600	\$760	\$250		
Skadden, Arps, Slate, Meagher & Flom	New York	1,735	\$1,035	\$1,150	\$845	\$620	\$845	\$340		
Fried, Frank, Harris, Shriver & Jacobson	New York	476	\$1,000	\$1,100	\$930	\$595	\$760	\$375		
Latham & Watkins	New York	2,033	\$990	\$1,110	\$895	\$605	\$725	\$465		
Gibson, Dunn & Crutcher	New York	1,086	\$980	\$1,800	\$765	\$590	\$930	\$175		
Davis Polk & Wardwell	New York	787	\$975	\$985	\$850	\$615	\$975	\$130		
Willkie Parr & Gallagher	New York	540	\$950	\$1,090	\$790	\$580	\$790	\$350		
Cadwalader, Wickersham & Taft	New York	435	\$930	\$1,050	\$800	\$605	\$750	\$395		
Weil, Gotshal & Manges	New York	1,201	\$930	\$1,075	\$625	\$600	\$790	\$300		
Quinn Emanuel Urquhart & Sullivan	New York	697	\$915	\$1,075	\$810	\$410	\$675	\$320		
Wilmer Cutler Pickering Hale and Dorr	Washington	961	\$905	\$1,250	\$735	\$290	\$695	\$75		
Dechert	New York	803	\$900	\$1,095	\$670	\$530	\$735	\$395		
Andrews Kurth	Houston	348	\$890	\$1,090	\$745	\$528	\$785	\$265		
Hughes Hubbard & Reed	New York	344	\$890	\$995	\$725	\$555	\$675	\$365		
Irell & Manella	Los Angeles	164	\$890	\$975	\$800	\$535	\$750	\$395		
Proskauer Rose	New York	746	\$880	\$950	\$725	\$465	\$675	\$295		
White & Case	New York	1,900	\$875	\$1,050	\$700	\$525	\$1,050	\$220		

Richard Pearl

\$1,000 Per Hour Isn't Rare Anymore; Nominal billing levels rise, but discounts ease blow.

FIRM NAME	LARGEST U.S. OFFICE*	AVERAGE FULL-TIME EQUIVALENT ATTORNEYS*	PARTNER ASSOCIATE HOURLY HOURLY RATES RATES					
			AVERAGE	HIGH	LOW AVERAGE	HIGH	LOW	
Morrison & Foerster	San Francisco	1,010	\$865	\$1,195	\$595	\$525	\$725	\$230
Pillsbury Winthrop Shaw Pittman	Washington	609	\$865	\$1,070	\$615	\$520	\$860	\$375
Kaye Scholer	New York	414	\$860	\$1,080	\$715	\$510	\$680	\$320
Kramer Levin Naftalis & Frankel	New York	320	\$845	\$1,025	\$740	\$590	\$750	\$400
Hogan Lovells	Washington	2,280	\$835	\$1,000	\$705	-	-	-
Kasowitz, Benson, Torres & Friedman	New York	365	\$835	\$1,195	\$600	\$340	\$625	\$200
Kirkland & Ellis	Chicago	1,517	\$825	\$995	\$590	\$540	\$715	\$235
Cooley	Palo Alto	632	\$820	\$990	\$660	\$525	\$630	\$160
Arnold & Porter	Washington	748	\$815	\$950	\$670	\$500	\$610	\$345
Paul Hastings	New York	899	\$815	\$900	\$750	\$540	\$755	\$335
Curtis, Mallet-Prevost, Colt & Mosle	New York	322	\$800	\$860	\$730	\$480	\$785	\$345
Winston & Strawn	Chicago	842	\$800	\$995	\$650	\$520	\$590	\$425
Bingham McCutchen	Boston	900	\$795	\$1,080	\$220	\$450	\$605	\$185
Akin Gump Strauss Hauer & Feld	Washington	806	\$785	\$1,220	\$615	\$525	\$660	\$365
Covington & Burling	Washington	738	\$780	\$890	\$605	\$415	\$565	\$320
King & Spalding	Atlanta	838	\$775	\$995	\$545	\$460	\$735	\$125
Norton Rose Fulbright	N/A**	N/A**	\$775	\$900	\$525	\$400	\$515	\$300
DLA Piper	New York	4,036	\$765	\$1,025	\$450	\$510	\$750	\$250
Bracewell & Giuliani	Houston	432	\$760	\$1,125	\$575	\$440	\$700	\$275
Baker & McKenzie	Chicago	4,004	\$755	\$1,130	\$260	\$395	\$925	\$100
Dickstein Shapiro	Washington	308	\$750	\$1,250	\$590	\$475	\$585	\$310
Jenner & Block	Chicago	432	\$745	\$925	\$565	\$465	\$550	\$380
Jones Day	New York	2,363	\$745	\$975	\$445	\$435	\$775	\$205
Manatt, Phelps & Phillips	Los Angeles	325	\$740	\$795	\$640	-	-	-
Seward & Kissel	New York	152	\$735	\$850	\$625	\$400	\$600	\$290
O'Melveny & Myers	Los Angeles	738	\$715	\$950	\$615	-	-	-
McDermott Will & Emery	Chicago	1,024	\$710	\$835	\$525	-	-	-
Reed Smith	Pittsburgh	1,468	\$710	\$945	\$545	\$420	\$530	\$295
Dentons	N/A**	N/A**	\$700	\$1,050	\$345	\$425	\$685	\$210
Jeffer Mangels Butler & Mitchell	Los Angeles	126	\$690	\$875	\$560	-	-	-
Sheppard, Mullin,	Los Angeles	521	\$685	\$875	\$490	\$415	\$535	\$275

Richard Pearl

\$1,000 Per Hour Isn't Rare Anymore; Nominal billing levels rise, but discounts ease blow.

FIRM NAME	LARGEST AVERAGE		PARTNER ASSOCIATE					
	U.S. OFFICE*	FULL-TIME EQUIVALENT ATTORNEYS*	HOURLY RATES	HOURLY RATES	AVERAGE	HIGH	LOW	AVERAGE
Richter & Hampton	Angeles							
Alston & Bird	Atlanta	805	\$675	\$875	\$495	\$425	\$575	\$280

THE FOUR-FIGURE CLUB

These 10 firms posted the highest partner billing rates.

Gibson, Dunn & Crutcher	\$1,800
Dickstein Shapiro	\$1,250
Wilmer Cutler Pickering Hale and Dorr	\$1,250
Akin Gump Strauss Hauer & Feld	\$1,220
Kasowitz, Benson, Torres & Friedman	\$1,195
Morrison & Foerster	\$1,195
Skadden, Arps, Slate, Meagher & Flom	\$1,150
Baker & McKenzie	\$1,130
Bracewell & Giuliani	\$1,125
Paul, Weiss, Rifkind, Wharton & Garrison	\$1,120

THE FOUR-FIGURE CLUB

Contact Karen Sloan at ksloan@alm.com

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The Firms

April 16, 2012 5:20 PM

When It Comes to Billing, Latest Rate Report Shows the Rich Keep Getting Richer

Posted by Sara Randazzo

Hourly rates just keep rising—and the best-paid lawyers are raising their rates faster than everyone else.

Those are two of the key findings contained in the [2012 Real Rate Report](#), an analysis of \$7.6 billion in legal bills paid by corporations over a five-year period ending in December 2011. The report, released Monday, is the second such collaboration between TyMetrix, a company that manages and audits

legal bills for corporate legal departments, and the Corporate Executive Board.

Many of the new rate report's findings echo those contained in the 2010 study, including the fact that rates keep going up, almost across the board, and that the cost of a given matter can vary dramatically depending on a law firm's size and location and its relationship with a particular client.

At the same time, this year's study shows that the legal sector is becoming increasingly bifurcated, with top firms raising rates faster than those at the bottom of the market and large firms charging a premium price based purely on their size.

"What it's really showing is that there's an increased premium being paid for experience and expertise," says Julie Peck, vice president of strategy and market development at TyMetrix. "Some parts of the lawyer market are able to raise rates much more quickly, and are more impervious to economic forces than others."

To compile the current rate report, TyMetrix received permission from its clients to examine legal fees billed to 62 companies across 17 industries including energy, finance, retail, technology, insurance, and health care. The bills, which represent the amount actually paid by the companies in question rather than the amount initially charged, came from more than 4,000 firms in 84 metropolitan areas around the country. Every firm on the 2011 Am Law 100 is represented in the data.

The report's key data points include:

A Widening Gap: Hourly rates charged by lawyers in the legal sector's upper echelon grew faster between 2009 and 2011 than those charged by lawyers toiling on the lower rungs. Particularly striking was the jump in associate rates billed by those falling in the report's top quartile: 18 percent on average, to just over \$600 per hour. Rates billed by top quartile partners, meanwhile, rose 8 percent, to just under \$900 per hour. In the bottom quartile, associate rates rose 4 percent and partner rates rose 3 percent during the same period.

The Recession's (Minor) Toll: Even amid the economic downturn, the cost of an hour of a lawyer's time continued to rise faster than key measures of inflation. That said, the legal industry wasn't completely immune to the broader economy's slowdown. After rising 8.2 percent between 2007 and 2008, hourly rates rose just 2.3 percent in 2009. Law firms bounced back a bit last year, with rates climbing 5.1 percent, to an average of \$530 an hour.

Location Counts: Not surprisingly, lawyers working in major metropolitan areas—where, as the rate report notes, rents are typically higher—are the priciest. An address in Boston, Chicago, Los Angeles, San Francisco, or Washington, D.C., alone adds about \$161 to the hourly rate charged by an individual lawyer. Those six cities and Baltimore, Houston, Philadelphia, and San Jose are the ten U.S. markets with the highest hourly rates. With an average partner rate topping \$700 per hour and average associate rate of more than \$450 per hour, New York is the most expensive market in the country. The least expensive? Riverside, California, where the average partner bills at under \$250 per hour and associates bill at just over \$300 an hour.

In the Minority: A small group of lawyers—12 percent—bucked the trend toward higher fees and actually lowered rates between 2009 to 2011—and 3 percent trimmed rates by \$50 or more per hour. (Most of those in the rate-cutting camp were based outside the big six markets identified above.) At the other end of the spectrum, 52 percent of lawyers increased rates by between \$25 and \$200 or more per hour. Another 18 percent increased rates by less than \$25 per hour, and the final 18 percent held rates steady.

First-Year Blues: Even before the recession hit, clients balked at paying for what they considered on-the-job training for first-year associates. The latest rate report is likely to reinforce that reluctance, given its finding that using entry-level lawyers adds as much as 20 percent to the cost of a legal matter. The report offers evidence that firms may be accommodating clients on this front: The percentage of bills attributed to entry-level associates dropped from 7 percent in 2009 to 2.9 percent last year.

Ties That Bind: The more work one firm handles for a client—and the longer the client relationship extends—the higher the average rate the firm charges. For companies that paid one firm \$10 million or more in a single year, the average hourly rate paid was \$553 in 2011. By comparison, clients that limited their spending on an individual firm to \$500,000 paid that firm an average of \$319 per hour.

Four-Digit Frontier: Data has consistently shown that many lawyers hesitate to charge more than \$1,000 an hour, and in 2011 just under 3 percent of the lawyers covered by the rate report had broken that barrier. Of those, the vast majority were working in the six main legal markets identified above and 60 percent of the time, they billed in increments of one hour or less.

Playing Favorites: Across all practice areas, 90 percent of lawyers charged different clients different rates for similar types of work. (The figure for mergers and acquisitions lawyers was 100 percent.) The differences from client to client can be extreme, and were even more pronounced in the current report than in the 2010 edition. Rates charged by intellectual property specialists, for instance, had a median variance of 23.1 percent, while lawyers doing commercial and contract work showed a 18.7 percent median difference.

Who's Doing What? A closer look at law firm bills for work performed on litigation and intellectual property assignments shows that the kind of timekeeper billing on a matter varies by practice type. On patent matters, the report shows, 47 percent of hours billed on average are attributed to paralegals, and 37 percent by partners. By comparison, paralegals account for just 8 percent of the work done on labor and employment litigation hours, while partners handle 45 percent.

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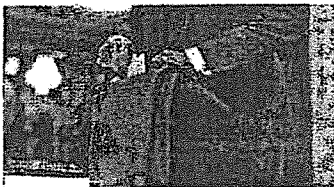
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By JENNIFER SMITH

Top partners at leading U.S. law firms are charging more than ever before, yet those hourly rates aren't all they appear to be.



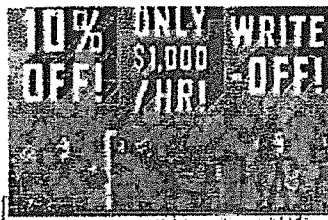
Top partners at leading U.S. law firms are charging more than ever — routinely \$1,150 or more an hour — but after discounts and write-offs the nosebleed rates aren't all they appear to be. Jennifer Smith reports. Photo: Getty Images.

Having blown past the once-shocking price tag of \$1,000 an hour, some sought-after deal, tax and trial lawyers are commanding hourly fees of \$1,150 or more, according to an analysis of billing rates compiled from public filings.

But, as law firms boost their standard rates, many are softening the blow with widespread discounts and write-offs, meaning fewer clients are paying full freight. As a result, law firms on

average are actually collecting fewer cents on the dollar, compared with their standard, or "rack," rates, than they have in years.

Think of hourly fees "as the equivalent of a sticker on the car at a dealership," said legal consultant Ward Bower, a principal at Altman Weil Inc. "It's the beginning of a negotiation.... Law firms think they are setting the rates, but clients are the ones determining what they're going to pay."



James Kobackian

the firm's database billed at that level in the first quarter of 2013, up from 158 a year earlier.

Star lawyers still can fetch a premium, and some of them won't budge on price. The number of partners billing \$1,150-plus an hour has more than doubled since this time last year, according to Valeo Partners, a consulting firm that maintains a database of legal rates pulled from court filings and other publicly disclosed information. More than 320 lawyers in

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That glided circle includes tax experts such as Christopher Roman of King & Spalding LLP and Todd Maynes of Kirkland & Ellis LLP, intellectual-property partner Nader A. Mousavi of Sullivan & Cromwell LLP, and deal lawyers such as Kenneth M. Schneider of Paul, Weiss, Rifkind, Wharton & Garrison LLP.

Those lawyers and their firms either declined to comment or didn't reply to requests for comment.

When corporate legal departments need a trusted hand to fend off a hostile takeover or win a critical court battle, few general counsels will nitpick over whether a key lawyer is charging \$900 an hour or \$1,150 an hour. But for legal matters where their future isn't on the line, companies are pushing for—and winning—significant price breaks.

"We almost always negotiate rates down from the rack rates," said Randal S. Milch, general counsel for phone giant Verizon Communications Inc. [VZ +0.29%] The result, he said, is a "not-insignificant discount."

For the bread-and-butter work that many big law firms rely on, haggling has become the norm. Many clients grew accustomed to pushing back on price during the recession and continue to demand discounts.

Some companies insist on budgets for their legal work. If a firm billing by the hour exceeds a set cap, lawyers may have to write off some of that time.

Other clients refuse to work with firms who don't discount, lopping anywhere from 10% to 30% off their standard rates. Some may grant rate increases to individual partners or associates they deem worthy. Another tactic: locking in prices with tailored multiyear agreements with formulas governing whether clients grant or refuse a requested rate increase.

In practical terms, that means the gap between law firms' sticker prices and the amount of money they actually bill and collect from their clients is wider than it has been in years.

According to data collected by Thomson Reuters Peer Monitor, big law firms raised their average standard rate by about 9.3% over the past three years. But they weren't able to keep up on the collection side, where the increase over the same period was just 6%. Firms that used to collect on average about 92 cents for every dollar of standard time their lawyers worked in 2007, before the economic downturn, now are getting less than 85 cents. "That's a historic low," said James Jones, a senior fellow at the Center for the Study of the Legal Profession at Georgetown Law.

To be sure, things have certainly picked up some since the recession, when some clients flat-out refused to pay rate increases.

In the first quarter of 2013, the 50 top-grossing U.S. law firms boosted their partner rates by as much as 5.7%, billing on average between \$879 and \$882 an hour, according to Valeo Partners. Rates for junior lawyers, whose labors have long been a profit engine for major law firms, jumped even more.

While some clients resisted using associate lawyers during the downturn, refusing to pay hundreds of dollars an hour for inexperienced first- or second-year attorneys, the largest U.S. law firms have managed to send the needle back up again. This year, for the first time, the average rate for associates with one to four years of experience rose to \$500 an hour, according to Valeo.

The increases continue the upward trend of 2012, when legal fees in general rose 4.8% and associate billing rates rose by 7.4%, according to a coming report by TyMetrix Legal Analytics, a unit of Wolters Kluwer, [WKL.AE +0.95%] and CEB, a research and advisory-services company. Those numbers are based on legal-spending data from more than 17,000 law firms.

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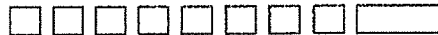
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Exhibit 5

MARA LAW FIRM, PC, SUMMARY OF TIME AND COSTS

Phillip Heredia v. Sunbelt Towing, Inc; Western Towing, Inc.

San Diego County Superior Court

Case No. 37-2023-00023634-CU-OE-CTL

Total Attorneys' Hours: 240

Total Lodestar Fees: \$182,600

Total Litigation Expenses: \$5,468.92

ATTORNEYS	YEAR ADMITTED	HOURS	HOURLY RATE	TOTAL
MARA LAW FIRM, PC				
David Mara, Esq.	2004	133	\$850	\$113,050
Jill Vecchi, Esq.	2014	107	\$650	\$69,550
TOTAL:				\$182,600

LITIGATION EXPENSES	
MARA LAW FIRM, PC	\$5,468.92
TOTAL COSTS	\$5,468.92

Exhibit 6

David Mara
Grace Campbell
Taylor Hanks
Jill Vecchi
Joann B. Gerrity
Matthew Crawford
Taylor Getman



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March 13, 2023

Via Upload to the LWDA Website and U.S. Certified Mail

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION 2699.3**

TO: California Labor and Workforce Development Agency; Sunbelt Towing, Inc.; Western Towing, Inc.

Phillip Heredia, on behalf of himself, others similarly situated, and the general public v. Sunbelt Towing, Inc. ; Western Towing, Inc.

Factual Statement and Theories of Labor Code Violations

Phillip Heredia was formerly employed by Sunbelt Towing, Inc. and Western Towing, Inc. (collectively "SUNBELT") as a non-exempt tow truck driver/patrol driver in San Diego, California. Mr. Heredia's employment with SUNBELT ended on or about February 2, 2023.

Mr. Heredia gives notice of his intent to file a lawsuit for violations of the Private Attorneys General Act of 2004 ("PAGA") for SUNBELT's failure to comply with California's wage and hour requirements on behalf of himself and similarly aggrieved employees who worked as non-exempt drivers for SUNBELT in California.

SUNBELT is a towing company. SUNBELT employs non-exempt drivers, such as Mr. Heredia, to work at its locations in California.

I. SUNBELT Fails to Pay All Straight Time Wages Owed

It is fundamental that an employer must pay its employees for all time worked. *California Labor Code* sections 218 and 218.5 provide a right of action for nonpayment of wages. *California Labor Code* section 222 prohibits the withholding of part of a wage. *California Labor Code* section 223 prohibits the payment of less than a statutory or contractual wage scale. *California Labor Code* section 1197 prohibits the payment of less than the minimum wage. *California Labor Code* section 1194 states that an employee receiving less than the legal minimum wage is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage. *California Labor Code* section 1194.2 states that an employee receiving less than the legal minimum wage is entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest

thereon. *California Labor Code* section 224 only permits deductions from wages when the employer is required or empowered to do so by state or federal law or when the deduction is expressly authorized in writing by the employee for specified purposes that do not have the effect of reducing the agreed upon wage.

SUNBELT has a continuous policy of not paying Mr. Heredia and the aggrieved employees for all hours worked. Specifically, SUNBELT has a continuous and consistent policy of requiring employees to work before clocking in, after clocking out, and during meal periods. Mr. Heredia and the aggrieved employees are not paid for this time. For example, Mr. Heredia and the aggrieved employees have to perform pre-trip and post-trip inspections before clocking in and after clocking out. In addition, Mr. Heredia and the aggrieved employees are responsible for SUNBELT's company truck that they are required to park at their personal residences when they are not performing work duties. As such, Mr. Heredia and the aggrieved employees are responsible for SUNBELT's company truck and its contents at all times. Moreover, Mr. Heredia and the aggrieved employees were required to clock out before the end of their fifth hour of work to create the appearance of a lawful meal period and to avoid being disciplined, even if they were in the middle of work duties such as impounding a vehicle. This forced Mr. Heredia and the aggrieved employees to clock out for a meal period and continue working while clocked out.

Further, Mr. Heredia and the aggrieved employees are not relieved of all duties and employer control during their unpaid meal periods. Mr. Heredia and the aggrieved employees have to keep their phones on and with them during their meal periods. SUNBELT calls and/or otherwise contacts Mr. Heredia and the aggrieved employees while they are on unpaid meal periods for dispatch and other business purposes. Thus, Mr. Heredia and the aggrieved employees are owed wages for meal period time during which they are subject to SUNBELT's control and during which they are not free from all work duties.

Mr. Heredia and the aggrieved employees are informed and believe and thereon allege that SUNBELT breached the legal duty to pay full wages to Mr. Heredia by failing to pay Mr. Heredia and similarly aggrieved employees for meal period time when Mr. Heredia and the aggrieved employees were not relieved of all duties and employer control.

SUNBELT committed the acts alleged herein knowingly and willfully, with the wrongful and deliberate intention of injuring Mr. Heredia and the aggrieved employees. SUNBELT acted with malice or in conscious disregard of Mr. Heredia's and the aggrieved employees' rights.

These claims are for Mr. Heredia and all similarly situated non-exempt drivers who worked for SUNBELT in California.

Mr. Heredia, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE). This includes each of the following, as set forth in *Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 510 and 1194.

II. SUNBELT Fails to Pay All Overtime Wages Owed

It is fundamental that an employer must pay its employees for all time worked. *California Labor Code* section 510 states that eight (8) hours of labor constitutes a day's work. Any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any one workweek and the first eight (8) hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half (1.5) times the regular rate of pay for an employee.

California Labor Code section 510 dictates that any work in excess of twelve (12) hours in one (1) day shall be compensated at the rate of no less than two (2) times the regular rate of pay for an employee. In addition, any work in excess of eight (8) hours on any seventh day of a workweek shall be compensated at the rate of no less than two (2) times the regular rate of pay of an employee.

SUNBELT failed to pay overtime when Mr. Heredia and the aggrieved employees worked over eight (8) hours per day and when employees worked over forty (40) hours per week. SUNBELT failed to pay Mr. Heredia and the aggrieved employees for all hours worked, including hours worked over eight (8) hours in a day and forty (40) hours in a week.

Mr. Heredia and the aggrieved employees were deprived of wages for all overtime hours worked because SUNBELT failed to pay them overtime wages for all overtime hours worked. This resulted in Mr. Heredia and the aggrieved employees not being paid all overtime wages owed to them.

SUNBELT has a continuous policy of not paying Mr. Heredia and the aggrieved employees for all hours worked. Specifically, SUNBELT has a continuous and consistent policy of requiring employees to work before clocking in, after clocking out, and during meal periods. Mr. Heredia and the aggrieved employees are not paid for this time. For example, Mr. Heredia and the aggrieved employees have to perform pre-trip and post-trip inspections before clocking in and after clocking out. In addition, Mr. Heredia and the aggrieved employees are responsible for SUNBELT's company truck that they are required to park at their personal residences when they are not performing work duties. As such, Mr. Heredia and the aggrieved employees are responsible for SUNBELT's company truck and its contents at all times. Moreover, Mr. Heredia and the aggrieved employees were required to clock out before the end of their fifth hour of work to create the appearance of a lawful meal period and to avoid being disciplined, even if they were in the middle of work duties such as impounding a vehicle. This forced Mr. Heredia and the aggrieved employees to clock out for a meal period and continue working while clocked out. Because Mr. Heredia and the aggrieved employees work shifts lasting over eight hours, the majority of these unpaid hours would qualify for the overtime rate.

Further, Mr. Heredia and the aggrieved employees are not relieved of all duties and employer control during their unpaid meal periods. Mr. Heredia and the aggrieved employees have to keep their phones on and with them during their meal periods. SUNBELT calls and/or otherwise contacts Mr. Heredia and the aggrieved employees while they are on unpaid meal periods for dispatch and other business purposes. Thus, Mr. Heredia and the aggrieved employees are owed wages for meal period time during which they are subject to SUNBELT's control and during which they are not free from all work duties. When Mr. Heredia and the aggrieved employees work over

eight hours in a shift, these unpaid hours must be compensated at an overtime rate.

Furthermore, SUNBELT failed to pay Mr. Heredia and the aggrieved employees at the appropriate regular rate of pay for all overtime hours worked. Specifically, SUNBELT failed to incorporate bonuses employees were paid when calculating employees' regular rate of pay for purposes of paying overtime compensation. For example, Mr. Heredia and the aggrieved employees are paid non-discretionary bonuses per impound. These bonuses were not included in employees' regular rate of pay.

Mr. Heredia and the aggrieved employees have suffered, and continue to suffer, substantial unpaid wages, and lost interest on such wages, and expenses.

These claims are for Mr. Heredia and all similarly situated non-exempt drivers who worked for SUNBELT in California.

Mr. Heredia, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE) for violations of *California Labor Code* section 510.

III. SUNBELT Failed to Provide Lawful Meal Periods

Under *California Labor Code* section 512, no employer shall employ any person for a work period of more than five (5) hours without providing a meal period of not less than thirty (30) minutes. During this meal period of not less than thirty (30) minutes, the employee is to be completely free of the employer's control and must not perform any work for the employer. If the employee does perform work for the employer during the thirty (30) minute meal period, the employee has not been provided a meal period in accordance with the law. Also, the employee is to be compensated for any work performed during the thirty (30) minute meal period.

In addition, an employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with another meal period of not less than thirty (30) minutes.

SUNBELT breached the legal duty to provide meal periods to employees by failing to provide employees with meal periods within the timeframes outlined by California law. Specifically, SUNBELT fails to provide Mr. Heredia and the aggrieved employees with meal periods within the first five continuous hours of work.

When Mr. Heredia and the aggrieved employees are able to take a meal period, Mr. Heredia and the aggrieved employees are not relieved of all duties during their meal periods. Mr. Heredia and the aggrieved employees have to keep their phones on and with them during their meal periods. Mr. Heredia and the aggrieved employees must be ready to answer any calls that come in from management during their meal periods. SUNBELT calls and/or otherwise contacts Mr. Heredia and the aggrieved employees while they are on unpaid meal periods for dispatch and other business purposes.

Alternatively, SUNBELT breached the legal duty to provide meal periods to employees by imposing a continuous and consistent policy requiring Mr. Heredia and the aggrieved employees to work through their meal periods to satisfy the demanding workload duties imposed by SUNBELT, thereby denying Mr. Heredia and the aggrieved employees of the right to be completely free from employer control under California law. Nonetheless, Mr. Heredia and the aggrieved employees were forced to clock out before the end of their fifth hour of work to create the appearance of a lawful meal period to avoid being disciplined by SUNBELT, even if they were in the middle of work duties such as impounding a vehicle. This forced Mr. Heredia and the aggrieved employees to clock out for a meal period and continue working while clocked out.

Further, SUNBELT instituted a consistent policy/practice of not providing second meal periods to Mr. Heredia and all aggrieved employees and/or providing compensation in lieu thereof. Specifically, Mr. Heredia and the aggrieved employees are required to work shifts lasting nine (9) to eleven (11) hours long but never received second meal periods in shifts over ten hours long.

By failing to provide statutory first and/or second meal periods, and by failing to provide compensation for unprovided meal periods, as alleged above, SUNBELT willfully violated the provisions of *Labor Code* sections 226.7 and 512.

These claims are for Mr. Heredia and all similarly situated non-exempt drivers who worked for SUNBELT in California.

Mr. Heredia, as a non-exempt driver who unlawfully was deprived of first and second meal periods, is an aggrieved employee with standing to bring an action under the PAGA. Mr. Heredia has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 for violations of *Labor Code* sections 226.7 and 512.

IV. SUNBELT Failed to Provide Lawful Rest Periods

SUNBELT has had a consistent policy and/or practice of not providing duty free paid ten-minute paid rest periods for every four hours worked, or a major fraction thereof, to Mr. Heredia and the aggrieved employees.

Industrial Welfare Commission Order No. 9-2001 section 11(A) states "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work week 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."

When Mr. Heredia and the aggrieved employees are able to take rest periods, Mr. Heredia and the aggrieved employees are not relieved of all duties during their rest periods. Mr. Heredia and the aggrieved employees have to keep their phones on and with them during their rest periods. Mr. Heredia and the aggrieved employees must be ready to answer any calls that come in from management during their rest periods. SUNBELT calls and/or otherwise contacts Mr. Heredia and the aggrieved employees while they are on rest periods for dispatch and other business purposes.

Alternatively, SUNBELT breached the legal duty to provide rest periods to employees by imposing a continuous and consistent policy of requiring Mr. Heredia and the aggrieved employees to work through their rest periods to satisfy the demanding workload duties imposed by SUNBELT, thereby denying Mr. Heredia and the aggrieved employees of the right to be completely free from employer control under California law.

By failing to provide rest periods for every four hours or major fraction thereof worked per day by non-exempt employees, and by failing to provide compensation for these unprovided rest periods, as alleged above, SUNBELT willfully violated the provisions of *Labor Code* section 226.7 and Industrial Welfare Commission Order No. 9-2001 section 11(A).

These claims are for Mr. Heredia and all similarly situated non-exempt drivers who worked for SUNBELT in California.

Mr. Heredia, as a non-exempt driver who was unlawfully deprived of lawful ten-minute rest periods, is an aggrieved employee with standing to bring an action under the PAGA. Mr. Heredia has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 and Industrial Welfare Commission Order No. 9-2001 section 19 for violations of *Labor Code* section 226.7 and Industrial Welfare Commission Order No. 9-2001 section 11(A).

V. SUNBELT Failed to Pay All Wages Due at Termination and During Employment

SUNBELT willfully failed to pay, in a timely manner, wages owed to the aggrieved employees who left SUNBELT'S employ or who were terminated.

The aggrieved employees who ended their employment with SUNBELT during the last year were entitled to be promptly paid all lawful compensation, and other premiums, as required by *California Labor Code* sections 201 through 203.

At all relevant times, *California Labor Code* sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable no later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' 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.

During the relevant time period, SUNBELT intentionally and willfully failed to pay the aggrieved employees who are no longer employed by SUNBELT their wages, that were earned and unpaid, within seventy-two (72) hours of their leaving SUNBELT'S employ.

Mr. Heredia's employment with SUNBELT was terminated by SUNBELT on or about February 2, 2023. SUNBELT failed to provide Mr. Heredia his final wages at his time of his termination in accordance with *California Labor Code* sections 201 through 203. Mr. Heredia was informed that his final paycheck would be ready the day after this termination. When Mr. Heredia went to

SUNBELT's location to return company equipment and pick up his last check, SUNBELT informed Mr. Heredia's that his final wages would be mailed to him.

SUNBELT has a continuous policy of not providing final wages to employees who are fired at the time of termination or who quit within seventy-two (72) hours of their leaving SUNBELT's employ.

As outlined above, SUNBELT has a continuous policy of not paying Mr. Heredia and similarly aggrieved employees for all hours worked by requiring employees to work before clocking in, after clocking out, and during meal periods. For example, Mr. Heredia and the aggrieved employees have to perform pre-trip and post-trip inspections before clocking in and after clocking out. In addition, Mr. Heredia and the aggrieved employees are responsible for SUNBELT's company truck that they are required to park at their personal residences when they are not performing work duties. As such, Mr. Heredia and the aggrieved employees are responsible for SUNBELT's company truck and its contents at all times. Moreover, Mr. Heredia and the aggrieved employees were required to clock out before the end of their fifth hour of work to create the appearance of a lawful meal period and to avoid being disciplined, even if they were in the middle of work duties such as impounding a vehicle. This forced Mr. Heredia and the aggrieved employees to clock out for a meal period and continue working while clocked out. Further, Mr. Heredia and the aggrieved employees are not relieved of all duties and employer control during their unpaid meal periods. Mr. Heredia and the aggrieved employees have to keep their phones on and with them during their meal periods. SUNBELT calls and/or otherwise contacts Mr. Heredia and the aggrieved employees while they are on unpaid meal periods for dispatch and other business purposes. Thus, Mr. Heredia and the aggrieved employees are owed wages for meal period time during which they are subject to SUNBELT's control and during which they are not free from all work duties.

In addition, SUNBELT failed to pay all meal and rest period premiums owed to Mr. Heredia and the aggrieved employees at the time of termination.

SUNBELT'S failure to pay the aggrieved employees who are no longer employed by SUNBELT their wages, that were earned and unpaid, at the time of termination or within seventy-two hours of their leaving SUNBELT'S employ, is in violation of *California Labor Code* sections 201 and 202.

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

These claims are for Mr. Heredia and all similarly situated non-exempt drivers who worked for SUNBELT in California.

Mr. Heredia, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each of the following, as set forth in

Labor Code section 2699.5 for violations of sections 201 through 203.

VI. SUNBELT's Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions

Section 226(a) of the *California Labor Code* requires SUNBELT to itemize in wage statements all deductions from payment of wages and to accurately report total hours worked by Mr. Heredia and the aggrieved employees.

California Labor Code section 226 subdivision (a) requires that SUNBELT, at the time of each payment of wages, “furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee... (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than the social security number, (8) the name and address of the legal entity that is the employer...(9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate and the corresponding number of hours worked at each hourly rate by the employee...”

California Labor Code section 226, subdivision (a) also requires that “deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California” to itemize in wage statements and to accurately report the total hours worked and total wages earned.

In addition, *California Labor Code* section 204(b) requires that “all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.” An employer complies with *California Labor Code* section 226(a) “if hours worked in excess of the normal work period during the current pay period are itemized as corrections on the paystub for the next regular pay period. Any corrections set out in a subsequently issued paystub shall state the inclusive dates of the pay period for which the employer is correcting its initial report of hours worked.”

SUNBELT has knowingly and intentionally failed to comply with *California Labor Code* section 226(a) on each and every wage statement provided to Mr. Heredia and the other aggrieved employees.

In every pay period during the period of the relevant statute of limitations, SUNBELT knowingly and intentionally did not itemize the total hours worked on wage statements as *California Labor Code* section 226, subsection (a), requires. SUNBELT has a continuous policy of not paying Mr. Heredia and similarly aggrieved employees for all hours worked by requiring employees to work before clocking in, after clocking out, and during meal periods. For example, Mr. Heredia and the

aggrieved employees have to perform pre-trip and post-trip inspections before clocking in and after clocking out. In addition, Mr. Heredia and the aggrieved employees are responsible for SUNBELT's company truck that they are required to park at their personal residences when they are not performing work duties. As such, Mr. Heredia and the aggrieved employees are responsible for SUNBELT's company truck and its contents at all times. Moreover, Mr. Heredia and the aggrieved employees were required to clock out before the end of their fifth hour of work to create the appearance of a lawful meal period and to avoid being disciplined, even if they were in the middle of work duties such as impounding a vehicle. This forced Mr. Heredia and the aggrieved employees to clock out for a meal period and continue working while clocked out. Further, Mr. Heredia and the aggrieved employees are not relieved of all duties and employer control during their unpaid meal periods. Mr. Heredia and the aggrieved employees have to keep their phones on and with them during their meal periods. SUNBELT calls and/or otherwise contacts Mr. Heredia and the aggrieved employees while they are on unpaid meal periods for dispatch and other business purposes. Thus, Mr. Heredia and the aggrieved employees are owed wages for meal period time during which they are subject to SUNBELT's control and during which they are not free from all work duties.

In addition, SUNBELT failed to include all meal and rest period premiums that were owed to Mr. Heredia and the aggrieved employees on wage statements.

Finally, SUNBELT failed to include all overtime hours worked by Mr. Heredia and the aggrieved employees on wage statements at the proper regular rate of pay that incorporated bonuses earned during that pay period.

Throughout the statutory period, as a result of the knowing and intentional failure by SUNBELT to comply with itemized employee wage statement provisions, Mr. Heredia and the aggrieved employees have been able to reconstruct only a reasonable estimate of the hours worked and have, therefore, not received full compensation.

These claims are for Mr. Heredia and all similarly situated non-exempt employees who worked in SUNBELT's locations in California.

Mr. Heredia, as a non-exempt employee who SUNBELT failed to provide accurate and itemized wage statements, is an aggrieved employee with standing to bring an action under the PAGA. Mr. Heredia has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5 for violations of *California Labor Code* section 226.

VII. SUNBELT Failed to Provide Paid Sick Days

Section 246(a) of the *California Labor Code* requires "an employee who, on or after July 1, 2015, works in California for the same employer for thirty (30) or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section." *California Labor Code* section 246, subdivision (b)(1), provides, in pertinent part, "an employee shall accrue paid sick days at the rate of not less than one hour per every thirty (30) hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later."

California Labor Code section 246(k) provides that, “[a]n employee may determine how much paid sick leave they need to use, provided that an employer may set a reasonable minimum increment, not to exceed two hours, for the use of paid sick leave.”

California Labor Code section 246(i) requires that, “[a]n employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee’s itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

California Labor Code section 233(c) states: “An employer shall not deny an employee the right to use sick leave or discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using, or attempting to exercise the right to use, sick leave to attend to an illness or the preventive care of a family member, or for any other reason specified in subdivision (a) of Section 246.5” *California Labor Code* section 233(d) provides relief for violations of this section, stating that “[a]ny employee aggrieved by a violation of this section shall be entitled to reinstatement and actual damages or one day’s pay, whichever is greater, and to appropriate equitable relief.”

California Labor Code section 234 further forbids employers from adopting an “absence control policy that counts sick leave taken pursuant to Section 233 as an absence that may lead to or result in discipline, discharge, demotion, or suspension is a per se violation of Section 233. An employee working under this policy is entitled to appropriate legal and equitable relief pursuant to Section 233.

SUNBELT operates under an absence control policy that counts sick leave taken pursuant to Section 233. Thus, SUNBELT’s sick pay policy punishes employees for use of protected and appropriate sick leave. SUNBELT further failed to provide paid sick days for all hours worked in compliance with these sections.

In addition, SUNBELT does not provide employees with written notice that sets forth the amount of sick leave available for use, either in employees’ itemized wage statements or in a separate writing provided to employees on the designated pay date.

These claims are for Mr. Heredia and all similarly situated non-exempt employees who worked in SUNBELT’s locations in California.

Mr. Heredia, as a representative of the people of the State of California, will seek all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (“DLSE”). This includes each of the following, as set forth in *California Labor Code* section 2699.5 for violations of section 246 and 247.5.

VIII. SUNBELT Failed to Reimburse Employees for Business Expenses

Section 2802(a) of the *California Labor Code* requires “[a]n employer [to] indemnify his or her

employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties.”

Mr. Heredia and the aggrieved employees incurred expenses in the discharge of their duties without receiving reimbursement from SUNBELT. These expenses include, but are not limited to, having to use their personal cell phones for business purposes when not provided with a company phone. In addition, Mr. Heredia and the aggrieved employees are required to maintain and launder uniforms that they must wear in completing employment duties without reimbursement. Moreover, SUNBELT provides company vehicles for Mr. Heredia and the aggrieved employees to use. SUNBELT requires Mr. Heredia and the aggrieved employees to park these vehicles in the driveway of their residences and prohibits company vehicles from being parked on public streets. SUNBELT fails to reimburse Mr. Heredia and the aggrieved employees for this expense.

California Labor Code section 2802(a) entitles Mr. Heredia and the aggrieved employees to reimbursement for said necessary expenditures, plus interest and expenses.

These claims are for Mr. Heredia and all similarly situated non-exempt employees who worked in SUNBELT’s locations in California.

Mr. Heredia is an aggrieved employee with standing to bring an action under the PAGA. Furthermore, Mr. Heredia satisfies all prerequisites to serve as a representative of the general public to enforce California’s labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 for violations of *Labor Code* section 2802(a).

IX. SUNBELT Underpaid Employees Every Pay Period

Section 558(a) of the *California Labor Code* subjects any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty for every pay period for which the employee was underpaid, which includes the underpaid wages related to each violation.

Every pay period, SUNBELT failed to pay employees the legal minimum wage in violation of *California Labor Code* section 1197.1, and employees are entitled to underpaid wages pursuant to Section 558(a).

SUNBELT has had a continuous policy of not paying Mr. Heredia and similarly aggrieved employees for all hours worked, as outlined above.

Every pay period, SUNBELT failed to pay overtime when employees worked over eight (8) hours per day and when employees worked over forty (40) hours per week in violation of *California Labor Code* section 510, and employees are entitled to underpaid overtime wages pursuant to Section 558(a).

Every pay period, SUNBELT has had a consistent policy and/or practice of not providing meal periods to Mr. Heredia and all aggrieved employees and/or providing compensation in lieu thereof

in violation of *California Labor Code* section 512, and employees are entitled to underpaid meal period premium wages pursuant to Section 558(a).

Every pay period, SUNBELT has had a consistent policy and/or practice of not providing rest periods to Mr. Heredia and the aggrieved employees and/or providing compensation in lieu thereof, and employees are entitled to underpaid rest period premium wages pursuant to Section 558(a).

Further, because Mr. Heredia and the aggrieved employees were provided non-discretionary bonuses per impound, the regular rate of pay used to compensate for overtime hours worked should have factored in the bonus payments. SUNBELT's failure to increase Mr. Heredia's and the aggrieved employees' regular rate of pay was unlawful and resulted in greater underpayment of the overtime hours worked by Mr. Heredia and the aggrieved employees.

Mr. Heredia and the aggrieved employees have suffered, and continue to suffer, substantial unpaid wages, and lost interest on such wages, and expenses.

These claims are for Mr. Heredia and all similarly situated non-exempt employees who worked in SUNBELT's locations in California.

Mr. Heredia, as a non-exempt employee who unlawfully was underpaid every pay period during his employment, is an aggrieved employee with standing to bring an action under the PAGA. Mr. Heredia has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 558(a) for violations of *California Labor Code* sections 510 and 512 and California's labor laws.

X. Conclusion

If after 65 days from the date of this letter, the LWDA does not take action or declines to intervene, Mr. Heredia will file a complaint alleging PAGA violations, as described above.

Respectfully submitted,
MARA LAW FIRM, PC



David Mara, Esq.
Jill Vecchi, Esq.

Attn: PAGA Administrator
California Labor and Workforce Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
Via Web Submission

Steven E. Hendrickson

3802 Rosecrans St. #282

San Diego, CA 92110

Agent for Service of Process for Defendants Sunbelt Towing, Inc. and Western Towing, Inc.

Via Certified Mail

Sunbelt Towing, Inc.

3802 Rosecrans St. #282

San Diego, CA 92110

Via Certified Mail

Western Towing, Inc.

3802 Rosecrans St. #290

San Diego, CA 92110

Via Certified Mail

Case Name: Phillip Heredia v. Sunbelt Towing, Inc.: Western Towing, Inc.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

I am employed in the County of: San Diego, State of California.

I am over the age of 18 and not a party to the within action; my business address is:
2650 Camino Del Rio N. Suite 302, San Diego, CA 92108

On March 13, 2023, I served the foregoing document(s) described as:

NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO LABOR CODE SECTION 2699.3

On interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Steven E. Hendrickson
3802 Rosecrans St. #282
San Diego, CA 92110
Agent for Service of Process for Defendants
Sunbelt Towing, Inc. and Western Towing,
Inc.
(Via Certified Mail)

Western Towing, Inc.
3802 Rosecrans St. #290
San Diego, CA 92110
Via Certified Mail
(Via Certified Mail)

Sunbelt Towing, Inc.
3802 Rosecrans St. #282
San Diego, CA 92110
(Via Certified Mail)

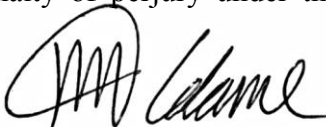
Attn: PAGA Administrator
**California Labor and Workforce
Development Agency**
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
(Via Electronic Filing)

[XX] (BY UNITED STATES CERTIFIED MAIL) On March 13, 2023, I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses named above and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

[XX] (BY ELECTRONIC SUBMISSION) On March 13, 2023, I caused the documents to be sent to the persons at the electronic notification addresses of the parties named above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

[XX] (DECLARATION) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Dated: March 13, 2023


Mathew Adame

Matthew Adame

From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY
<lwdadonotreply@dir.ca.gov>
Sent: Monday, March 13, 2023 5:22 PM
To: Matthew Adame
Subject: Thank you for submission of your PAGA Case.

3/13/2023

LWDA Case No. LWDA-CM-941650-23
Law Firm : Mara Law Firm, PC
Plaintiff Name : Phillip Heredia
Employer: Sunbelt Towing, Inc.
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

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

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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

Exhibit 7