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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

BRUCE KEHOE, an individual on behalf of himself and all others similarly situated, Plaintiff, v. DKD PROPERTY MANAGEMENT COMPANY, a California corporation; and DOES 1 through 50, inclusive, Defendant.	Case No.: 23CV412333 CLASS ACTION Assigned for All Purposes Hon. Theodore C. Zayner Dept.: 19 **DECLARATION OF ENOCH J. KIM IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT AGREEMENT** Preliminary Approval Hearing: Date: December 9, 2026 Time: 1:30 p.m. Dept.: 19

DECLARATION OF ENOCH J. KIM

I, Enoch J. Kim, declare as follows:

1. I am an attorney licensed and admitted to practice before all courts of the State of California, the United States District Court for the Central, Southern, Eastern, and Northern Districts of California. I am Senior Counsel at D.Law, Inc. and counsel for Plaintiff Bruce Kehoe (hereinafter, "Plaintiff"), on behalf of himself and all other similarly situated employees of Defendant DKD Property Management Company ("Defendant").

2. All of the matters set forth herein are within my personal knowledge. I submit this Declaration in support of Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement Agreement ("Motion"). A copy of the Class Action and PAGA Settlement Agreement ("Settlement Agreement") is attached as **Exhibit 1** hereto, with the Notice of Class and PAGA Action Settlement ("Class Notice") (attached as **Exhibit A** to the Settlement Agreement).

Procedural History

3. On March 13, 2023, Plaintiff Bruce Kehoe commenced a Class Action by filing a Complaint alleging causes of action against Defendant for (1) Failure to Pay Minimum Wages; (2) Failure to Pay Wages and Overtime under Labor Code § 510; (3) Failure to Pay Reporting Time Pay; (4) Meal Period Liability Under Labor Code § 226.7; (5) Rest Break Liability Under Labor Code § 226.7; (6) Violation of Labor Code § 226(a); (7) Violation of Labor Code § 203; (8) Violation of Labor Code § 204; (9) Failure to Keep Required Payroll Records under Labor Code §§1174 and 1174.5; (10) Failure to Reimburse Necessary Business Expenses under Labor Code § 2802; and (11) Violation of Business & Professions Code 17200 *et seq*. (the "Action").

4. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff Bruce Kehoe gave timely written notice to Defendant and California's Labor and Workforce Development Agency ("LWDA") by sending her PAGA Notice on March 10, 2023 (LWDA-CM-941280-23). A true and correct copy of his PAGA Notice is attached hereto as **Exhibit 2**. On July 25, 2023, Plaintiff Bruce Kehoe filed a First Amended Complaint adding a cause of action for civil penalties under the PAGA, Labor Code § 2698 *et seq*.

Plaintiff's Claims and Defendant's Denials

5. Plaintiff's claims are based on Defendant's alleged failure to pay wages (including minimum and overtime), failure to pay reporting time pay, failure to provide meal and rest periods, failure to furnish accurate wage statements, failure to keep required payroll records, failure to reimburse business expenses, the resulting failure to pay final wages when required and provide accurate wage statements, and largely derivative claims under the UCL and PAGA.

6. Specifically, Plaintiff alleges that Defendant required Plaintiff and Class Members to arrive to work prior to the start of their shifts and to work outside of their scheduled shifts without being paid for time spent working beyond their scheduled shifts.

7. Defendant contends that it required Class Members to report all hours worked, that it paid for all hours worked, that any off-the-clock work was performed without Defendant's knowledge and was de minimis, and that it paid wages at the proper rates. Defendant contends that these claims are not suitable for class treatment given the individualized issues they raise and the manageability difficulties.

8. Plaintiff also alleges that Defendant recorded Plaintiff's and Class Members' time into the timekeeping system to reflect that they took a 30-minute meal period before the fifth hour of work without regard as to whether their meal periods were taken on time, for the full duration, or were interrupted by work requirements. Plaintiff alleges that Class Members were typically given too much work to feasibly be able to take meal periods, and Defendant would frequently disrupt Class Members' meal periods with work demands. Plaintiff similarly alleges that Plaintiff and Class Members were unable to take two or three duty-free rest periods during their work shifts because they were required to respond to work demands throughout the day.

9. Defendant contends that Class Members were given a reasonable opportunity to take their meal periods and that any deviations from their scheduled meal periods were at the voluntary election of Class Members. Defendant further contends that Plaintiff and Class Members agreed to on duty meal breaks and meal break waivers where applicable. Defendant also maintains that the meal break claim requires individualized inquiries, which would preclude class certification. Defendant similarly maintains that it provided the reasonable opportunity for Class Members to take duty-free rest breaks. Defendant similarly maintains that it provided the reasonable opportunity for

Class Members to take duty-free rest breaks.

10. Additionally, Plaintiff alleges that Defendant required Plaintiff and Class Members to use their cellular phones for work for which they were not reimbursed. Defendant maintains that Plaintiff and Class Members did not incur business expenses and/or were properly reimbursed for all business expenses and further contend that any unreimbursed business expenses were not necessary expenditures as required by Labor Code section 2802.

11. Defendant generally denies all claims alleged in the Action and further denies class and/or representative treatment is appropriate for any purpose other than this settlement and that it complied with all applicable laws. However, after careful consideration, Defendant has concluded that further litigation would be protracted and expensive and that it is desirable that the Action be fully and finally settled in the manner and upon the terms and conditions herein.

Investigation

12. Before filing the lawsuit, Class Counsel conducted a thorough investigation and researched the facts and circumstances underlying the pertinent issues and applicable law. This required thorough discussions and interviews between Class Counsel and Plaintiff, in addition to the above-described discovery and research into the various legal issues involved in the case. After filing the lawsuit, Class Counsel conducted a thorough investigation of the facts and claims giving rise to the action, including (1) conducting both formal and informal discovery and meeting and conferring with defense counsel about same; (2) reviewing and analyzing records and data, as well as employment-related policies; (3) reviewing Plaintiff's personnel file and other documentation; (4) interviewing Plaintiff regarding potential Class Members; (5) researching the applicable law and potential defenses; (6) constructing damage models based on interpretations of California law and the facts and numbers provided by Defendant; and (7) reviewing information provided by Defendant in response to informal discovery and in advance of the mediation. The Parties conducted their own evaluations of the potential recoveries based on the claims alleged in the Action, including consulting experts.

13. Defendant, for its part, vigorously contested liability, the amount of claimed damages, and the propriety of class certification. After analyzing the relevant documents and other

gathered data, Class Counsel believed that this case was appropriate for resolution via mediation. Given the high level of risk present for both sides, the Parties elected to mediate Plaintiff's claims and explore the possibility of settlement.

Settlement Efforts

14. On May 1, 2024, the Parties participated in an all-day mediation with Todd Smith, Esq., a respected and highly experienced mediator in wage and hour class actions. During mediation, counsel for Plaintiff and Defendant discussed all aspects of the case, including the risks of litigation, the risks to both Parties, and the law and how it applied to the facts of this case. This mediation was unsuccessful and the Parties returned to a litigation posture. After litigating the matter further, the Parties re-engaged mediator Todd Smith, Esq., who then facilitated further negotiations between the Parties, ultimately resulting in a mediator's proposal being issued and accepted.

15. Based on their own independent investigations and evaluations, Class Counsel is of the opinion that the settlement with Defendant for the consideration and terms set forth herein is fair, reasonable, and adequate. Based on the settlement negotiations, which were extensive and conducted in good faith and at arm's length between attorneys with substantial experience litigating wage and hour class action cases, the settlement was the product of a non-collusive settlement process and compromises in the interest of reaching a full and complete settlement. As a result, Class Counsel has determined that the settlement set forth in this Agreement is in the best interests of the Class Members.

Summary of the Settlement

16. Under the terms of the proposed Agreement, Defendant has agreed to pay $650,000.00 ("Gross Settlement Amount" or "GSA") on a non-reversionary basis. (Exhibit 1, Settlement Agreement, ¶ 1.21.) The Settlement Agreement defines "Class" as "all persons who worked for Defendant in California as non-exempt, hourly employee(s) during the Class Period." (*Id.* at ¶ 1.5.) The Class Period is the period commencing on March 13, 2019, to the date the court enters an order granting preliminary approval of this settlement, inclusive, or if applicable, or an earlier date that Defendant selects pursuant to the escalation option. (*Id.* at ¶ 1.9.) The PAGA Period at issue involves all persons who worked for Defendant in California as non-exempt, hourly

employees from March 10, 2022 to the date of preliminary approval of the Agreement (or an earlier date pursuant to the escalator clause). The "Net Settlement Amount" means the funds available for payments to the Class Members on a pro-rata basis, which shall be the amount remaining after the following amounts are deducted from the Gross Settlement Amount: (1) Class Counsel Fees, (2) Class Counsel Costs, (3) Settlement Administration Costs, (4) Class Representative Enhancement Award; and (5) PAGA Penalties to be paid to the LWDA and Aggrieved Employees. (*Id.* at ¶ 1.27.) These amounts are detailed as follows:

- Class Counsel Fees: Up to one-third (1/3) of the Gross Settlement Amount, or **$216,666.66**. (Exhibit 1, Settlement Agreement, ¶ 3.2.2.);
- Class Counsel Costs: Up to **$25,000.00** to Class Counsel for reimbursement of reasonable expenses incurred to prosecute the Action (*Id.* at ¶ 3.2.2.);
- Class Representative Enhancement Award: Up to **$7,500.00** to Plaintiff as an award for his service as the Class Representative (*Id.* at ¶ 3.2.1.);
- Settlement Administration Costs: Up to **$10,000.00** to the Administrator for its fees and costs to administer the settlement (*Id.* at ¶ 3.2.2.);
- PAGA Penalties: **$30,000.00** for settlement of claims for civil penalties under PAGA, with 35% allocated to the Individual PAGA Payments ($10,500.00) and 65% allocated to the LWDA ($19,500.00) to be paid to the LWDA ("LWDA PAGA Payment") (*Id.* at ¶ 3.2.4.)

17. If the Court approves the above allocations from the Gross Settlement Amount, the Net Settlement Amount is estimated to be **$360,833.34**. Each Class Member's share of the Net Settlement Amount ("Individual Class Payment") will be calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Members' Workweeks. (Exhibit 1, Settlement Agreement, ¶ 3.2.3.) For the approximately 287 Class Members (if no exclusions), the average Individual Class Payment, using a straight average, is **$1,257.26**.

18. Not later than fourteen (14) calendar days after the Court grants Preliminary Approval of the Agreement, Defendant will deliver the Employee Data to the Administrator, in the form of a Microsoft Excel spreadsheet. (Exhibit 1, Settlement Agreement, ¶ 4.2.) Not later than

fourteen (14) calendar days after receiving the Employee Data, the Administrator will mail the Class Notice, attached to the Settlement Agreement as Exhibit A, to all Class Members identified in the Employee Data via first-class United States Postal Service ("USPS") mail. (Exhibit 1, Settlement Agreement, ¶ 7.4.2.) The Class Notice includes a summary of the case and settlement terms and provides Class Members with detailed instructions on how to exclude themselves, object to the settlement, and challenge the number of Workweeks and/or Pay Periods attributed to each Class Member per Defendant's records. (Exhibit 1, Settlement Agreement, Exhibit A, Class Notice.) Class Members will have sixty (60) calendar days from the mailing of the Class Notice (plus an additional fourteen (14) calendar days for Class Members whose Class Notice is re-mailed) to opt out of the Settlement, object to the Settlement, or challenge the number of Workweeks and/or Pay Periods ("Response Deadline"). (Exhibit 1, Settlement Agreement, ¶¶ 1.43, 7.4.4., 7.4.5.)

Certification for Settlement Purposes Only is Appropriate

19. Plaintiff alleges that the proposed Class satisfies the criteria for certification of a settlement class under California law, as embodied in California Code of Civil Procedure § 382. Defendant has agreed to the conditional certification of the class for settlement purposes only. In general, courts may take a proposed settlement into account in evaluating the propriety of class certification. See Dunk v. Ford Motor Co. (1996) 48 Cal.App.4th 1794, 1807 fn. 19. Indeed, a "lesser standard" of scrutiny applies in certifying classes for settlement purposes. (Id). Therefore, the Court should take into consideration the fact that the Parties have settled their claims and stipulated to certification for settlement purposes when assessing whether the Agreement is fair and reasonable.

20. Numerosity and Ascertainability. The putative Class is so numerous that joinder of all members is impractical. Class Members are all individuals employed as non-exempt, hourly employees by DKD Property Management Company within the State of California during the Class Period, which is the period commencing on March 13, 2019, to the date the court enters an order granting preliminary approval of this settlement, inclusive, or if applicable, an earlier date that Defendant selects pursuant to the escalation option. (Exhibit 1, Settlement Agreement, ¶¶ 1.5 and 1.9.) Defendant has identified approximately 287 Class Members based on review of its payroll and personnel records. Thus, there is numerosity and ascertainability.

21. Well-Defined Community of Interest. Plaintiff contends and Defendant does not dispute for settlement purposes only, that common issues of fact and law predominate as to each of the claims alleged by Plaintiff, and the Class is united in its proof. This action involves, *inter alia*, a determination about Defendant's alleged failure to provide meal and rest periods, failure to pay wages and overtime due to allegedly common off-the-clock work and time rounding policies, failure to pay reporting time pay, failure to reimburse business expenses, failure to keep required payroll records, the resulting failure to pay final wages when required and failure to provide accurate wage statements; and largely derivative claims under the UCL and PAGA. Plaintiff contends Defendant's practices affected Class Members in the same way and present questions that are suitable for common adjudication because all Class Members were subject to the same employment policies and practices. The outcome of litigation in this matter depends upon questions that are common to Class Members.

22. Typicality. The class representative's claims are typical when they arise from the same event, practice, or course of conduct that gives rise to the claims of other putative Class Members, and if their claims rest on the same legal theories. Here, Plaintiff alleges that his claims are typical of Class Members' claims because they arose from the same factual basis and are based on the same legal theories. Plaintiff and Class Members were employed by Defendant during the Class Period and subject to the allegedly unlawful meal and rest policies and pay practices at issue in this litigation. Thus, the typicality requirement is satisfied.

23. Adequacy. Plaintiff's interests are aligned with those of the Class Members, as he has suffered the same injuries as the Class Members and have no conflicts of interest. Plaintiff has not shrunk from this responsibility. Indeed, Plaintiff has devoted a substantial amount of time and energy to litigating this Action and effectuating a settlement. Furthermore, as set forth below, Class Counsel are experienced in wage-and-hour litigation, especially class actions, and have zealously represented the interests of the Class in litigating this case and have no conflicts of interest. Accordingly, the adequacy requirement is satisfied.

24. Predominance and Superiority. Plaintiff contends that individualized issues do not predominate over the issues of law and fact that are common to the Class as a whole. As explained,

supra, Plaintiff alleges there are common issues of law and fact given that Plaintiff and all Class Members were subjected to the same policies and pay practices during the relevant time period. Plaintiff and Class Members seek meal and rest premiums, unpaid wages and overtime, and penalties for work performed as non-exempt employees for Defendant. Plaintiff alleges that these issues are suitable for common adjudication because all Class Members were allegedly subject to the same employment policies, and Plaintiff contends the practices applied uniformly to all Class Members.

25. Plaintiff contends that class resolution is superior to other available methods for the fair and efficient adjudication of the controversy as there is little interest or incentive for Class Members to individually control the prosecution of separate actions. Although the alleged injury resulting from Defendant's policies and practices are allegedly real and significant, the cost of individually litigating each such case against Defendant would easily exceed the value of any relief that could be obtained by any one Class Member individually. If Class Members are forced to litigate their claims individually, this would result in 287 individual actions against Defendant. Here, the alternative methods of resolution are individual suits for relatively small amounts, each for relatively small amounts. Hence, an individual suit would prove uneconomical for potential plaintiffs because litigation costs would dwarf a potential recovery.

The Settlement is Fair, Adequate and Reasonable

26. In deciding whether to approve a proposed class action settlement, the Court must find that a proposed settlement is "fair, adequate, and reasonable" and falls within the "range of approval." *Dunk*, 48 Cal.App.4th at 1801-02. The trial court considers all relevant factors, such as "the strength of Plaintiff's case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the Class Members to the proposed settlement." *Id.* The Agreement satisfies all of these requirements.

A. The Settlement is the Result of Serious, Informed, Non-Collusive Negotiations.

27. The proposed settlement was reached as a result of arm's length negotiations after

the completion of pertinent discovery and the exchange of necessary class data. The negotiations have been, at all times, adversarial and non-collusive in nature. *See*, 4 Newberg on Class Actions § 13:45 (5th ed.) (due to the preference of settlement over litigation, "a court will presume that a proposed class action settlement is fair when certain factors are present, particularly evidence that the settlement is the product of arms-length negotiation, untainted by collusion."). Although Plaintiff steadfastly maintains that their claims are meritorious, Plaintiff acknowledges that there were substantial risks and uncertainty in proceeding with litigation. As described below, Defendant presented multiple defenses to Plaintiff's claims, both on the merits and with respect to class certification. Thus, while Plaintiff was prepared to litigate these claims through class certification, and ultimately trial, success was far from certain. Assistance from a well-respected mediator ensured negotiations were non-collusive and well-informed.

B. Extent of Discovery and Stage of Proceedings.

28. As stated above, the Parties engaged in substantial formal and informal discovery before the Agreement was reached to allow them to fully evaluate the class claims and Defendant's defenses. This litigation has reached the stage where the Parties have a clear view of their respective strengths and weaknesses.

C. Strength of Plaintiff's Case and the Risk, Expense, Complexity and Likely Duration of Any Litigation.

29. As stated above, while Plaintiff and Class Counsel contend the claims asserted in the Action have merit, they also acknowledge the expense and delay of continued litigation. Although the Parties engaged in significant informal discovery in advance of mediation, the Parties still had significant discovery to complete had the matter not settled. This would have required expenditure of substantial time and resources by both Parties that would have very likely spanned several years. Even if Plaintiff were to certify the class, the Parties would incur considerably more attorneys' fees and costs through a possible decertification motion, trial, and possible appeal. This Agreement avoids those risks and the accompanying expense.

D. The Risk of Maintaining Class Action Status Through Trial.

30. Plaintiff has not yet filed his motion for class certification, and as such, the extent to

which Plaintiff's proposed class is certifiable is somewhat speculative. Absent a settlement, there was a risk that there would not be a certified class at the time of trial, or if there were, it could consist of a significantly smaller group of employees than the proposed Class resulting in less overall recovery.

31. Finally, in class actions, decertification is always a possibility, and there is always a risk that a trial of this magnitude can become unmanageable. Cases like *Duran v. U.S. Bank Nat. Assn.* (2014) 59 Cal. 4th 1, 34 address the complexity of using statistical samples in class actions and demonstrate that decertification is a real risk that Class Counsel must consider. A class trial would have also required expert witnesses, the accrual of extensive litigation costs, and the commitment of extensive further time and financial resources. Finally, given the complexity and unsettled nature of the issues, it is likely that any outcome at trial would have resulted in a lengthy and costly appeal. An appeal would result in further delay for the Class Members who have already waited years for resolution in this matter. Risk and legal uncertainty must be dealt with in any litigation, and this Agreement was the product of compromise accounting for those risks and that uncertainty.

E. The Presence of a Governmental Participant.

32. Class Counsel will be submitting the Agreement to the LWDA concurrently with the filing of this motion pursuant to Labor Code § 2699(l)(2).

F. The Amount Offered in Settlement is Fair Given the Potential Value of the Claims.

33. Since the Class consists of numerous employees, it was unlikely that the potential monetary claims of individual Class Members would have proved viable without the class-action mechanism. The Agreement should be approved in light of two California appellate decisions: *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116.

34. The strength of Plaintiff's case in light of the settlement amount is deemed by courts to be the "most important." *Clark v. American Residential Services, LLC* (2009) 175 Cal.App.4th 785, 799 (citing *Kullar*). Here, Plaintiff alleges that Defendant failed to pay minimum wages and overtime, failed to pay reporting time pay, failed to provide meal and rest breaks, failed to provide

accurate wage statements, failed to pay all wages upon termination, failed to keep required payroll records, and failed to reimburse for business expenses, all in violation of California law. Plaintiff seeks related violations of California's Business & Professions Code and penalties pursuant to Labor Code § 2699 *et seq*. Summary calculations for estimated liability for each of these claims follow.

Failure to Pay Regular Wages and Overtime:

35. Plaintiff alleges that Defendant failed to pay Plaintiff and Class Members at least minimum wages for all hours worked and proper overtime wages for hours worked in excess of eight hours in a day and 40 hours in a week.

36. Plaintiff's expert estimated Defendant's maximum exposure on the unpaid wages claims to be approximately $574,849.00 (assuming 10 minutes of off the clock work per shift with 78.5% attributable to overtime). However, given Defendant's defenses and the potential hurdles facing certification of off-the-clock claims, Class Counsel applied an 80% discount, making for an adjusted realistic exposure of $114,969.80 for Defendant.

Meal Periods and Rest Breaks:

37. Plaintiff argues that Defendant had a common practice and policy of denying compliant meal periods.

38. For each meal period missed, of less than 30 minutes, or taken late for which the employee was not provided a reasonable opportunity to take a complete and timely meal period, an employer must pay the employee an additional one hour of compensation. Labor Code § 226.7. This additional hour of compensation is referred to as "premium pay." To comply with these laws, every employer must keep, for each employee, accurate time records showing when the employee begins and ends each work period and takes his or her meal periods. *See* Wage Order 4-2001(7)(A)(3).

39. Plaintiff's expert estimated Defendant's maximum exposure on the meal period claim at approximately $66,209.00 (net meal period premiums due offset by meal period premiums paid). However, given Defendant's contentions, Class Counsel applied a 50% discount, making for an adjusted realistic exposure of $33,104.50 for Defendant.

40. Rest Breaks: The same argument applied to rest breaks. Plaintiff contends that, Defendant did not provide Class Members with timely paid 10-minute rest breaks for every four

hours or major fraction thereof.

41. Plaintiff's expert estimated Defendant's maximum liability exposure on the rest break period claim at approximately $2,660,943.00 assuming a 100% rest break violation rate. However, given Defendant's contentions and considering a more realistic violation rate for the Class as well as the potential hurdles facing certification of rest break claims, Class Counsel applied a 90% discount making for an adjusted realistic exposure of $266,094.30 for Defendant. Owing to the arguments above and the fact that the recording of rest periods is not required, this claim was substantially discounted and was not a major driver of exposure in this case.

Inaccurate Wage Statement Violations:

42. Under Labor Code § 226(a), Plaintiff and the Class are entitled to recover $50 for initial violations for inaccurate wage statements and $100 for subsequent violations, up to a maximum of $4,000.00 per employee. Plaintiff alleges Defendant issued wage statements to Plaintiff and the Class Members that did not accurately list all hours worked by omitting off-the-clock work and by unlawful rounding and inaccurately listing applicable hourly rates.

43. Defendant challenged Plaintiff's claim for Labor Code § 226(e) penalties, including by arguing they were merely derivative of the other claims that lacked merit, and Plaintiff's failure to prove the underlying claims could result in the dismissal of these derivative claims. Defendant also maintains that it did not knowingly and intentionally commit these alleged violations. *See, e.g.,* Labor Code § 226(e) (recovery of penalties requires showing there was "a knowing and intentional failure by an employer").

44. Plaintiff's expert estimated Defendant's maximum total exposure on the section 226 claim at approximately $416,750.00. After considering Defendant's contentions and the potential class certification issues, Class Counsel discounted this amount by 80% to get an adjusted realistic exposure of $83,350.00.

Failure to Pay Final Wages at Termination or Separation:

45. In allegedly failing to pay Class Members their minimum wages, overtime wages, and premium pay for deficiently provided meal periods and rest breaks, all discussed above, Plaintiff alleges that Defendant willfully failed to pay Class Members all wages due and certain at the time

of termination or within seventy-two (72) hours of resignation, as required under Labor Code § 203.

46. Section 203 further provides that if an employer willfully fails to pay an employee all wages due at termination or within 72 hours of resignation, then that employee's wages will continue as a penalty until paid for a period of up to 30 calendar days from the date they were due.

47. Defendant challenged this claim under Labor Code § 203 with several arguments, including that this claim is merely derivative of the other claims that lacked merit and that under Labor Code § 203, employers are only obligated to pay waiting-time penalties if they "willfully" fail to pay wages due and owing at the time of termination or resignation. As Title 8, California Code of Regulations, § 13520 states: "A willful failure to pay wages within the meaning of Labor Code Section 203 occurs when an employer intentionally fails to pay wages to an employee when those wages are due. However, a good faith dispute that any wages are due will preclude imposition of waiting time penalties under Section 203." Defendant argued that their good faith disputes and lack of willfulness would excuse its violations. Defendant maintained that because they had viable defenses in both law and fact, such penalties were subject to a three-year limitations period under Labor Code § 203(b).

48. Plaintiff's expert estimated Defendant's maximum total exposure on the section 203 claim at approximately $666,228.00. Given the foregoing arguments, Class Counsel discounted this amount by 80% to get an adjusted realistic exposure of $133,245.60.

Failure to Reimburse for Necessary Business Expenditures:

49. Under Labor Code § 2802(a) Defendant must indemnify Plaintiff and Class Members for all necessary expenditures or losses incurred in direct consequence of the discharge of their duties. As discussed above, Plaintiff alleges that Plaintiff and Class Members incurred necessary expenditures in the performance of their job duties for Defendant, including the cost of personal cell phone usage for work-related purposes but were not reimbursed for those expenses by Defendant. Defendant maintains that Plaintiff and Class Members did not incur business expenses and/or were properly reimbursed for all business expenses and further contend that any unreimbursed business expenses were not necessary expenditures as required by Labor Code section 2802.

50. Plaintiff's expert estimated Defendant's total exposure on the unreimbursed business expenses claim at approximately $131,325.00 (assuming $25 per month x 287 Class Members). However, given Defendant's reimbursement policy and the potential for the need for individualized inquiries, making class certification of this claim difficult, Class Counsel applied a discount of 80% to get an adjusted realistic exposure of $26,265.00.

PAGA Penalties:

51. The Labor Code Private Attorneys General Act, Labor Code § 2698 *et seq*., allows Plaintiff to obtain civil penalties on behalf of himself and other aggrieved employees for Defendant's violation of any provision of the Labor Code enumerated under Labor Code § 2699.5. Where civil penalties are provided in the statute, those civil penalties are recoverable; where no civil penalties are recoverable, Labor Code § 2699(f) establishes civil penalties of one ($100) for each aggrieved employee per pay period for the initial violation and two hundred dollars ($200) for each aggrieved employee per pay period for each subsequent violation. Pursuant to Labor Code § 2699(i), sixty-five (65) percent of the penalties recovered must be allocated to the Labor and Workforce Development Agency (LWDA), with the remaining thirty-five (35) percent allocated to the affected employees. The limitations period as for all penalties is one year prior to the filing of the complaint.

52. The provisions of the Labor Code potentially triggering PAGA penalties in this case include but are not limited to Labor Code §§ 203, 204, 226(a), 226.3, 226.7, 510, 1174, 1174.5, 1194, and 2802. PAGA penalties are not mandatory and are instead permissive. Labor Code § 2699(e)(2) states that "a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory." *See Thurman v. Bayshore* (2012) 203 Cal. App. 4th 1112 (substantially reducing PAGA penalties by 30% under this provision). Defendant contested Plaintiff's claim for PAGA penalties.

53. PAGA penalties are also derivative of each and every other claim, and Defendant argued the PAGA claims would be subject to the same defenses as the underlying claims, and as well as additional equitable defenses, including substantial compliance. Finally, under *Amaral v. Cintas Corp.* (2008) 163 Cal.App.4th 1157, Defendant asserted that penalties under PAGA could,

at best, be awarded only at the rates obtainable for initial violations under the applicable statutes, because Defendant had never been notified of the alleged violations. *Id.* at 1208-1209.

54. Plaintiff estimated Defendant's maximum total exposure on PAGA claims at approximately $425,200.00 (4,252 PAGA Pay Periods x $100). However, Class Counsel also estimated any PAGA recovery would be substantially reduced, and applied discounts in light of the countervailing arguments with regard to the other causes of action and the Court's power to award "a lesser amount than the maximum civil liability." Thus, Class Counsel applied a discount of 90% to get an adjusted realistic exposure of $42,520.00.

Unfair Business Practices

55. Plaintiff pled this cause of action to augment their other causes of action and aid in their prosecution. Business & Professions Code § 17208 extends the statute of limitations on Plaintiff's wage claims, which qualify as unfair business practices, to four years rather than the three years provided by statute.

Summary

56. The foregoing discussion establishes the adequacy of the settlement amount in light of the merits of Plaintiff's case and establishes the fairness of the class-action settlement in the instant case, including by analyzing it in light of the *Clark* and *Kullar* decisions. It does so by explaining the legal basis for each of Plaintiff's causes of action, summarizing the evidence that Class Counsel gathered in support of those causes of action, and relating to Defendant's legal and factual arguments that worked to detract from the strength of Plaintiff's case.

57. Class Counsel had to apply appropriate discounts in light of the facts and law as discussed above. This Agreement, like most others, was the product of compromise. As addressed above, Plaintiff estimated that Defendant faced approximately $699,549.20 in total realistic exposure on Plaintiff's main claims. The Gross Settlement Amount of $650,000.00 therefore represents a recovery for the Class Members of approximately 92% of the total realistic exposure Plaintiff's estimated Defendant could face on these class-wide claims.

Class Counsel Fees Payment is Fair and Reasonable

58. Under the Agreement, Class Counsel requests, without opposition from Defendant, an award of $216,666.66 for attorneys' fees and up to $25,000.00 for reasonable expenses incurred to prosecute the Action. This request is fair, reasonable, and adequate to compensate Class Counsel for the substantial work they have put into this case. Moreover, the risk they assumed by taking it in the first place as they will not receive any compensation for their efforts until recovery is obtained for the Class Members. The attorneys' fees award is intended to reimburse Class Counsel for all uncompensated work that they have already done and for all the work they will continue to do in carrying out and overseeing the notification to Class Members, communicating with Class Members regarding their claims, and assisting in the administration of the settlement if it is preliminarily approved. The requested fee is reasonable for the services provided to Class Members and for the benefits they are to receive.

Class Representative Service Payments are Fair and Reasonable

59. Plaintiff is entitled to reasonable service payments for his efforts and initiatives in bringing and helping to prosecute this action. Plaintiff spent significant time better apprising himself of his rights, deciding whether remedial action should be taken and how it should be taken, searching for attorneys, and contacting Class Counsel, who spent many hours with Plaintiff discussing the case and the law.

60. Both before and after the filing of this lawsuit, Plaintiff conferred with Class Counsel to discuss every aspect of his case. Plaintiff provided Class Counsel with information about Defendant and about the industry generally, produced and reviewed documents, identified witnesses, consulted with Class Counsel regarding litigation strategy, participated in the mediation process, monitored the progress of the litigation with Class Counsel, and reviewed and signed the Agreement. In light of the foregoing, Class Counsel believes that the Class Representative Service Payment in the amount of $7,500.00 is fair and reasonable.

Proposed Class Notice Provides Adequate Notice

61. The notification procedure set out in the Agreement provides the greatest likelihood that each and every Class Member will receive the Class Notice, attached to the Agreement as Exhibit A. Under the Agreement, not later than fourteen (14) calendar days after the Court grants

Preliminary Approval of the Agreement, Defendant will deliver the Employee Data to the Administrator, in the form of a Microsoft Excel spreadsheet. (Exhibit 1, Settlement Agreement, ¶ 4.2). The Administrator will mail the Class Notice, attached to the Agreement as Exhibit A, to all Class Members identified in the Employee Data no later than fourteen (14) calendar days after receiving the Employee Data from Defendant via first-class USPS mail. (Exhibit 1, Settlement Agreement, ¶ 7.4.2). The Class Notice includes a summary of the case and settlement terms and provides Class Members with detailed instructions on how to exclude themselves, object to the settlement, and challenge the number of Workweeks and/or Pay Periods attributed to each Class Member per Defendant's records. (Exhibit 1, Settlement Agreement, Exhibit A, Class Notice). Class Members will have sixty (60) calendar days from the mailing of the Class Notice (plus an additional fourteen (14) calendar days for Class Members whose Class Notice is re-mailed) to opt out of the Agreement, object to the Agreement, or challenge the number of Workweeks and/or Pay Periods. (Exhibit 1, Settlement Agreement, ¶¶ 7.4.4., 7.4.5.) This is the best and most practicable way to ensure the greatest possible number of Class Members will receive the Class Notice.

62. The Class Notice itself fully apprises Class Members of the nature of the lawsuit, the claims involved, the terms of the Agreement, and their options thereunder. (Exhibit 1, Settlement Agreement, Exhibit A, Class Notice). It provides for a specific procedure to seek exclusion from the Class, challenge payments and Employee Data, challenge Workweek and Pay Period data, and make objections to the Agreement. (Exhibit 1, Settlement Agreement, Exhibit A, Class Notice). In the Class Notice, Class Members will also receive Class Counsel's contact information so they can speak to attorneys conversant with the legal and factual issues involved in this case, as well as the contact information for the Administrator. The efforts taken to ensure that Class Members receive the Class Notice and are well informed about the settlement are reasonable and provide the best notice practicable under the facts.

Qualifications and Adequacy of Class Counsel

63. D.Law (formerly known as Davtyan Law Firm) prosecutes wage and hour cases, including class actions and PAGA actions on behalf of employees and others who have had their rights violated. D.Law, either on its own or with co-counsel, is currently serving as Plaintiff's

counsel of record in numerous wage and hour and employment class action and PAGA action cases pending in both state and federal court.

64. D.Law is well-qualified and has ample experience, knowledge, and resources to act as counsel and represent Plaintiff, the putative Class and Aggrieved Employees in this action. Our practice is exclusively focused on employment matters and representing plaintiffs in wage and hour actions with the same or similar causes of actions brought forth in the matter pending before this Court.

65. D.Law has litigated and successfully resolved many wage and hour class action cases involving failure to pay wages and derivative Labor Code claims and penalties. See e.g. De La Rosa v. The Coca Cola Company et al. (Superior Court of California in Napa, 17CV000787), Harvey v. Bed Bath & Beyond of California Limited Liability Company (Superior Court of California in Alameda, RG17885153), Paredes v. Bottling Group LLC et. al. (Superior Court of California in Kern), Ramirez v. Harris Ranch Beef Company (Superior Court of California in Fresno, 16CECG04103), Gates v. Gate Gourmet, Inc. et. al. (Southern District of California, 16-cv-01084-L-AGS), Hargrave v. Antelope Valley Hospital (Superior Court of California in Los Angeles, BC663252), Ramirez v. Milton Roy et. al. (Superior Court of California in Los Angeles, BC 632 276), Hawkins v. AvalonBay Communities (Superior Court of California in Santa Clara, 17CV316492), Jones Tharpe et al. v. Sprint Corporation et al. (Superior Court of California in Los Angeles, BC644645), Ortega et al. v. Nestle Waters North America, Inc. et al. (Superior Court of California in Los Angeles, BC623610), Schultz v. Jimbo's Natural Family, Inc. (Superior Court of California in San Diego, 37-2017-00022348-CUE-OE-CTL), Ambrose v. Victor Valley Global et al. (Superior Court of California in San Bernardino, CIVDS1709289), Puerta-Gildardo v. Real Time Staffing Services LLC et. al. (Superior Court of California in Los Angeles, BC565445), Vargo v. Pregis Innovative Packaging LLC (Superior Court of California in Tulare, 270836), Conlin v. Aegis Senior Communities LLC (Northern District of California, 17-cv-05534-LHK), Galarza v. Kloeckner Metals Corporation (Central District of California, 2:17-cv-04910-FMO), Estes v. L3 Technologies, Inc. et al. (Southern District of California, 3:17-cv-02356-H-JMA), Rowser v. Trunk Club, Inc. (Central District of California, 2:17-cv-05064-DSF-RAO), Leach v. The Claremont

Colleges, Inc. (Superior Court of California in Los Angeles, BC686451), Vaesau v. PCT Enterprises, Inc. dba Precision Cabinets (Superior Court of California, County of Contra Costa MSC18-02404), Terry v. TF Louderback, Inc. dba Bay Area Beverage Company (Superior Court of the State of California, County of Contra Costa, MSC18-00859), Roach v. Westcare California, Inc. (Superior Court of California in Kern County, BCV-17-102367-SDS), Patton v. Church & Dwight Co., Inc. (Central District of California, EDCV 18-903-MWF (KKx)), Juarez v. ISL Employees, Inc. (Superior Court of California in Madera, MCV074787), Ferraro v. USC Verdugo Hill s Hospital, et al. (Superior Court of California in Los Angeles, 18STCV09463), Ford v. Account Control Technology, Inc., et al. (Superior Court of California in Los Angeles, 19STCV09369), Ornelas v. iStorage, et al. (Superior Court of California in San Francisco, CGC-18-571421), Martinez v. Ronpak, Inc. (Superior Court of California in Riverside, RIC1901307), Barrera et al. v. Exclusive Wireless, Inc. (Superior Court of California in Stanislaus, 9000687), Barajas v. Mancha Development Company LLC (Superior Court of California in Orange County, 30-2018-00974707-CU-OE-CXC), Prado v. IMAX Corporation dba IMAC Worldwide Home (Superior Court of California in San Bernardino, CIVDS1820265), Rodriguez v. ND Industries, Inc. (Superior Court of California in Los Angeles, 19STCV38096), Singletary v. Motel 6 Operating LP, et al. (Southern District of California, 3:20-cv-0270-LAB-AHG), Quizon v. CF Watsonville East, LLC, et al. (Superior Court of California in Santa Cruz, 20CV01868), Stephenson v. Bakersfield Dodge, Inc. (Superior Court of California in Kern, BCV-20-102693), Bacerra v. Hugo Boss Retail, Inc. (Superior Court of California in San Diego, 37-2021-00002933-CU-OE-CTL), Walker v. Ariat International, Inc. (Superior Court of California in Alameda, HG19026439), Orr v. Petvet Care Centers (California) Inc. (Superior Court of California in Santa Clara, 19CV354063), Jimenez v. OEC Distribution Services, Inc. (Superior Court of California in San Bernardino, CIVDS1915743), Virdi v. Absolute Security International (Superior Court of California in San Bernardino, CIVDS 1909589), Raj v. First Transit, Inc (Superior Court of California in Sacramento, 34-2021-00295895-CU-OE-GDS), Marchbanks v. Torrid Administration, Inc. (Superior Court of California in San Diego, 37-2020-00008179-CU-OE-NC), among others.

66. I am Senior Counsel at D.Law where I manage the class action and PAGA settlement

department. I was admitted to the California Bar in December 2008. I received my J.D. from Pepperdine University School of Law and B.S. from University of Southern California. Since graduating from law school, I have dedicated virtually my entire career on the practice of employment law. I have practiced employment law from the plaintiff's side, defense side, and from an in-house position. I have significant experience specifically working on wage and hour class actions from the plaintiff's side as well as the defense side, with the majority of my experience coming from the plaintiff's side.

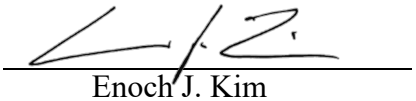
67. The collective experience of the D.Law attorneys in litigating employment wage and hour matters has been integral in identifying legal issues, evaluating the strengths and weaknesses of a case, and generally negotiating fair and reasonable class and representative action settlements. Practice in the narrow field of wage and hour litigation requires skill and knowledge concerning the constantly evolving substantive law (state and federal), as well as the procedural law of class and representative action litigation. In this action, the attorneys at D.Law are fully equipped to use the skills and knowledge developed over decades of prosecuting and defending wage and hour class actions to fairly and adequately represent the interests of the Class Members and Aggrieved Employees. Therefore, based on our resources, experience, and knowledge, the attorneys at D.Law are well-qualified to act as Class Counsel and represent the Plaintiff and the putative Class Members and Aggrieved Employees in this action.

68. We understand the responsibilities owed as counsel to the class members and the aggrieved employees we represent. The attorneys at D.Law thoroughly investigated the claims asserted in this action and have remained committed to dedicating the resources necessary to represent the Class and vigorously pursue their claims. Based upon my experience and understanding of the claims and defenses in this action, I believe the settlement is fair, adequate, and reasonable for the Class Members and Aggrieved Employees and all involved, and that the settlement is well within the range of reasonableness that would permit it to be finally approved. I am not aware of any conflict of interest with Plaintiff or any other Class Member that would interfere with the duties as Class Counsel.

69. On November 13, 2026, Plaintiff submitted the Class Action and PAGA Settlement Agreement and Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement Agreement and supporting documents to the LWDA. A true and correct copy of the confirmatory email from the LWDA is attached hereto as **Exhibit 3.**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 13th day of November 2026, at Pasadena, California



Enoch J. Kim

EXHIBIT 1

Docusign Envelope ID: DA451837-105F-8A42-8329-29A05592EA55

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement ("Agreement") is made by and between plaintiff Bruce Kehoe ("Plaintiff") and defendant DKD Property Management Company ("Defendant"). The Agreement refers to Plaintiff and Defendant collectively as "Parties," or individually as "Party."

1. DEFINITIONS.

1.1 "Action" means the Plaintiff's lawsuit alleging wage and hour violations against Defendant, captioned *Kehoe v. DKD Property Management Company*, initiated on March 13, 2023 and pending in Superior Court of the State of California, County of Santa Clara, Case No. 23CV412333.

1.2 "Administrator" or "Settlement Administrator" means Apex Class Action, LLC, the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3 "Address Search" means the Administrator's investigation and search for current Class Member (or, if applicable, Aggrieved Employees) mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members (or, if applicable, Aggrieved Employees).

1.4 "Aggrieved Employee(s)" means all persons who worked for Defendant in California as non-exempt, hourly employee(s) during the PAGA Period.

1.5 "Class Member(s)" means all persons who worked for Defendant in California as non-exempt, hourly employee(s) during the Class Period.

1.6 "Class Counsel" means Natalie Haritoonian, Enoch Kim, Jonas Agle and Matthew Carraher of D.Law, Inc. and David Yeremian of David Yeremian & Associates, Inc.

1.7 "Class Counsel Fees" and "Class Counsel Costs" mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys' fees, costs and expenses, respectively, incurred to prosecute the Action.

1.8 "Class Notice" means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English with a Spanish translation, if applicable, in the form, without material variation, attached as **Exhibit A** and incorporated by reference into this Agreement.

1.9 "Class Period" means the period from March 13, 2019 to the date the court enters an order granting preliminary approval of this Settlement, inclusive, or, if

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applicable, the Alternative End Date (as defined and discussed below) ("Class Period").

1.10 "Class Representative" means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.

1.11 "Court" means the Superior Court of California, County of Santa Clara.

1.12 "Day(s)" means and refers to calendar days, unless otherwise noted herein. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

1.13 "Defendant" means named Defendant DKD Property Management Company.

1.14 "Defense Counsel" means Jennifer Coleman and Elaisha Nandrajog of Spencer Fane LLP.

1.15 "Dispute" means a challenge to Workweeks or Pay Periods as discussed further herein.

1.16 "Effective Date" means the first business day following the last of the following occurrences: (i) if no Class Member timely and properly intervenes, files a timely motion to vacate judgment under, or objects to the Settlement, then the date the Court enters the Order Granting Final Approval of the Settlement and issues the Judgment; (ii) if a Class Member timely intervenes or files a timely motion to vacate the judgment or objects to the Settlement, then sixty-one (61) calendar days following the date the Court enters the Order Granting Final Approval of the Settlement and issues the Judgment, assuming no appeal is filed; or (iii) if a Class Member timely intervenes or files a motion to vacate judgment, or objects to the Settlement, and files a timely appeal, then the date of final resolution of that appeal (including any requests for rehearing and/or petitions for certiorari), resulting in final and complete judicial approval of the Settlement in its entirety, with no further challenge to the Settlement being possible.

1.17 "Employee Data" means Class Member and/or Aggrieved Employee identifying information in Defendant's possession, custody or control, including each Class Member and/or Aggrieved Employee's first and last name, last-known mailing address, Social Security number, and number of Workweeks as discussed below and, if applicable, Pay Periods and/or hire and/or termination dates in lieu thereof.

1.18 "Enhancement Award" means the payment to the Class Representative for initiating the Action and providing services in support of the Action.

1.19 "Final Approval" means the Court's order granting final approval of the Settlement.

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1.20 "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of the Settlement.

1.21 "Gross Settlement Amount" means $650,000.00 which is the total amount Defendant agrees to pay under the Settlement, except as provided in Section 8 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Costs, Class Representative Enhancement Award and the Administrator's Expenses.

1.22 "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

1.23 "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 35% of the PAGA Penalties calculated according to the number of Workweeks and/or, if applicable, Pay Periods worked during the PAGA Period.

1.24 "Judgment" means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.

1.25 "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

1.26 "LWDA PAGA Payment" means the 65% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.27 "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Enhancement Award, Class Counsel Fees, Class Counsel Costs, and the Settlement Administration Costs. The remainder (i.e., the Net Settlement Amount) is to be paid to Participating Class Members as their respective Individual Class Payments based on the number of Workweeks worked during the Class Period.

1.28 "Non-Participating Class Member" means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.29 "Objection" means a signed and written objection filed by a Participating Class Member as discussed further herein.

1.30 "PAGA Period" means the period from March 10, 2022 to the date the Court issues an order granting preliminary approval of this Settlement, inclusive, or, if applicable, the Alternative End Date (as discussed below) ("PAGA Period").

1.31 "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

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1.32 "PAGA Notice" means Plaintiff's March 10, 2023 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

1.33 "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 35% to the Aggrieved Employees ($10,500.00) and the 65% to LWDA ($29,500.00) in settlement of PAGA claims.

1.34 "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.35 "Pay Period" or "PAGA Pay Period" means any pay period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

1.36 "Plaintiff" means Bruce Kehoe, the named plaintiff in the Action.

1.37 "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.

1.38 "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval of the Agreement .

1.39 "Released Class Claims" means the claims being released as described in Section 5.2 below.

1.40 "Released PAGA Claims" means the claims being released as described in Section 5.3 below.

1.41 "Released Parties" means Defendant and each of its former and present officers, directors, members, partners, owners, shareholders, employees, agents, servants, attorneys, assigns, affiliates, independent contractors, volunteers, predecessors, successors, parent entities, subsidiary entities, and affiliated entities.

1.42 "Request(s) for Exclusion" means a Class Member's submission of a signed and written request to be excluded from the Settlement ass discussed further herein.

1.43 "Response Deadline" means sixty (60) calendar days after the Administrator mails Class Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members and/or Aggrieved Employees may: (a) submit Requests for Exclusion from the Settlement, as discussed herein; (b) submit Objections to the Settlement, as discussed herein; or (c) submit written Disputes relating to the Settlement, as discussed herein. Class Members to whom Class Notice is remailed after having been returned undeliverable to the Administrator shall have an additional fourteen (14) calendar days beyond the Response Deadline has expired to submit Requests for Exclusion, Objections or Disputes.

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1.44 "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

1.45 "Settlement Administration Costs" means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator's "not to exceed" bid submitted to the Court in connection with Preliminary Approval of the Settlement.

1.46 "Settlement Class Member(s)" means all Class Members, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

1.47 "Workweek" means any week during which a Class Member worked for Defendant for at least one day, during the Class Period.

2. RECITALS.

2.1 On March 13, 2023, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for (1) Failure to Pay Minimum Wages; (2) Failure to Pay Wages and Overtime under Labor Code § 510; (3) Failure to Pay Reporting Time Pay; (4) Meal Period Liability under Labor Code § 226.7; (5) Rest Break Liability under Labor Code § 226.7; (6) Violation of Labor Code § 226 (7) Violation of Labor Code § 203; (8) Violation of Labor Code § 204; (9) Failure to Keep Required Payroll Records under Labor Code §§ 1174 and 1174.5; (10) Failure to Reimburse Necessary Business Expenses under Labor Code § 2802; and (11) Violation of Business & Professions Code § 17200 *et seq*. The Complaint is the operative complaint in the Action (the "Operative Complaint.") On July 25, 2023, Plaintiff filed a First Amended Complaint alleging the above-referenced causes of action against Defendant, but adding a cause of action against Defendant for civil penalties under the Private Attorney's General Act of 2004. The First Amended Complaint is the operative complaint in the Action (the "Operative Complaint.") Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.

2.2 Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.

2.3 On May 1, 2024, the Parties participated in an all-day mediation presided over by Todd Smith. This mediation was unsuccessful and the Parties returned to a litigation posture. After litigating the matter further, the Parties re-engaged mediator Todd Smith, who then facilitated negotiations between the Parties, ultimately resulting in a mediator's proposal being issued and accepted.

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2.4 Prior to negotiating the Settlement, Plaintiff obtained, through both formal and informal discovery, time and wage records for the putative class as well as relevant policies and documents. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc*. (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc*. (2008) 168 Cal.App.4th 116, 129-130 ("Dunk/Kullar").

2.5 The Court has not granted class certification.

2.6 The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

3.1 Gross Settlement Amount. Except as otherwise provided by Section 8 below, Defendant promises to pay $650,000.00 and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Section 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. As discussed below, there will be no claims process and none of the Gross Settlement Amount will revert to Defendant.

3.2 Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1 To Plaintiff: An Enhancement Award to the Plaintiff, in his capacity as the Class Representative, of not more than $7,500.00 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiff's request for an Enhancement Award that does not exceed this amount. As part of the motion for Class Counsel Fees and Class Counsel Costs, Plaintiff will seek Court approval for any Enhancement Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves an Enhancement Award that is less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Enhancement Award and agrees to indemnify Defendant and hold it harmless for any employee taxes owed by Plaintiff on the Enhancement Award.

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3.2.2 To Class Counsel: Class Counsel Fees Payment of not more than one-third, which is currently estimated to be $216,666.66, and Class Counsel Costs of not more than $25,000.00. Defendant will not oppose requests for these payments provided they do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for approval of Class Counsel Fees and Class Counsel Costs no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves Class Counsel Fees and/or Class Counsel Costs of less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report/pay the Class Counsel Fees and Class Counsel Costs using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees and Class Counsel Costs and Plaintiff agrees to indemnify Defendant and hold it harmless from any dispute or controversy regarding any division or sharing of any of these payments.

To the Administrator: An Administrator Expenses Payment not to exceed $10,000.00 except for a showing of good cause and as approved by the Court. To the extent the Settlement Administration Costs are less than, or the Court approves payment less than this amount, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.3 To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's pro rata Workweeks during the Class Period.

3.2.3.1 Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment and agree to indemnify
Defendant and hold it harmless for any employee taxes owed by Participating Class Members on their Individual Class Payment(s).

3.2.3.2 Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will

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retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis, such that the result is the distribution of 100% of the Net Settlement Amount.

3.2.4 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of $30,000.00 to be paid from the Gross Settlement Amount, with 65% ($19,500.00) allocated to the LWDA PAGA Payment and 35% ($10,500.00) allocated to the Individual PAGA Payments.

3.2.4.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 35% share of PAGA Penalties $10,500.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment, and agree to indemnify Defendant and hold it harmless for any taxes owed by Aggrieved Employees on their Individual PAGA Payment(s).

3.2.4.2 If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1 Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant estimates there are 287 Class Members who worked a total of 28,910 Workweeks and 198 Aggrieved Employees, who worked a total of 7,732 Pay Periods.

4.2 Employee Data. Not later than fourteen (14) calendar days after the Court grants Preliminary Approval, Defendant will deliver the Employee Data to the Administrator, in the form of a Microsoft Excel spreadsheet or another format mutually agreed to between the Parties. To protect Class Members' privacy rights, the Administrator must maintain the Employee Data in confidence, use the Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Employee Data to Administrator employees who need access to the Employee Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Employee Data omitted class member identifying information and to provide corrected or updated Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in

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good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Employee Data.

4.3 Funding of Gross Settlement Amount. Defendant shall fund the Gross Settlement Amount and also fund the amounts necessary to fully pay Defendant's share of payroll taxes as to the Wage Portion of the Gross Settlement Amount by transmitting the funds to the Administrator in two installments. The first such installment constituting 50% of the Gross Settlement Amount (i.e. $325,000.00 subject to Section 8) will be due not more than thirty (30) calendar days after the Effective Date of the Settlement. The second installment, constituting the remaining 50% of the Gross Settlement Amount (i.e. the remaining $325,000.00 subject to Section 8) and the amounts necessary to fully pay Defendant's share of employer side payroll taxes, will be due six (6) months after the deposit of the first installment. Once Defendant has made such payments, it will be deemed to have satisfied all terms and conditions under this Settlement, shall be entitled to all protections afforded to Defendant under this Settlement, and shall have no further obligations under the terms of the Settlement regardless of what occurs with respect to those sums. Defendant agrees to provide a declaration from an officer for Defendant setting forth facts sufficient to support their need for a payment plan at least ten (10) calendar days before Plaintiff's deadline to file a motion for preliminary approval.

4.4 Payments from the Gross Settlement Amount. Within fourteen (14) calendar days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Settlement Administration Costs, the Class Counsel Fees Payment, the Class Counsel Costs Payment, and the Enhancement Award Payment. However, disbursement of the Class Counsel Fees Payment, the Class Counsel Costs Payment, and the Enhancement Award shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

4.4.1 The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than One Hundred and Eighty (180) calendar days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Class Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks,

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the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2 The Administrator must conduct a Address Search for all other Class Members and/or, if applicable, Aggrieved Employees, whose checks are retuned undelivered without USPS forwarding address. Within seven (7) calendar days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Address Search. The Administrator need not take further steps to deliver checks to Class Members or Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member or Aggrieved Employee whose original check was lost or misplaced, as requested by the Class Member or, if applicable, Aggrieved Employee prior to the void date.

4.4.3 For any Class Member (or, if applicable, Aggrieved Employee) whose Individual Class Payment check (or Individual PAGA Payment) check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

4.4.4 The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. **RELEASES OF CLAIMS**. Plaintiff and Class Members (and, if applicable, Aggrieved Employees) will release claims against all Released Parties as follows:

5.1 Plaintiff's Release. As of the Effective Date and full funding of the Gross Settlement Amount and employer taxes owed on the Wage Portion of the Individual Class Payments, in addition to all other releases set forth in this Agreement, and except as to claims specifically excluded, Plaintiff makes the additional following general release of all claims, known or unknown ("Plaintiff's Release"). Plaintiff and his respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally release and discharge Released Parties from any and all of the claims, whether known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or have existed, upon any theory of law or equity now existing, including, but not limited to, conduct that is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. Additionally, Plaintiff releases the Released Parties of all claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities, known or suspected, unknown or unsuspected, arising from

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Plaintiff's employment with or separation from the Defendant. The released claims in this Section 5.1 include, without limitation, claims under: (1) the Civil Rights Act of 1964, as amended; (2) 42 U.S.C. § 1981; (3) the California Fair Employment and Housing Act; (4) Section 503 of the Rehabilitation Act of 1973; (5) the Americans with Disabilities Act; (6) the Fair Labor Standards Act (including the Equal Pay Act); (7) the California and the United States Constitution; (8) the California Labor Code; (9) the Family and Medical Leave Act; (10) the California Family Rights Act; (11) the Worker Adjustment and Retraining Notification Act; (12) the Employee Retirement Income Security Act; (13) the Immigration Reform and Control Act; (14) the California Business and Professions Code, Sections 17200, et seq.; (15) the California Government Code; and (16) the California Wage Orders. The released claims in this Section 5.1 include all claims of any kind which Plaintiff now has, owns or holds, or claims to have, own or hold, or which Plaintiff at any time had, owned or held, or claimed to have, own or hold against any of the Released Parties up to and including the date of Plaintiff's execution of this Agreement. However, Plaintiff's Release does not extend to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

5.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release as discussed in Section 5.1 above, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

5.2 Release by Participating Class Members: As of the Effective Date and full funding of the Gross Settlement Amount and employer taxes owed on the Wage Portion of the Individual Class Payments, all Participating Class Members (on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns) release the Released Parties from all claims arising during the Class Period that were alleged in the Operative Complaint or that reasonably could have been alleged based on facts as stated in the Operative Complaint, including (1) Failure to Pay Minimum Wages; (2) Failure to Pay Overtime Under Labor Code § 510; (3) Failure to Pay Reporting Time Pay; (4) Meal Period Liability Under Labor Code § 226.7; (5) Rest-Break Liability Under Labor Code § 226.7; (6) Failure to Provide Accurate Wage Statements Under Labor Code § 226(a); (7) Failure to Time Pay Wages Upon

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Termination Under Labor Code § 203; (8) Failure to Timely Pay Wages When Due Under Labor Code § 204; (9) Failure to Keep Required Payroll Records Under Labor Code §§ 1174 and 1174.5; (10) Failure to Reimburse Necessary Business Expenses Under Labor Code § 2802; and (11) Violation of Business & Professions Code § 17200 ("Released Class Claims"). Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.3 Release by Aggrieved Employees: As of the Effective Date and full funding of the Gross Settlement Amount and employer taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff and all Aggrieved Employees (on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns) are deemed to release the Released Parties from all claims for civil penalties or other relief under PAGA arising during the PAGA Period that were alleged in the PAGA Notice or that reasonably could have been alleged based on the facts as stated in the PAGA Notice, including (1) Failure to Pay Minimum Wages; (2) Failure to Pay Overtime Under Labor Code § 510; (3) Failure to Pay Reporting Time Pay; (4) Meal Period Liability Under Labor Code § 226.7; (5) Rest-Break Liability Under Labor Code § 226.7; (6) Failure to Provide Accurate Wage Statements Under Labor Code § 226(a); (7) Failure to Time Pay Wages Upon Termination Under Labor Code § 203; (8) Failure to Timely Pay Wages When Due Under Labor Code § 204; (9) Failure to Keep Required Payroll Records Under Labor Code §§ 1174 and 1174.5; and (10) Failure to Reimburse Necessary Business Expenses Under Labor Code § 2802 ("Released PAGA Claims").

6. **MOTION FOR PRELIMINARY APPROVAL**. The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approval.

6.1 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA portion of the Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval of the Class portion of the Settlement and Approval of PAGA portion of the Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed

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declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members and/or the Administrator; (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), the operative complaint in the Action (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vii) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement, if any has been adopted by the Court, ready for filing with the Court; and (viii) all facts relevant to any actual or potential conflict of interest with Class Members and/or the Administrator. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2 Responsibilities of Class Counsel. Class Counsel is responsible for preparing, finalizing and filing the Motion for Preliminary Approval after the full execution of this Agreement; for obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval, with Defense Counsel cooperating in each of these regards. Class Counsel is also responsible for delivering the Court's Preliminary Approval to the Administrator. Class Counsel shall move for Preliminary Approval no later than thirty (30) calendar days after the full execution of this Agreement, unless the Parties confer regarding the need for additional time. After preparing the Motion for Preliminary Approval, Class Counsel will provide Defense Counsel with at least three (3) business days to review the motion and supporting documents in advance of filing with the Court.

6.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

7.1 Selection of Administrator. The Parties have jointly selected Apex Class Action, LLC to serve as the Administrator and verified that, as a condition of appointment, Apex Class Action, LLC agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of the Settlement Administration Costs. The Parties and their counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other

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than a professional relationship arising out of prior experiences administering settlements.

7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

7.4 Notice to Class Members.

7.4.1 No later than three (3) business days after receipt of the Employee Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, Aggrieved Employees, Workweeks, and Pay Periods (and/or as applicable, hire and termination dates) in the Employee Data.

7.4.2 Using best efforts to perform as soon as possible, and in no event later than fourteen (14) calendar days after receiving the Employee Data, the Administrator will send to all Class Members identified in the Employee Data, via first-class United States Postal Service ("USPS") mail, the Class Notice (with Spanish translation if applicable) substantially in the form attached to this Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

7.4.3 Not later than three (3) business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

7.4.4 The deadlines for Class Members' written Objections, challenges to Workweeks and/or Pay Periods (i.e., Disputes), and Requests for Exclusion will be extended an additional fourteen (14) calendar days beyond the sixty (60) calendar days (i.e., the Response Deadline) otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The

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Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

7.4.5 If the Administrator, Defendant, Defense Counsel or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Employee Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than fourteen (14) calendar days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

7.5 Requests for Exclusion (Opt-Outs).

7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator a signed written Request for Exclusion not later than the Response Deadline (i.e., not later than sixty (60) calendar days after the Administrator mails the Class Notice), plus an additional fourteen (14) calendar days for Class Members whose Class Notice is re-mailed. A Request for Exclusion is a signed letter from a Class Member, which the Class Member can submit, that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, current address, telephone number and/or email address, and the name and case number of this Action. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked/mailed by the Response Deadline.

7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity.

7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Section 5.2 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

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7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement.

7.5.5 Aggrieved Employees cannot request exclusion from the PAGA portion of this Settlement and, therefore, any person who qualifies as an Aggrieved Employee shall receive their respective pro rata share of PAGA Payment (based on their respective pro rata pay periods worked) whether or not they submit a Request for Exclusion from this Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Section 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

7.5.6 If a Class Member files a valid Request for Exclusion from the Settlement, he or she will not be permitted to also object to the Settlement.

7.6 Disputes. Each Class Member shall have until the Response Deadline (i.e., not later than sixty (60) calendar days after the Administrator mails the Class Notice), plus an additional fourteen (14) calendar days for Class Members whose Class Notice is re-mailed, to dispute the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may dispute the allocation by communicating with the Administrator via fax, email or mail. A Dispute must be in writing and must include information and documents supporting the dispute along with the Class Member's name, current address, telephone number and/or email address, and the name and case number of this Action. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks and/or Pay Periods contained in the Class Notice are correct so long as they are consistent with the Employee Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge; however, the Administrator may contact Defense Counsel to obtain clarification to aid the Administrator's final decision. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7 Objections to Settlement.

7.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class

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Counsel Fees, Class Counsel Costs and/or the Class Representative Enhancement Award.

7.7.2 Participating Class Members may send written Objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than the Response Deadline (i.e., no later than sixty (60) calendar days after the Administrator's mailing of the Class Notice), plus an additional fourteen (14) days for Class Members whose Class Notice was re-mailed. An Objection must be in writing and must include the Class Member's name, current address, telephone number and/or email address, and the name and case number of this Action.

7.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

7.7.4 As noted, if a Class Member files a valid Request for Exclusion from the Settlement, he or she will not be permitted to also object to the Settlement.

7.8 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

7.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval (as defined below), the Motion for Class Counsel Fees Payment, Class Counsel Costs Payment and Enhancement Award Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. No later than five (5) calendar days after the expiration of the deadline for submitting Requests for Exclusion (i.e., no later than 5 calendar days after the Response Deadline), the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid

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Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, Objections received, Disputes to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly Report"). The Weekly Reports must include provide the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and Objections received.

7.8.4 Disputes. As noted, the Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member Disputes over the calculation of Workweeks and/or Pay Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge; however, the Administrator may contact Defense Counsel to obtain clarification to aid the Administrator's final decision.

7.8.5 Administrator's Declaration. Not later than fourteen (14) calendar days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written Objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

7.8.6 Final Report by Settlement Administrator. Within ten (10) calendar days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least fifteen (15) calendar days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

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8. **CLASS SIZE ESTIMATES and ESCALATOR CLAUSE.** Based on its records, Defendant estimates that, as of the date of this Agreement, there are 287 Class Members and 28,910 total Workweeks during the Class Period. If, during the course of this settlement process, the total number of Workweeks during the Class Period increases by more than 10% (i.e. more than 31,801 workweeks), then Defendant shall, at Defendant's option, make an election that one of the following occur: (1) either the Gross Settlement Amount will be increased proportionally by the number of Workweeks worked in excess of 31,801 (for example, if the total number of workweeks increases by 15% over 28,910 workweeks, the GSA will increase by 5%); or (2) Defendant will exercise the Alternative End Date to the Class Period and PAGA Period as noted below. Alternative End Date as used in this Agreement means that at Defendant's election, which election may be exercised at any time between the signing of this Agreement and prior to the Administrator sending the Class Notice, the Class Period and PAGA Period and the releases tied thereto will end as of the date the 10% threshold (i.e., 31,801 Workweeks) is reached to avoid triggering the escalator clause herein. Defendant shall inform Plaintiff no later than two (2) weeks prior to the hearing on the Motion for Preliminary Approval whether the provisions of this Section appear to have been triggered and if so, its election under this Section. The Settlement Administrator shall be responsible for making the final determination regarding whether the provisions of this Section are triggered. If the Gross Settlement Amount is increased pursuant to this Section, the Class Counsel Fees shall be one-third of the increased Gross Settlement Amount.

9. **DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 15% of the total of all Class Members, Defendant may at its sole discretion elect to, but is not obligated to, withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement Administration Costs incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than fourteen (14) calendar days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

10. **MOTION FOR FINAL APPROVAL.** Class Counsel shall prepare papers for Final Approval no later than forty-five (45) calendar days following the Response Deadline ending, unless the Parties confer regarding the need for additional time. Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the Class portion of the Settlement as well as the PAGA portion of the Settlement (under Labor Code section 2699, subd. (l)), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than three (3) business days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

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10.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

10.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Enhancement Award, Class Counsel Fees, Class Counsel Costs and/or Settlement Administration Costs shall not constitute a material modification to the Agreement within the meaning of this Section. The Parties further agree that changes to the timing of payments or notice periods, or to the contents of the Class Notice, which are requested by the Court do not necessitate an amendment or revision to this Agreement unless such an Amendment is required by the Court.

10.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

10.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees and Class Counsel Costs reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not file an Objection to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Settlement Administration Costs reasonably incurred after remittitur. An appellate decision to vacate, reverse,

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or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this Section, as long as the Gross Settlement Amount remains unchanged.

11. **AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

12. **ADDITIONAL PROVISIONS.**

12.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement and/or proceedings where the Agreement is being introduced to show any overlapping class or PAGA period dates).

12.2 Court Approval. In the event that the Court fails to approve the Settlement notwithstanding the good faith efforts of the Parties pursuant to Section 12.7 of this Agreement, or if the appropriate appellate court fails to approve the settlement, or if the Settlement Agreement is otherwise terminated: (1) the Settlement Agreement shall have no force and effect and the Parties shall be restored to their respective positions prior to entering into it, and no Party shall be bound by any of the terms of the Settlement Agreement; (2) Defendant shall have no obligation to make any Gross Settlement Amount Payments; (3)
any preliminary approval order, final approval order or Judgment, shall be vacated; and (4) the Agreement and all negotiations, statements, proceedings and data relating thereto shall be deemed confidential mediation settlement communications and not subject to disclosure for any purpose in any proceeding.

12.3 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or

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publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This Section does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

12.4 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this Section shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

12.5 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

12.6 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

12.7 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

12.8 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim,

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demand, action, cause of action, or right released and discharged by the Party in this Settlement.

12.9 No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

12.10 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

12.11 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

12.12 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

12.13 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

12.14 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

12.15 Use and Return of Employee Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Employee Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than ninety (90) calendar days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Employee Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destructions, of Employee Data.

12.16 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

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12.17 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

D.Law, Inc.
Natalie Haritoonian
n.haritoonian@d.law
Enoch J. Kim
e.kim@d.law
Jonas Agle
j.agle@d.law
Matthew Carraher
m.carraher@d.law
250 N. Madison Ave., 2nd Floor
Pasadena, CA 91101
Telephone: (818) 962-6465

David Yeremian & Associates, Inc.
David Yeremian
david@yeremianlaw.com
250 N. Madison Ave., 2nd Floor
Pasadena, CA 91101
Telephone: (818) 962-6465

To Defendant:

Spencer Fane LLP
Jennifer S. Coleman
jcoleman@spencerfane.com
Elaisha Nandrajog
enandrajog@spencerfane.com
225 West Santa Clara Street
Suite 1500
San Jose, California 95113
Telephone: 408.286.5100
Facsimile: 408.286.5722

12.18 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

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12.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to Code of Civil Procedure section 583.330 to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

IT IS SO AGREED.

Dated: 7/28/2026

Signed by:
BA0584C2190D424...

Bruce Kehoe (Plaintiff and Class Representative)

Dated: 07/29/2026

Shaneece Childress

By: Shaneece Childress
Title: EVP/COO
DKD Property Management Company

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EXHIBIT A
COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL
Kehoe v. DKD Property Management Company
Santa Clara County Superior Court, Case No. 23CV412333

The Superior Court for the State of California authorized this Notice. Read it carefully! It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.

You may be eligible to receive money from an employee class action lawsuit ("Action") against DKD Property Management Company ("Defendant") for alleged wage and hour violations. The Action was filed by a former employee, Bruce Kehoe ("Plaintiff"), and seeks payment of (1) back wages and other relief for a class of non-exempt, hourly employees ("Class Members") who worked for Defendant during the March 13, 2019 to _____ time period ("Class Period"); and (2) penalties under the California Private Attorney General Act ("PAGA") for all non-exempt, hourly employees ("Aggrieved Employees") who worked for Defendant during the March 10, 2022 to _____ time period ("PAGA Period"). Plaintiff and Defendant are collectively referenced as the "Parties" in this Notice.

The proposed Settlement has two main parts: (1) a class component requiring Defendant to fund Individual Class Payments, and (2) a PAGA component t requiring Defendant to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency ("LWDA").

Based on Defendant's records, and the Parties' current assumptions, **your Individual Class Payment is estimated to be $_____ (less withholding) and your Individual PAGA Payment is estimated to be $_____**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendant's records you are not eligible for an Individual PAGA Payment under the Settlement because you didn't work during the PAGA Period.)

The above estimates are based on Defendant's records showing that **you worked _____ workweeks** during the Class Period and **you worked _____ pay periods** during the PAGA Period. If you believe that you worked more workweeks or pay periods during either period, you can submit a challenge (i.e., a "Dispute") by the deadline date. See Section IV. of this Notice.

The Court has already preliminarily approved the Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. **A copy of the relevant agreement, which contains definitions of the terms used in this Notice is available for your review at the website links noted in Section IX. below.** Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendant to make payments

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under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

Defendant will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Claims defined below).
You Can Opt-out of the Class portion of the Settlement but not the PAGA portion of the Settlement **The Opt-out Deadline is _____**	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section VI. of this Notice for more information. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue the Released PAGA Claims (defined below).
Participating Class Members Can Object to the Class portion of the Settlement but not the PAGA portion of the Settlement **Written Objections Must be Submitted by _____**	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section VII. of this Notice for more information.
You Can Participate in the _____ Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on _____. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section VIII. of this Notice for more information.
You Can Dispute the Calculation of Your	The amount of your Individual Class Payment and Individual PAGA Payment (if any) depend on how many workweeks you worked at

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Workweeks/Pay Periods Written Challenges Must be Submitted by _____	least one day during the Class Period ("Workweeks") and how many pay periods you worked at least one day during the PAGA Period ("Pay Period"), respectively. The number of Workweeks and number of Pay Periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must dispute it by _____. See Section IV. of this Notice for more information.

I. WHAT IS THE ACTION ABOUT?

Plaintiff is a former Defendant employee. The Action accuses Defendant of violating California labor laws by failing to pay overtime wages, minimum wages, wages due upon termination and reimbursable expenses and failing to provide meal periods, rest breaks and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by the attorneys of D.Law, Inc. and David Yeremian & Associates, Inc. in the Action.

Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

II. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

The Court has made no determination whether Defendant or Plaintiff is correct on the merits. Plaintiff and Defendant hired an experienced, neutral mediator, Todd Smith, in an effort to resolve the Action by negotiating an agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendant have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

III. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Defendant Will Pay $650,000.00 as the Gross Settlement Amount (Gross Settlement). Defendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative

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Enhancement Award, Class Counsel Fees, Class Counsel Costs, the Settlement Administration Costs, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement not more than fourteen (14) calendar days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to or intervene with respect to the proposed Settlement or the Judgment is appealed (i.e., the Effective Date, which is described more fully in the Parties' Agreement).

2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

    a. Up to $ 216,666.67 (One-Third of the Gross Settlement to Class Counsel for attorneys' fees ("Class Counsel Fees") and up to $25,000.00 for Class Counsel's litigation expenses ("Class Counsel Costs"). To date, Class Counsel have worked and incurred expenses on the Action without payment.

    b. Up to $7,500.00 as a Class Representative Enhancement Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Enhancement Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.

    c. Up to $10,000.00 to the Administrator for services administering the Settlement ("Settlement Administration Costs").

    d. Up to $30,000.00 for PAGA Penalties, allocated 65% to the LWDA PAGA Payment and 35% in Individual PAGA Payments to the Aggrieved Employees based on their pro rata pay periods worked during the PAGA Period.

    Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages ("Wage Portion") and 80% to interest and penalties ("Non-Wage Portion."). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes.

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The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Defendant have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name.

   If the monies represented by your check is sent to the Controller's Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than _____, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the _____ Response Deadline. For further details regarding how to submit a Request for Exclusion, please see Section VI. below. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue the Released Class Claims against Defendant.

   You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert the Released PAGA Claims against Defendant.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.

8. Administrator. The Court has appointed a neutral company, Apex Class Action, LLC (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Disputes over Workweeks and/or Pay Periods, mail and remail settlement

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checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section IX. of this Notice.

9. Participating Class Members' Release. The Participating Class Members will be bound by the following release excerpted from the Agreement entered into between the Parties:

> As of the Effective Date and full funding of the Gross Settlement Amount and employer taxes owed on the Wage Portion of the Individual Class Payments, all Participating Class Members (on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns) release the Released Parties from all claims arising during the Class Period that were alleged in the Operative Complaint or that reasonably could have been alleged based on facts as stated in the Operative Complaint, including (1) Failure to Pay Minimum Wages; (2) Failure to Pay Overtime Under Labor Code § 510; (3) Failure to Pay Reporting Time Pay; (4) Meal Period Liability Under Labor Code § 226.7; (5) Rest-Break Liability Under Labor Code § 226.7; (6) Failure to Provide Accurate Wage Statements Under Labor Code § 226(a); (7) Failure to Time Pay Wages Upon Termination Under Labor Code § 203; (8) Failure to Timely Pay Wages When Due Under Labor Code § 204; (9) Failure to Keep Required Payroll Records Under Labor Code §§ 1174 and 1174.5; (10) Failure to Reimburse Necessary Business Expenses Under Labor Code § 2802; and (11) Violation of Business & Professions Code § 17200 ("Released Class Claims"). Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

10. Aggrieved Employees' PAGA Release. All Aggrieved Employees will be bound by the following release excerpted from the Agreement entered into between the Parties:

> As of the Effective Date and full funding of the Gross Settlement Amount and employer taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff and all Aggrieved Employees (on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns) are deemed to release the Released Parties from all claims for civil penalties or other relief under PAGA arising during the PAGA Period that were alleged in the PAGA Notice or that reasonably could have been alleged based on the facts as stated in the PAGA Notice, including (1) Failure to Pay Minimum Wages; (2) Failure to Pay Overtime Under Labor Code § 510; (3) Failure to Pay Reporting Time Pay; (4) Meal Period Liability Under Labor Code § 226.7; (5) Rest-Break Liability Under Labor Code § 226.7; (6) Failure to Provide Accurate Wage Statements Under Labor Code § 226(a); (7) Failure to Time Pay Wages Upon Termination Under Labor Code § 203; (8) Failure to Timely Pay Wages When Due

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Under Labor Code § 204; (9) Failure to Keep Required Payroll Records Under Labor Code §§ 1174 and 1174.5; and (10) Failure to Reimburse Necessary Business Expenses Under Labor Code § 2802 ("Released PAGA Claims").

IV. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing $10,500.00 by the total number of Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of Pay Periods worked by each individual Aggrieved Employee.

3. Workweek/Pay Period Disputes. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated on the first page of this Notice. **You have until _____ to dispute the number of Workweeks and/or Pay Periods credited to you**.

   You can submit your Dispute by signing and sending a letter to the Administrator via mail, email or fax.

   Your Dispute letter should include your: (i) full name, (ii) current address, (iii) telephone number and/or email address, (iv) the name and case number associated with this Action (i.e., *Kehoe v. DKD Property Management Company*, Case No. 23CV412333); and (v) information sufficient to support your Dispute. You need to support your Dispute by sending copies of pay stubs or other records. The Administrator will accept Defendant's calculation of Workweeks and/or Pay Periods based on Defendant's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period dispute based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendant's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

   Section IX. of this Notice has the Administrator's contact information.

V. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out)

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including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.

2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section IX. of this Notice has the Administrator's contact information.

VI. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and personally signed letter to the Administrator via fax, email or mail with your: (i) full name; (ii) current address; (iii) telephone number and/or email address; (iv) the name and case number associated with this Action (i.e., *Kehoe v. DKD Property Management Company*, Case No. 23CV412333); and (v) a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by _____, or it will be invalid**.

Section IX. of the Notice has the Administrator's contact information.

VII. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendant are asking the Court to approve. At least sixteen (16) court days before the _____ Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Costs and Enhancement Award stating (i) the amount Class Counsel is requesting for attorneys' fees and costs/litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Enhancement Award. Upon reasonable request, Class Counsel (whose contact information is in Section IX. of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's website or the Court's website as noted in Section IX. below.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Costs or Enhancement Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low.

The deadline for sending signed and written objections to the Administrator is _____. You may submit your Objection to the Administrator by fax, email or mail. Your Objection should include your: (i) full name; (ii) current address; (iii) telephone number

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and/or email address; (iv) the name and case number associated with this Action (i.e., *Kehoe v. DKD Property Management Company*, Case No. 23CV412333); and (v) facts supporting your objection (e.g., what you object to, why you object, etc.). Section IX. of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section VIII. of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

VIII. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on _____ at _____ in Department 19 of the Santa Clara Superior Court, located at 191 North First Street, San Jose, CA 95113. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually. Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website _____ beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

IX. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to _____'s website at _____. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (https://portal.scscourt.org/search) and entering the Case Number for the Action, Case No. 23CV412333. You can also make an appointment to personally review court documents in the Clerk's Office at the Courthouse.

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

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Settlement Administrator:
Name of Company:
Email Address:
Mailing Address:
Telephone:
Fax Number:

X. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the California State Controller's Office - Unclaimed Property Division at (800) 992-4647; mail at P.O. Box 942850, Sacramento, CA 94250; in-person 10600 White Rock Road, Suite 141, Rancho Cordova, CA 95670 for instructions on how to retrieve the funds.

XI. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

EXHIBIT 2

THE LAW OFFICES OF

DAVID YEREMIAN
& ASSOCIATES INC

2540 Foothill BLVD STE 201
La Crescenta CA 91214

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818 230 0308 FAX

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March 10, 2023

VIA ON-LINE SUBMISSION ONLY TO:
https://dir.tfaforms.net/128 **(copy by certified mail to all Defendants)**

Private Attorneys General Act
Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

DKD Property Management Company
255 W. Julian Street, #301
San Jose, CA 95110
Certified Mail Tracking Number: 7019 2970 0000 5059 5526

Shaneece Childress, Agent for Service
DKD Property Management Company
255 W. Julian Street, #301
San Jose, CA 95110
Certified Mail Tracking Number: 7019 2970 0000 5059 5526

Re: Labor Code § 2698, *et seq*. Penalties – PAGA Notice Letter to the LWDA
Bruce Kehoe v. DKD Property Management Company, et al.
Superior Court for the County of Santa Clara

Gentlepersons:

This office represents Plaintiff Bruce Kehoe ("Plaintiff") and other similarly situated aggrieved non-exempt, hourly employees aggrieved employees (collectively "Aggrieved Employees") for violations of California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq.* and 2802, provisions of the Industrial Welfare Commission (IWC) Wage Order(s); and California Business & Professions Code § 17200 et seq.

The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et. seq.* ("the Act"). Plaintiff would like to bring a representative action, pursuant to the Act, on behalf of himself and all other similarly situated Aggrieved Employees, and the State of California, against Defendants, DKD Property Management Company and DOES 1 through 50 inclusive (all defendants being referred to herein collectively as "Defendants").

Additionally, this correspondence will serve to satisfy the notice requirements under the Act, along with a copy of Plaintiff's Class Action Complaint, which is attached to this Notice letter. The Complaint is being concurrently filed in Kern County Superior Court and will be assigned a local case number. The Complaint allegations and claims are incorporated into this Notice Letter.

We also set forth herein the facts and theories and the California Labor Code violations which Defendants engaged in with respect to Plaintiff and all of their Aggrieved Employees in California. The attached Class Action Complaint provides the details of Plaintiff's class-wide claims and claims under the Act, and the applicable California law governing them. It, along with this Notice Letter, addresses in detail numerous violations that subject Defendants to civil and statutory penalties under the Act.

Relevant Facts

Plaintiff was employed by Defendants as a non-exempt, hourly employee based out of Defendants' location in California. Aggrieved Employees include all non-exempt hourly employees of Defendants within the state of California from one year prior to the date of this letter and continuing through the present. Plaintiff and Aggrieved Employees are collectively referred to herein as "Aggrieved Employees." Aggrieved Employees consistently worked at Defendants' behest and under their control and subject to their policies and practices without being paid all wages due. Plaintiff is also informed and believes that there are other Aggrieved Employees employed by Defendants as non-exempt employees within the state of California within the statutory time period who suffer or suffered from the same wage and hour violations outlined below.

Defendants had a common policy and/or practice of failing to pay Aggrieved Employees minimum wages for all hours worked. Aggrieved Employees were either not paid by Defendants for all hours worked or were not paid at the appropriate minimum, regular and overtime rates. Plaintiff also contends that Defendants failed to pay Aggrieved Employees all wages due and owing, including by requiring off the clock work, unlawful rounding to their detriment, failing to provide meal and rest breaks, failing to furnish accurate wage statements, failing to timely pay wages including final wages, failing to maintain accurate records, and failing to reimburse for necessary business expenses all in violation of various provisions of the California Labor Code and applicable Wage Orders.

During the course of Aggrieved Employees' employment with Defendants, they were not paid all wages they were owed, including for all work performed resulting in off the clock work. Aggrieved Employees were required to perform pre-shift and post-shift off the clock work which they were not compensated for despite being subject to Defendants' control. Additionally, Defendants' have a policy of auto-deducting thirty minutes from each day worked for meal breaks, but Aggrieved Employees were required to work through their breaks resulting in further off the clock work. Aggrieved Employees were also required to remain on duty by having their cell phones on them at all times and had to listen and respond to calls and messages and they were not compensated for this time. Moreover, Defendants would contact Aggrieved Employees on days they were not scheduled to work resulting in further off the clock work.

Moreover, Defendants had a consistent policy and practice of unlawfully rounding hours worked to the detriment of Aggrieved Employees. Rather than paying Aggrieved Employees for all hours and minutes they actually worked, Defendants followed a uniform policy and practice of rounding all time entries to the nearest quarter-hour or half-hour (i.e. to the nearest 15-minute or 30- minute time increment). Generally, rounding was to the detriment of Aggrieved Employees, and Plaintiff contends this policy is not neutral and resulted, over time, in the systematic under-compensation of the Aggrieved Employees. Rather than reflecting the actual hours worked by Aggrieved Employees, the time entries were rounded and reduced to reflect the scheduled work time rather than the actual hours worked. These unlawfully rounded time entries were inputted into Defendants' payroll system from which wage statements and payroll checks were created.

By implementing policies, programs, practices, procedures and protocols which resulted in off the clock work and also rounded down the hours worked by Aggrieved Employees, Defendants' willful actions resulted in the systematic underpayment of wages and overtime pay to Aggrieved Employees For example, the off the clock work addressed above caused Aggrieved Employees to begin receiving overtime pay later than they should have.

As a result of the above described unlawful rounding, requirements to work off the clock, and the other wage violations they endured at Defendants' hands, Aggrieved Employees were not properly paid all wages earned and all wages owed to them by Defendants, including when working more than eight (8) hours in any given day and/or more than forty (40) hours in any given week. Moreover, the uncompensated time, discussed above, was worked by Aggrieved Employees in excess of 8 hours a day and/or 40 hours a week, further entitling Aggrieved Employees overtime wages which they were consistently denied, all in violation of Labor Code and applicable Wage Orders.

Additionally, Defendants failed to provide all the legally required unpaid, off-duty meal periods and all the legally required paid, off-duty rest periods to Aggrieved Employees, as required by the applicable Wage Order and Labor Code. Aggrieved Employees were required to perform work as ordered by Defendants for more than five (5) hours during a shift but were often required to do so without receiving a lawful and timely meal break. In addition to untimely meal periods, Defendants also required Aggrieved Employees to respond to work demands. Defendants placed their needs over Aggrieved Employees' lawful meal and rest breaks and this resulted in Aggrieved Employees often having to work through their scheduled meal and/or rest breaks, or otherwise taking shortened ones, because the demands of the job would not avail them the opportunity to take a lawfully uninterrupted and off duty meal and/or rest break. Additionally, to the extent Aggrieved Employees were able to take a meal or rest break, they were required to keep their cell phones on them at all times and had to listen and respond to calls and messages.

On the occasions when Aggrieved Employees worked over 10 hours in a shift, Defendants also failed to provide them with a second, uninterrupted, timely and duty-free meal period. As a result, Defendants' failure to provide Aggrieved Employees with all legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest periods is and will be evidenced by Defendants' business records, or lack thereof. Defendants also failed to pay Aggrieved Employees "premium pay," i.e. one hour of wages at each Aggrieved Employee's

effective hourly rate of pay, including their earned commission, for each meal period or rest break that Defendants failed to provide or deficiently provided.

Therefore, Defendants have regularly required Aggrieved Employees to work shifts in excess of five (5) hours without providing them with uninterrupted meal periods of not less than thirty (30) minutes, and shifts in excess of (10) hours without providing them with second meal periods of not less than thirty minutes; nor did Defendants pay Aggrieved Employees "premium pay," i.e. one hour of wages at each Aggrieved Employee's effective hourly rate of pay, including their earned commission, for each meal period that Defendants failed to provide or deficiently provided.

Aggrieved Employees were also not authorized and permitted to take lawful rest periods, were systematically required by Defendants to work through or during breaks and were not provided with one (1) hour's wages in lieu thereof. To the extent Aggrieved Employees were able to take rest breaks, they were restricted from leaving the premises. Aggrieved Employees were restricted in their ability to take their full ten (10) minutes net rest time or were otherwise not provided with duty-free rest periods. Therefore, Defendants have consistently failed to provide Aggrieved Employees with paid rest breaks of not less than ten minutes for every work period of four or more consecutive hours; or major fraction thereof, nor did Defendant pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided.

Defendants also consistently failed to issue accurate itemized wage statements as required by Labor Code § 226(a). Specifically, the wage statements given to Aggrieved Employees failed to accurately account for unpaid wages and overtime because Defendants had unlawfully rounded time entries to the detriment of the Aggrieved Employees and their actual hours worked were under-reported due to off the clock work. Additionally, the wage statements given to Aggrieved Employees failed to accurately account for premium pay for deficiently provided meal periods and rest breaks.

Additionally, Defendants failed to pay Aggrieved Employees all wages owed, as detailed above, at the time of their termination or within seventy-two (72) hours of their resignation, as required under Labor Code § 203. Specifically, Aggrieved Employees were not paid all regular and overtime wages because Defendants failed to pay for all hours worked, required off the clock work, and unlawfully rounded time entries to the detriment of Aggrieved Employees. Additionally, Defendants failed to pay premium wages owed for unprovided meal periods and rest periods. Defendants' failure to pay said wages within the required time was willful within the meaning of Labor Code § 203.

Defendants also failed to reimburse Aggrieved Employees for necessary business expenses. Defendants have regularly required Plaintiff to incur business expenses in the course of performing their required job duties for Defendants including for cell phone usage and mileage. Upon information and belief, Aggrieved Employees incurred similar costs. These expenses incurred by Plaintiff and Aggrieved Employees were necessary and required of them in performing their assigned job duties, but Defendants failed to reimburse Plaintiff and Aggrieved Employees for all such necessary expenditures, thus entitling them to reimbursement according

to proof as required under Labor Code § 2802 and the applicable provisions of the IWC Wage Orders.

PAGA Claim Details, Legal Bases for Violations and Penalties:
As addressed above and in further detail in the attached Class Action Complaint, Plaintiff and the Aggrieved Employees complain of the following violations committed by Defendants:

Failure to Pay Minimum Wages
Defendants violated the law by failing to pay Aggrieved Employees minimum wages for all hours worked. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states, "[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful." The applicable minimum wages fixed by the commission for work during the relevant period is found in the Wage Orders.

In California, employees must be paid at least the then applicable state minimum wage for all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014, and paragraphs 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Paragraph 2(H) of the applicable IWC Wage Orders defines "Hours Worked" as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Additionally, pursuant to Labor Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay its employees for all hours worked. Defendants failed to do so.

California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states: "The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful." The minimum wage provisions of California Labor Code are enforceable by private civil action pursuant to Labor Code § 1194(a) which states: "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees and costs of suit."

As described in California Labor Code §§ 1185 and 1194.2, any action for wages incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also, California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for all hours worked. All hours must be paid at the statutory or agreed rate, or at the minimum rate in the absence of a contractually agreed upon one. The underpayment of wages to Aggrieved Employees is and has been a direct consequence of Defendants' unlawful compensation policies and practices, which applied uniformly to the Aggrieved Employees working at locations and work sites throughout California.

Defendants thus failed to pay Employees minimum wages they were owed, including by their consistent policy of failing to pay Employees for all hours worked. Employees would work hours

and not receive wages, including as alleged above in connection with off the clock work. Aggrieved Employees were required to perform pre-shift and post-shift off the clock work which they were not compensated for despite being subject to Defendants' control. Additionally, Defendants' have a policy of auto-deducting thirty minutes from each day worked for meal breaks, but Aggrieved Employees were required to work through their breaks resulting in further off the clock work. Aggrieved Employees were also required to remain on duty by having their cell phones on them at all times and had to listen and respond to calls and messages and they were not compensated for this time. Moreover, Defendants would contact Aggrieved Employees on days they were not scheduled to work resulting in further off the clock work.

Defendants, and each of them, have also intentionally and improperly rounded, changed, adjusted and/or modified Employee hours, or required Employees to do so, and imposed difficult to attain job and shift scheduling requirements on Plaintiff and the Aggrieved Employees, which resulted in off the clock work and underpayment of all wages owed to Employees over a period of time, while benefiting Defendants. During the relevant time period, Defendants thus regularly failed to pay minimum wages to Plaintiff and the Aggrieved Employees, including by requiring systematic off the clock work. Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Aggrieved Employees as a whole, as a result of implementing a uniform policy and practice that denied accurate compensation to Plaintiff and the other Aggrieved Employees as to minimum wage pay.

In light of the forgoing, the Aggrieved Employees seek to recover wages and penalties. Aggrieved Employees are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other Aggrieved Employees further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory and civil penalties against Defendants, in a sum as provided by the California Labor Code and/or other applicable statutes, including pursuant to Labor Code § 558, and Wage Order provisions. To the extent minimum wage compensation is determined to be owed to the Aggrieved Employees who have terminated their employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under California Labor Code § 203, which penalties are sought herein on behalf of these Aggrieved Employees. Defendants' failure to timely pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code § 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was willful, intentional and not in good faith. Further, Plaintiff and other Aggrieved Employees are entitled to seek and recover statutory costs.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

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Failure to Pay Wages and Overtime in Violation of Labor Code § 510

Defendants violated the law by failing to pay Aggrieved Employees earned wages and overtime and double time. Specifically, Defendants had a consistent policy of not paying Employees wages for all hours worked, including hours at their required regular, overtime, and double-time rates, or of miscalculating them by not including all forms of remuneration in the regular rate of compensation. Defendants, and each of them, have intentionally and improperly rounded, changed, adjusted and/or modified certain employees' hours, including Plaintiff's, or required Aggrieved Employees to do so, or otherwise caused them to work off the clock to avoid paying Aggrieved Employees all earned and owed straight time and overtime wages and other benefits.

Defendants have violated Labor Code § 1194 and Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular hourly rates for hours worked in excess of eight hours in a workday or in excess of forty hours in any workweek or for the first eight hours worked on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve hours in any one day or for hours worked in excess of eight hours on any seventh day of work in a workweek. Defendants had a consistent policy of not paying Employees wages for all hours worked, including by requiring off the clock work as addressed above and by under-reporting actual hours worked. With work shifts generally requiring eight hours or more of work on a given day, this unpaid off the clock work resulted in Aggrieved Employees working past eight hours on a shift or more than forty hours in a week, which required that they be paid at the correct overtime rate of 1.5 times their regular rate.

When considered in combination with the other wage violations addressed above, Aggrieved Employees were not properly compensated, nor were they paid overtime and double time rates for hours worked in excess of eight hours or twelve hours in a given day, and/or forty hours in a given week. Defendants did not make available to Employees a reasonable protocol for correcting time records when Employees worked overtime hours or to fix incorrect time entries or those that Defendants unlawfully under-recorded to the Employee's detriment. Defendants have also violated these provisions by requiring Plaintiff and other similarly situated Aggrieved Employees to work through meal periods when they were required to be clocked out or to otherwise work off the clock to complete their daily job duties.

In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, 1174, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including paragraphs 2(K), 2(S), 3(A), 4, and 20. Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Pay Reporting Time Pay

The IWC Wage Orders require that reporting time pay be provided to any employee who is required to report for work and does report but is not put to work or is furnished less than half said employee's usual or scheduled day's work.
Plaintiff are informed and believe and thereon alleges that all or substantially all of Defendants' hourly paid employees are subject to Defendants' policies and practices requiring them to call in or otherwise show up to work but not being paid half said Employees' usual or scheduled day's work.

In light of the forgoing, Aggrieved Employees seek to recover penalties pursuant to the California Labor Code, including Labor Code §§ 218.6 and 1194(a), and 558(a) (and the relevant orders of the Industrial Welfare Commission). Defendants are liable to Aggrieved Employees for the full amount of all their reporting time pay compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes and Wage Order provisions.

Meal-Period Liability Under Labor Code §§ 226.7 and 512 and Penalties

Defendants have regularly required Aggrieved Employees to work shifts in excess of five hours without providing them with uninterrupted meal periods of not less than thirty minutes as required under Labor Code §§ 226.7, 512, and paragraph 11 of the applicable Wage Orders. Specifically, Aggrieved Employees were forced to incur shortened meal periods, were provided with breaks late and well after the fifth hour of work, could not be relieved to take breaks, or were required to remain on-duty at all times and were unable to take off-duty breaks or were otherwise not provided with the opportunity to take required breaks.

On the occasions when Aggrieved Employees were provided with a meal period, it was often untimely or interrupted by having to respond to work demands or remain under Defendant's control, in violation of the Labor Code and applicable Wage Orders. On shifts over ten hours, second meal periods were not provided. Defendants also failed to pay Aggrieved Employees "premium pay," i.e. one hour of wages at each Aggrieved Employee's effective regular rate of pay, for each meal period that Defendants failed to provide or deficiently provided, including by miscalculating any premium payments they did make. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each meal period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions. Defendants also miscalculated the rate at which they paid any meal period or rest period premiums when Defendant did attempt to pay them, resulting in further violations of section 226.7.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2) and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Rest-Break Liability Under Labor Code § 226.7 and Penalties

Defendants have consistently failed to provide Aggrieved Employees with paid rest breaks of not less than ten minutes for every work period of four or more consecutive hours, as required under Labor Code § 226.7. Specifically, Defendants provided rest periods untimely or for shortened durations, and Defendants' policies and procedures required Aggrieved Employees to remain under Defendants' control during breaks to respond to job requirements.

Defendants also failed to pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided, or miscalculated any premiums paid. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each rest period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Issue Accurate and Itemized Wage Statements in Violation of Labor Code § 226

California Labor Code § 226(a) requires an employer to furnish each employee with an accurate, itemized wage statements in writing. These statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a), Aggrieved Employees suffered injuries, including among other things confusion over whether they received all wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact compensated them correctly for all hours worked.

Defendants failed to provide accurate itemized wage statements in writing, as required by the Labor Code and paragraph 7 of the applicable IWC Wage Orders. Any wage statements given to Employees by Defendants necessarily failed to accurately account for wages, overtime, and premium pay, including by failing to pay for all hours worked, failure to pay for all overtime hours worked or at the correct rate of pay and for providing deficient meal periods and rest breaks, all of which Defendants knew or reasonably should have known were owed to the Employees, as alleged above.

In light of these violations, and pursuant to Labor Code §§ 226(a) and 226(e) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, Aggrieved Employees are entitled to recover the greater of all actual damages or fifty dollars ($50) for the initial pay period in which a violation occurs and one hundred dollars ($100) for each violation in a subsequent pay period,

not exceeding an aggregate penalty of four thousand dollars ($4,000). They are also entitled to an award of costs and reasonable attorneys' fees.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to provide Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code §226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars ($250) per employee per violation in an initial citation and one thousand dollars ($1,000) per employee for each violation in a subsequent citation, …"

Failure to Issue Semimonthly Payments in Violation of Labor Code § 204

In failing to pay Aggrieved Employees wages, overtime, premium pay, etc., and failing to provide them with checks and wage statements, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as well as the meal and rest periods taken by Aggrieved Employees, as required by Labor Code § 1174 and the applicable IWC wage orders.

Defendants also required Aggrieved Employees to work hours off the clock for which they were not compensated, including during interrupted or otherwise on-duty meal and rest periods. Defendants also failed to pay all overtime premium wages owed for work conducted on a work shift and a workday, or miscalculated these premiums by not including all forms of remuneration in the regular rate, as addressed above. Therefore, when Aggrieved Employees received wage statements and pay checks, they did not compensate all hours worked on a timely basis, resulting in Defendants' systematic failure to pay all wages owed to Aggrieved Employees twice monthly in accordance with the requirements of Labor Code § 204. Additionally, by not providing wage statements as required under section 204, Defendants systematically violated Labor Code § 204 and § 226.

Given the above described off the clock work and deductions from hours worked perpetrated by Defendants' management, Plaintiff was not paid at the correct overtime rate for all hours he worked after eight hours into a shift or over forty in a work week and that he was not paid all double time owed either. Defendants' uniformly applied payroll policies and practices thus resulted in further systematic and ongoing violations of the requirements of Labor Code § 204.

In light of the foregoing, Plaintiff and Aggrieved Employees seek to recover wages and penalties, interest, fees and costs pursuant to Labor Code §§ 201.3, 210, 218.5, 558, and 1194. In failing to pay Aggrieved Employees minimum wages and overtime, by unlawful rounding and off the clock work, by not providing proper meal and rest periods, failing to provide accurate

itemized wage statements, and failing to pay Employees wages upon termination or timely upon resignation, all discussed above, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants also failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and paragraph 7 of the applicable IWC Wage Orders, entitling Aggrieved Employees to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 203, 204, 2926, 2927, and 2699.5 seeking all civil penalties available and applicable under Labor Code §§ 204, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Keep Records In Accordance With Labor Code § 1174

Labor Code § 1174 requires employers to keep records showing payroll data and the hours worked daily by and the wages paid to employees. By failing to pay Aggrieved Employees proper wages, overtime, double time, premium pay, etc., and by not recording meal period start and end times, all discussed herein, Defendants failed to maintain proper employment records in accordance with Section 1174. In light of the forgoing, Plaintiff and Aggrieved Employees seek to recover penalties pursuant to Labor Code §§ 1174.5 and 2699, *et seq.* Defendants have also failed to comply with paragraph 7 of the applicable California IWC Wage Orders by failing to maintain time records showing when the employee begins and ends each work period, meal periods, wages earned pursuant to Labor Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from payment of wages and accurately reporting total hours worked by the Aggrieved Employees, and they are entitled to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to provide Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, 1198, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 558, 1174.5, 1199, and 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Waiting Time Penalties Pursuant to Labor Code § 203

Some Aggrieved Employees no longer work for Defendants; they either resigned or were terminated from Defendants' employ. Based on the forgoing, Defendants have had a consistent policy of failing to pay all wages earned by and owed to Aggrieved Employees at the time of their termination of within seventy-two hours of their resignation, as required by California under Labor Code § 203. In light of the forgoing, Plaintiff and Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558 and further specifically seek penalties

and wages under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199, 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Reimburse for Necessary Business Expenditures in Violation of Labor Code § 2802

Defendants required Plaintiff and the Aggrieved Employees to pay for necessary work related expenses they incurred. Defendants required Plaintiff and the Aggrieved Employees to use their cellular phones to conduct work related business. Defendants also consistently required Plaintiff to drive to various job sites during his shifts. However, Defendants failed to reimburse Plaintiff, and upon information and belief the other Aggrieved Employees, for all mileage and personal vehicle related expenses they were required to incur when traveling on-duty at Defendants' behest.

Defendants systematically and uniformly failed to reimburse those lawful and necessary work related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9. Defendants are liable for PAGA penalties resulting from their failure to reimburse necessary business expenses incurred by the Aggrieved Employees. Accordingly, Aggrieved Employees are entitled to recover, and hereby seek through this Representative Action, all civil and statutory penalties authorized for violations of California Labor Code §§ 1198 and 2802, and Section 9(B) of the applicable IWC Wage Orders, and Plaintiff seeks all civil and statutory penalties available and applicable under Labor Code §§ 2802 and 2699(f)(2), and also attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Unfair Competition Under Business and Professions Code § 17200, *et seq.*

Consequently, Defendants' conduct has been and continues to be unfair, unlawful, and harmful to Plaintiff and Aggrieved Employees and the general public in violation of Business & Professions Code § 17200 *et seq*.

Plaintiff's PAGA Claim under Labor Code § 2698 *et seq*. and Recovery Bases:

After complying with the notice procedures of Labor Code § 2699.3 and the running of the notice period after the filing of the attached Class Action Complaint, Plaintiff will file an amended Complaint asserting, as a representative action on behalf of the California Attorney General and the other similarly Aggrieved Employees, a PAGA claim for violations of the above addressed underlying claims and seeking penalties as specified by the applicable corresponding provisions.

Plaintiff and the Aggrieved Employees seek penalties under Labor Code §§ 2698 and 2699 for Defendants' violation of Labor Code provisions included under Labor Code § 2699.5, including

the penalty provisions, without limitation, based, *inter alia*, on the following California Labor Code sections: §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq.* and 2802, including as follows:

(a) Wage Claims: For failure to provide Plaintiff and the Aggrieved Employees all earned regular pay and minimum wages for regular hours worked and for failure to pay overtime premium wages for overtime hours worked under Labor Code §§ 510, 1194(a), 1197, and 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1198, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(b) Meal and Rest Period Claims: For failure to provide Plaintiff and the Aggrieved Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable, including under paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide Plaintiff and the Aggrieved Employees with wage statements or with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code §226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars ($250) per employee per violation in an initial citation and one thousand dollars ($1,000) per employee for each violation in a subsequent citation, …";

(d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(e) Failure to Reimburse Business Expenses: For Defendants' failure to reimburse the necessary work related expenses incurred under Labor Code §§ 1197, 1197.1, 1198, and 2802, and Sections 2(K), 4, 9, and 20 of the applicable IWC Wage Order(s), seeking civil

penalties available and applicable under Labor Code §§ 1197, 1197.1, 1198, 2802, 2699.5, and 2699(f)(2) and paragraph 9 and 20 of the IWC Wage Orders, and also attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(f) All Alleged Violations of the IWC Wage Orders: For any above addressed violation of the applicable provisions of the IWC Wage Orders constituting violations of Labor Code § 1198 and Labor Code § 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

We have been constrained to initially move forward with the filing of this Complaint, alleging the causes of action discussed herein, without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

This letter and the attached Complaint therefore provide the requisite notice under the Act to the LWDA and Defendants by setting forth the specific provisions of the Labor Code and related provisions Plaintiff alleges have been violated, including the facts and relevant theories alleged against DKD Property Management Company and any other named Defendants and joint employers. To prevent the violations described in the Complaint and herein from occurring, and to remedy past violations, Plaintiff respectfully requests that the LWDA conduct an investigation into Defendants' employment practices in accordance with the Act.

Wherefore we request that you advise us, by certified mail within sixty days of the postmark on this letter, whether you intend to proceed with these claims or whether Plaintiff and the Aggrieved Employees should include them in an amended Labor Code § 2698 *et seq.* claim under the Act in an amended Complaint.

Regards,

DAVID YEREMIAN & ASSOCIATES, INC.

David Yeremian

Cc: DKD Property Management Company by Certified Mail

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Attorneys for Plaintiff BRUCE KEHOE,
on behalf of himself and others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

BRUCE KEHOE, an individual on behalf of himself and all others similarly situated, Plaintiff, vs. DKD PROPERTY MANAGEMENT COMPANY, a California corporation; and DOES 1 through 50, inclusive, Defendants.	Case No.: CLASS ACTION Assigned for All Purposes To: Hon. Dept.: **CLASS ACTION COMPLAINT FOR:** 1. Failure to Pay Minimum Wages; 2. Failure to Pay Wages and Overtime Under Labor Code § 510; 3. Failure to Pay Reporting Time Pay; 4. Meal Period Liability Under Labor Code § 226.7; 5. Rest-Break Liability Under Labor Code § 226.7; 6. Violation of Labor Code § 226(a); 7. Violation of Labor Code § 203; 8. Violation of Labor Code § 204; 9. Failure to Keep Required Payroll Records under Labor Code §§ 1174 and 1174.5; 10. Failure to Reimburse Necessary Business Expenses § 2802; and 11. Violation of Business & Professions Code § 17200 *et seq.* **DEMAND FOR JURY TRIAL**

INTRODUCTION

1. Plaintiff BRUCE KEHOE ("Plaintiff") brings this action on behalf of himself and the Class Members who are defined as "all current and former employees within the State of California who, at any time from four (4) years prior to the filing of this lawsuit, are or were employed as non-exempt hourly employees by Defendants DKD PROPERTY MANAGEMENT COMPANY, a California non-profit organization, and DOES 1 through 50" (all defendants being collectively referred to herein as "Defendants").

2. Plaintiff alleges that Defendants, and each of them, violated various provisions of the California Labor Code, relevant orders of the Industrial Welfare Commission (IWC), and the California Business & Professions Code, and seeks redress for these violations.

3. Upon information and belief, Plaintiff was employed by Defendants and (1) shared similar job duties and responsibilities; (2) was subjected to the same policies and practices; and (3) endured similar violations at the hands of Defendants as the other Class Members who served in similar and related positions.

THE PARTIES

A. The Plaintiff

4. Plaintiff BRUCE KEHOE resides in California, during the time period relevant to this Complaint, was employed by Defendants as a non-exempt hourly employee within the State of California.

B. The Defendants

5. Defendant DKD PROPERTY MANAGEMENT COMPANY is a California corporation and is registered with the California Secretary of State. Defendant DKD PROPERTY MANAGEMENT COMPANY has been the employer listed on the wage statements and employment records issued to Plaintiff during the relevant time period that Plaintiff was employed with Defendants.

6. The true names and capacities, whether individual, corporate, associate, or whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently unknown to Plaintiff, who therefore sue these Defendants by such fictitious names under Code of

Civil Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants designated herein as Does 1 through 50, inclusive, and each of them, are legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated herein as Does 1 through 50 when their identities become known.

7. Plaintiff is informed and believes and thereon alleges that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, that Defendants carried out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in all respects as the employers or joint employers of Class Members. Defendants, and each of them, exercised control over the wages, hours or working conditions of Class Members, or suffered or permitted Class Members to work, or engaged, thereby creating a common law employment relationship, with Class Members. Therefore, Defendants, and each of them, employed or jointly employed Class Members.

8. Whenever and wherever reference is made in this Complaint to any act by a defendant or defendants, such allegations and references shall also be deemed to mean the acts and failures to act of each defendant acting individually, jointly, and severally.

9. Whenever and wherever reference is made to individuals who are not named as a Defendant in this Complaint but were agents, servants, employees and/or supervisors of Defendants, such individuals at all relevant times acted on behalf of Defendants within the scope of their employment.

JURISDICTION AND VENUE

10. This Court has jurisdiction over this Action pursuant to California Code of Civil Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought as a Class Action on behalf of similarly situated Class Members of Defendants pursuant to California Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district pursuant to California Code of Civil Procedure § 395 *et seq*. Upon information and belief, the obligations and liabilities giving rise to this lawsuit occurred in part in Santa Clara County.

Defendants maintain and operate facilities in Santa Clara County and employs Plaintiff and other Class Members in Santa Clara County, while doing business throughout California.

FACTUAL BACKGROUND

11. Class Members consistently worked at Defendants behest without being paid all wages due. Class Members were either not paid by Defendants for all hours worked or were not paid at the appropriate minimum, regular and overtime rates. Plaintiff also contends that Defendants failed to pay Class Members all wages due and owing, including by requiring off the clock work, unlawfully rounding to their detriment, failing to provide meal and rest breaks, failing to furnish accurate wage statements, failing to timely pay wages including final wages, failing to maintain accurate records, and failing to reimburse necessary business expenses all in violation of various provisions of the California Labor Code and applicable Wage Orders.

12. During the course of Class Members' employment with Defendants, they were not paid all wages they were owed, including for all work performed resulting in off the clock work. Class Members were required to perform pre-shift and post-shift off the clock work which they were not compensated for despite being subject to Defendants' control. Additionally, Defendants' have a policy of auto-deducting thirty minutes from each day worked for meal breaks, but Class Members were required to work through their breaks resulting in further off the clock work. Class Members were also required to remain on duty by having their cell phone on them at all times and had to listen and respond to calls and messages and they were not compensated for this time. Moreover, Defendants would contact Class Members on days they were not scheduled to work resulting in further off the clock work.

13. Moreover, Defendants had a consistent policy and practice of unlawfully rounding hours worked to the detriment of the Class Members. Rather than paying Class Members for all hours and minutes they actually worked, Defendants followed a uniform policy and practice of rounding all time entries to the nearest quarter-hour or half-hour (i.e. to the nearest 15-minute or 30-minute time increment), and generally did so to the detriment of the Class Members, and Plaintiff contend this policy is not neutral and resulted, over time, to the detriment of the Class Members by systematically under-compensating them. Rather than reflecting the actual hours

worked by Class Members, the time entries were rounded and reduced to reflect the scheduled work time rather than the actual hours worked. These unlawfully rounded time entries were inputted into Defendants' payroll system from which wage statements and payroll checks were created.

14. By implementing policies, programs, practices, procedures and protocols which resulted in off the clock work and also rounded the hours worked by Class Members down to their detriment and systematically failed to pay for all hours worked, Defendants' willful actions resulted in the systematic underpayment of wages to Class Members, including underpayment of overtime pay to Class Members over the relevant time period. For example, the above described off the clock work addressed above caused Plaintiff to begin receiving overtime pay later than they should have.

15. As a result of the above described requirements to work off the clock, unlawful rounding by Defendants and the other wage violations they endured at Defendants' hands, Class Members were not properly paid all wages earned and all wages owed to them by Defendants, including when working more than eight (8) hours in any given day and/or more than forty (40) hours in any given week.

16. As a result of Defendants' unlawful policies and practices, Class Members incurred overtime hours worked for which they were not adequately and completely compensated, in addition to the hours they were required to work off the clock. To the extent applicable, Defendants also failed to pay Class Members at an overtime rate of 1.5 times the regular rate for the first eight hours of the seventh consecutive work day in a week and overtime payments at the rate of 2 times the regular rate for hours worked over eight (8) on the seventh consecutive work day, as required under the Labor Code and applicable IWC Wage Orders.

17. Therefore, from at least four (4) years prior to the filing of this lawsuit and continuing to the present, Defendants had a consistent policy or practice of failing to pay Class Members for all hours worked, and failing to pay minimum wages for all time worked, as required by California law. Defendants thus failed to pay Class Members at least minimum wages for all the time they worked for Defendants in violation of the Labor Code and applicable IWC Wage

Orders as the actual times when Class Members were under the control and direction of Defendants was under reported in the hours reflected on the timekeeping records. Furthermore, Defendants' willful actions resulted in the systematic underpayment of wages to Class Members, including underpayment of overtime pay to Class Members over a period of time.

18. Therefore, from at least four (4) years prior to the filing of this lawsuit and continuing to the present, Defendants had a consistent policy or practice of failing to pay Class Members for all hours worked. Also, from at least four (4) years prior to the filing of this lawsuit and continuing to the present, Defendants also had a consistent policy or practice of failing to pay Class Members their true and correct overtime compensation at premium overtime rates for all hours worked in excess of eight (8) hours a day and/or forty (40) hours a week, and double-time rates for all hours worked in excess of twelve (12) hours a day, in violation of Labor Code § 510 and the corresponding sections of IWC Wage Orders.

19. Additionally, Defendants failed to provide all the legally required unpaid, off-duty meal periods and all the legally required paid, off-duty rest periods to Class Members, as required by the applicable Wage Order and Labor Code. Class Members were required to perform work as ordered by Defendants for more than five (5) hours during a shift but were often required to do so without receiving a lawful and timely meal break. In addition to untimely meal periods, Defendants also required Class Members to respond to work demands. Defendants placed their needs over Class Members lawful meal and rest breaks and this resulted in Class Members often having to work through their scheduled meal and/or rest breaks, or otherwise taking shortened ones, because the demands of the job would not avail them the opportunity to take a lawfully uninterrupted and off duty meal and/or rest break. Additionally, to the extent Class Members were able to take a meal or rest break, they were required to keep their cell phones on them at all times and had to listen and respond to calls and messages.

20. On the occasions when Class Members worked over 10 hours in a shift, Defendants also failed to provide them with a second, uninterrupted, timely and duty-free meal period. As a result, Defendants' failure to provide Class Members with all legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest periods is and will be evidenced by

Defendants' business records, or lack thereof. Defendants also failed to pay Class Members "premium pay," i.e. one hour of wages at each Class Member's effective hourly rate of pay, for each meal period or rest break that Defendants failed to provide or deficiently provided.

21. Therefore, for at least four years prior to the filing of this action and through to the present, Defendants have regularly required Class Members to work shifts in excess of five (5) hours without providing them with uninterrupted meal periods of not less than thirty (30) minutes, and shifts in excess of (10) hours without providing them with second meal periods of not less than thirty minutes; nor did Defendants pay Class Members "premium pay," i.e. one hour of wages at each Class Member's effective hourly rate of pay, for each meal period that Defendants failed to provide or deficiently provided.

22. Meal period violations thus occurred in one or more of the following manners:

(a) Class Members were not provided full thirty-minute duty free meal periods for work days in excess of five (5) hours and were not compensated one (1) hour's wages in lieu thereof, all in violation of, among others, Labor Code §§ 226.7, 512, and the applicable Industrial Welfare Commission Wage Order(s);

(b) Class Members were not provided second full thirty-minute duty free meal periods for work days in excess of ten (10) hours;

(c) Class Members were required to work through at least part of their daily meal period(s);

(d) Meal periods were provided after five (5) hours of continuous work during a shift; and

(e) Class Members were restricted in their ability to take a full thirty-minute meal period.

23. Class Members were also not authorized and permitted to take lawful rest periods, were systematically required by Defendants to work through or during breaks and were not provided with one (1) hour's wages in lieu thereof. Class Members were restricted in their ability to take their full ten (10) minutes net rest time or were otherwise not provided with duty-free rest

periods. Therefore, from at least four years prior to the filing of this lawsuit and continuing to the present, Defendants have consistently failed to provide Class Members with paid rest breaks of not less than ten minutes for every work period of four or more consecutive hours; or major fraction thereof, nor did Defendant pay Class Members premium pay for each day on which requisite rest breaks were not provided or were deficiently provided.

24. Rest period violations therefore arose in one or more of the following manners:

(a) Class Members were required to work without being provided a minimum ten (10) minute rest period for every four (4) hours or major fraction thereof worked and were not compensated one (1) hour of pay at their regular rate of compensation for each workday that a rest period was not provided;

(b) Class Members were not authorized and permitted to take timely rest periods for every four hours worked, or major fraction thereof; and

(c) Class Members were required to remain on-duty during rest periods or otherwise had their rest periods interrupted by work demands.

25. Defendants also consistently failed to issue accurate itemized wage statements as required by Labor Code § 226(a). Specifically, the wage statements given to Class Members failed to accurately account for unpaid wages and overtime because Defendants had unlawfully rounded time entries to the detriment of the Class Members and their actual hours worked were under-reported due to off the clock work. Additionally, the wage statements given to Class Members failed to accurately account for premium pay for deficiently provided meal periods and rest breaks.

26. From at least four (4) years prior to filing this lawsuit and continuing to the present, Defendants have thus also had a consistent policy of failing to pay all wages owed to Class Members at the time of their termination of within seventy-two (72) hours of their resignation, as required by California wage-and-hour laws. Specifically, Class Members were not paid all regular and overtime wages because Defendants failed to pay for all hours worked, required off the clock work and unlawfully rounded time entries to the detriment of Class Members. Additionally,

Defendants failed to pay premium wages owed for unprovided meal periods and rest periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the required time was willful within the meaning of Labor Code § 203.

27. Additionally, from at least four (4) years prior to the filing of this lawsuit and continuing to the present, Defendants have regularly required Class Members to incur business expenses in the course of performing their required job duties for Defendants including for cell phone expenses and mileage. Upon information and belief, Class Members incurred similar costs. These expenses incurred by Class Members were necessary and required of them in performing their assigned job duties, but Defendants failed to reimburse Class Members for all such necessary expenditures, thus entitling them to reimbursement according to proof as required under Labor Code § 2802 and the applicable provisions of the IWC Wage Orders.

28. In light of the foregoing, Plaintiff and Class Members bring this action pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2802 and California Code of Regulations, Title 8, section 11000 *et seq*.

29. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Plaintiff and the Class Members seek injunctive relief, restitution, and disgorgement of all benefits Defendants have enjoyed from their violations of Labor Code and the other unfair, unlawful, or fraudulent practices alleged in this Complaint.

CLASS ALLEGATIONS

30. Plaintiff seeks to represent the Subclasses composed of and defined as follows:

a. Subclass 1. Minimum Wages Subclass. All Class Members who were not compensated for all hours worked for Defendants at the applicable minimum wage.

b. Subclass 2. Wages and Overtime Subclass. All Class Members who were not compensated for all hours worked for Defendants at the required rates of pay, including for all hours worked in excess of eight in a day and/or forty in a week.

c. Subclass 3. Recovery of Reporting Time Pay. All Class Members who, within the applicable limitations period, were not paid reporting time pay.

d. Subclass 4. Meal Period Subclass. All Class Members who were subject to Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty-free meal periods or one hour of pay at the Class Member's regular rate of pay in lieu thereof.

e. Subclass 5. Rest Break Subclass. All Class Members who were subject to Defendants' policy and/or practice of failing to authorize and permit Class Members to take uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction thereof, and failing to pay one hour of pay at the Class Member's regular rate of pay in lieu thereof.

f. Subclass 6. Wage Statement Subclass. All Class Members who, within the applicable limitations period, were not provided with accurate itemized wage statements.

g. Subclass 7. Termination Pay Subclass. All Class Members who, within the applicable limitations period, either voluntarily or involuntarily separated from their employment and were subject to Defendants' policy and/or practice of failing to timely pay wages upon termination.

h. Subclass 8. Failure to Timely Pay Wages Twice Monthly Subclass. All Class Members who were subject to Defendants' policy and practice of not timely paying all wages earned when they were due and payable at least twice monthly.

i. Subclass 9. Payroll Records Subclass. All Class members who were subject to Defendants' policy and/or practice of failing to keep accurate time and wage records as required by California wage-and-hour laws.

j. Subclass 10. Expense Reimbursement Subclass. All Class Members who incurred necessary and reasonable expenses in connection with performing their job duties for Defendant and who were subject to a policy and/or practice under which such expenses were not reimbursed.

k. Subclass 11. UCL Subclass. All Class Members who are owed restitution as a result of Defendants' business acts and practices, to the extent such acts and practices are found to be unlawful, deceptive, and/or unfair.

31. Plaintiff reserves the right under California Rule of Court 3.765 to amend or modify the class description with greater particularity or further division into subclasses or

limitation to particular issues. To the extent equitable tolling operates to toll claims by the Class against Defendants, the Class Period should be adjusted accordingly.

32. Defendants, as a matter of company policy, practice and procedure, and in violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements, and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged in a practice whereby Defendants failed to correctly calculate compensation for the time worked by Class Members, even though Defendants enjoyed the benefit of this work, required Class Members to perform this work and permitted or suffered to permit this work. Defendants have uniformly denied these Class Members wages to which these employees are entitled and failed to provide meal periods or authorize and permit rest periods, in order to unfairly cheat the competition and unlawfully profit.

33. This action has been brought and may properly be maintained as a class action under the provisions of Code of Civil Procedure § 382 because there is a well-defined community of interest in litigation and proposed class is easily ascertainable.

A. Numerosity

34. The potential members of the class as defined are so numerous that joinder of all the member of the class is impracticable. While the precise number of class member has not been determined at this time, Plaintiff is informed and believes that Defendants employ or, during the time period relevant to this lawsuit, hundreds of employees who satisfy the Class definition within the State of California.

35. Accounting for employee turnover during the relevant time period increases this number substantially. Plaintiff alleges that Defendants' employment records will provide information as to the number and location of all Class Members.

B. Commonality

36. There are questions of law and fact common to the Class that predominates over any questions affecting only individual Class Members. These common questions of law and fact include:

a. Whether Defendants failed to pay Class Members minimum wages;

b. Whether Defendants failed to pay Class Members wages for all hours worked;

c. Whether Defendants failed to pay Class Members overtime as required under Labor Code § 510;

d. Whether Defendants failed to pay Class Members reporting time pay;

e. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC Wage Orders, by failing to provide Class Members with requisite meal periods or premium pay in lieu thereof;

f. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage Orders, by failing to authorize and permit Class Members to take requisite rest breaks or provide premium pay in lieu thereof;

g. Whether Defendants violated Labor Code § 226(a) by providing Class Members with inaccurate wage statements;

h. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay wages and compensation due and owing at the time of termination of employment;

i. Whether Defendants' conduct was willful;

j. Whether Defendants violated Labor Code § 226 and § 1174 and the IWC Wage Orders by failing to maintain accurate records of Class Members' earned wages and work periods;

k. Whether Defendants violated Labor Code § 1194 by failing to compensate all Class Members during the relevant time period for all hours worked, whether regular or overtime;

l. Whether Defendants violated Labor Code § 204 by failing to timely pay wages;

m. Whether Defendants violated Labor Code § 2802 by failing to reimburse all necessary business expenses Defendants required them to incur in performing their job duties;

n. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and

o. Whether Class Members are entitled to equitable relief pursuant to Business and Professions Code § 17200 *et seq*.

C. Typicality

37. The claims of the named plaintiff is typical of those of Class Members. The Class Members all sustained injuries and damages arising out of and caused by Defendants' common course of conduct in violation of statutes, as well as regulations that have the force and effect of law, as alleged herein.

D. Adequacy of Representation

38. Plaintiff will fairly and adequately represent and protect the interest of the Class Members. Counsel who represents Class Members are experienced and competent in litigating employment class actions.

E. Superiority of Class Action

39. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and fact common to all Class Members predominate over any questions affecting only individual Class Members. Each Class Member has been damaged and is entitled to recovery by reason of Defendants' illegal policies or practices of failing to compensate Class Members properly.

40. As to the issues raised in this case, a class action is superior to all other methods for the fair and efficient adjudication of this controversy, as joinder of all Class Members is impracticable and many legal and factual questions to be adjudicated apply uniformly to all Class Members. Further, as the economic or other loss suffered by vast numbers of Class Members may be relatively small, the expense and burden of individual actions makes it difficult for the Class Members to individually redress the wrongs they have suffered. Moreover, in the event disgorgement is ordered, a class action is the only mechanism that will permit the employment of a fluid fund recovery to ensure that equity is achieved. There will be relatively little difficulty in managing this case as a class action, and proceeding on a class-wide basis will permit Class Members to vindicate their rights for violations they endured which they would otherwise be foreclosed from receiving in a multiplicity of individual lawsuits that would be cost prohibitive to them.

41. Class action treatment will allow those persons similarly situated to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of any difficulties in managing this case that should preclude class treatment. Plaintiff contemplates the eventual issuance of notice to the proposed Class Members that would set forth the subject and nature of the instant action. The Defendants' own business records can be utilized for assistance in the preparation and issuance of the contemplated notices. To the extent that any further notice is required additional media and/or mailings can be used.

42. Defendants, as prospective and actual employers of the Class Members, had a special fiduciary duty to disclose to prospective Class Members the true facts surrounding Defendants' pay practices, policies and working conditions imposed upon Class Members as well as the effect of any alleged arbitration agreements that may have been forced upon them. In addition, Defendants knew they possessed special knowledge about pay practices and policies, most notably intentionally refusing to pay for all hours actually worked which should have been recorded in Defendants' pay records and the consequence of the alleged arbitration agreements and policies and practices on Class Members.

43. Class Members did not discover the fact that they were entitled to all pay under the Labor Code until shortly before the filing of this lawsuit nor was there ever any discussion about Plaintiff's and the Class' wavier of their Constitutional rights of trial by jury, right to collectively organize and oppose unlawful pay practices under California law as well as obtain injunctive relief preventing such practices from continuing. As a result, the applicable statutes of limitation were tolled until such time as Plaintiff and the Class Members discovered their claims.

FIRST CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGES

(Against All Defendants)

44. Plaintiff re-alleges and incorporate all preceding paragraphs, as though set forth in full herein.

45. Defendants failed to pay Class Members minimum wages for all hours worked. Defendants had a consistent policy of misstating Class Members' time records and failing to pay

Class Members for all hours worked. Class Members would work hours and not receive wages, including as alleged above in connection with off the clock work and unlawful rounding of hours. Defendants, and each of them, have intentionally and improperly changed, adjusted and/or modified the hours of Class Members, which resulted in off the clock work and underpayment of all wages owed to Class Members over a period of time, while benefiting Defendants. During the relevant time period, Defendants thus regularly failed to pay minimum wages to Class Members, to their detriment. Additionally, Defendants had a consistent policy of failing to pay Class Members for hours worked during alleged meal and rest periods for which Class Members were consistently denied, as also addressed herein. Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Class as a whole, as a result of implementing a uniform policy and practice that denied accurate compensation to Class Members as to minimum wage pay.

46. In California, employees must be paid at least the then applicable state minimum wage for all hours worked. (IWC Wage Order MW-2014). Additionally, pursuant to California Labor Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay its employees for all hours worked. Defendants failed to do so.

47. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states: "The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful."

48. The applicable minimum wages fixed by the commission for work during the relevant period is found in Paragraph 4(A)-4(D) of the IWC Wage Orders.

49. The minimum wage provisions of California Labor Code are enforceable by private civil action pursuant to Labor Code § 1194(a) which states: "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees and costs of suit."

50. As described in California Labor Code §§ 1185 and 1194.2, any action for wages

incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also, California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for all hours worked. All hours must be paid at the statutory or agreed rate and no part of this rate may be used as a credit against a minimum wage obligation.

51. In committing these violations of the California Labor Code, Defendants inaccurately recorded, or required Class Members to input times that did not reflect their actual hours worked, or calculated the correct time worked and consequently underpaid the actual time worked by Class Members. Defendants acted in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of the California Labor Code, the Industrial Welfare Commission requirements and other applicable laws and regulations. As a result of these violations, Defendant also failed to timely pay all wages earned in accordance with California Labor Code § 1194.

52. California Labor Code § 1194.2 also provides for the following remedies: "In any action under Section 1194 . . . to recover wages because of the payment of a wage less than the minimum wages fixed by an order of the commission, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon."

53. In addition to restitution for all unpaid wages, pursuant to California Labor Code § 1197.1, Class Members are entitled to recover a penalty of $100.00 for the initial failure to timely pay each employee minimum wages, and $250.00 for each subsequent failure to pay each employee minimum wages.

54. Pursuant to California Labor Code § 1194.2, Class Members are further entitled to recover liquidated damages in an amount equal to wages unlawfully unpaid and interest thereon.

55. Defendants have the ability to pay minimum wages for all time worked and have willfully refused to pay such wages with the intent to secure for Defendants a discount upon this indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Class Members.

56. Wherefore, Class Members are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum

wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other members of the Class further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory penalties against Defendants, in a sum as provided by the California Labor Code, including § 558, and/or other applicable statutes.

SECOND CAUSE OF ACTION

FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510

(Against All Defendants)

57. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

58. California Labor Code § 1194 provides that "any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit." The action may be maintained directly against the employer in an employee's name without first filing a claim with the Division of Labor Standards and Enforcement.

59. By their conduct, as set forth herein, Defendants violated California Labor Code § 510 (and the relevant orders of the Industrial Welfare Commission) by failing to pay Class Members: (a) time and one-half their regular hourly rates for hours worked in excess of eight (8) hours in a workday or in excess of forty (40) hours in any workweek or for the first eight (8) hours worked on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve (12) hours in any one (1) day or for hours worked in excess of eight (8) hours on any seventh day of work in a workweek.

60. Defendants had a consistent policy of not paying Class Members wages for all hours worked, including by requiring off the clock work and by unlawfully rounding down actual hours worked as addressed above. Defendants, and each of them, have intentionally and improperly rounded, changed, adjusted and/or modified certain employees' hours, including Plaintiff's, in order to avoid paying Class Members all earned and owed straight time and

overtime wages and other benefits, in violation of the California Labor Code, the California Code of Regulations and the IWC Wage Orders and guidelines set forth by the Division of Labor Standards and Enforcement. Defendants have also violated these provisions by requiring Class Members to work through portions of their meal period. Therefore, Class Members were not properly compensated, nor were they paid overtime rates for hours worked in excess of eight hours in a given day, and/or forty hours in a given week. Based on information and belief, Defendants did not make available to Class Members a reasonable protocol for correcting time records when Class Members worked overtime hours or to fix incorrect time entries or those that Defendants unlawfully rounded to the Class Members' detriment.

61. Defendants' failure to pay Class Members the unpaid balance of regular wages owed and overtime compensation, as required by California law, violates the provisions of Labor Code §§ 510 and 1198, and is therefore unlawful.

62. Additionally, Labor Code § 558(a) provides "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 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil penalty as follows: (1) For any violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee." Labor Code § 558(c) states, "the civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." Defendants have violated provisions of the Labor Code regulating hours and days of work as well as the IWC Wage Orders. Accordingly, Plaintiff and the Class Members seek the remedies set forth in Labor Code § 558.

63. Defendants' failure to pay compensation in a timely fashion also constituted a violation of California Labor Code § 204, which requires that all wages shall be paid semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct

violation of that provision of the California Labor Code, Defendants have failed to pay all wages and overtime compensation earned by Class Members. Each such failure to make a timely payment of compensation to Class Members constitutes a separate violation of California Labor Code § 204.

64. Class Members have been damaged by these violations of California Labor Code §§ 204 and 510 (and the relevant orders of the Industrial Welfare Commission).

65. Consequently, pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, and 1194, and the applicable IWC Wage Order, paragraph 3(A) and 4(B), Defendants are liable to Class Members for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes.

THIRD CAUSE OF ACTION

FAILURE TO PAY REPORTING TIME PAY

(Against All Defendants)

66. Plaintiff re-alleges and incorporate all preceding paragraphs, as though set forth in full herein.

67. The IWC Wage Orders, require that reporting time pay be provided to any employee who is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work.

68. Plaintiff is informed and believes and thereon alleges that all or substantially all of Defendants' hourly paid employees are subject to Defendants' policies and practices requiring them to call in or otherwise show up to work but not being paid half said Employees' usual or scheduled day's work.

69. Therefore, Employees are owed the unpaid balance of said wages pursuant to the Wage order according to proof at trial, Interest pursuant to Labor Code §§ 218.6 and 1194(a), Civil Code §§ 3287 and § 3289, and reasonable attorneys' fees and costs and/or penalties pursuant to Labor Code § 558(a).

FOURTH CAUSE OF ACTION

MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7

(Against All Defendants)

70. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

71. Class Members regularly worked shifts greater than five (5) hours and in some instances, greater than ten (10) hours. Pursuant to Labor Code § 512 an employer may not employ someone for a shift of more than five (5) hours without providing him or her with a meal period of not less than thirty (30) minutes or for a shift of more than ten (10) hours without providing him or her with a second meal period of not less than thirty (30) minutes.

72. Defendants failed to provide Class Members with meal periods as required under the Labor Code. Defendants placed their needs over Class Members lawful meal breaks and this resulted in Class Members consistently having to work through their scheduled meal breaks because the demands of the job would not avail them the opportunity to take a lawfully uninterrupted and off-duty meal break. Furthermore, upon information and belief, on the occasions when Class Members worked more than ten (10) hours in a given shift, they did so without receiving a second uninterrupted thirty (30) minute meal period as required by law.

73. Defendants thus failed to provide Class Members with meal periods as required by the Labor Code, including by not providing them with the opportunity to take meal breaks, by providing them late or for less than thirty (30) minutes, or by requiring them to perform work during breaks.

74. Moreover, Defendants failed to compensate Class Members for each meal period not provided or inadequately provided, as required under Labor Code § 226.7 and paragraph 11 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide an employee a meal period in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided. Defendants failed to compensate Class Members for each meal period not provided or inadequately provided, as required under Labor Code § 226.7.

75. Therefore, pursuant to Labor Code § 226.7 and the applicable IWC Wage Order, paragraph 11, Class Members are entitled to damages in an amount equal to one (1) hour of wages at their effective hourly rates of pay for each meal period not provided or deficiently provided, a sum to be proven at trial, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code and other statutes.

FIFTH CAUSE OF ACTION

REST-BREAK LIABILITY UNDER LABOR CODE § 226.7

(Against All Defendants)

76. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

77. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders provide that employers must authorize and permit all employees to take rest periods at the rate of ten (10) minutes net rest time per four (4) work hours.

78. Class Members consistently worked consecutive four (4) hour shifts and were generally scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to authorize and permit them to take rest periods. Pursuant to the Labor Code and the applicable IWC Wage Order, Class Members were entitled to paid rest breaks of not less than ten (10) minutes for each consecutive four (4) hour shift, and Defendants failed to provide Class Members with timely rest breaks of not less than ten (10) minutes for each consecutive four (4) hour shift. Defendants placed their needs over Class Members lawful rest breaks and this resulted in Class Members consistently having to work through their scheduled rest breaks because the demands of the job would not avail them the opportunity to take a lawfully uninterrupted and off-duty rest break. Thus, Class Members were consistently denied of their rest breaks.

79. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders provide that if an employer fails to provide an employee rest period in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

80. Defendants, and each of them, have therefore intentionally and improperly denied

rest periods to Class Members in violation of Labor Code §§ 226.7 and 512 and paragraph 12 of the applicable IWC Wage Orders.

81. Defendants failed to authorize and permit Class Members to take rest periods, as required by the Labor Code. Moreover, Defendants did not compensate Class Members with an additional hour of pay at each Class Member's effective hourly rate for each day that Defendants failed to provide them with adequate rest breaks, as required under Labor Code § 226.7.

82. Therefore, pursuant to Labor Code § 226.7 and paragraph 12 of the applicable IWC Wage Orders, Class Members are entitled to damages in an amount equal to one (1) hour of wages at their effective hourly rates of pay for each day worked without the required rest breaks, a sum to be proven at trial, as well as the assessment of any statutory penalties against Defendants, and each of them, in a sum as provided by the Labor Code and/or other statutes.

SIXTH CAUSE OF ACTION

VIOLATION OF LABOR CODE § 226(a)

(Against All Defendants)

83. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

84. California Labor Code § 226(a) requires an employer to furnish each of his or her employees with an accurate, itemized statement in writing showing the gross and net earnings, total hours worked, and the corresponding number of hours worked at each hourly rate; these statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid.

85. Defendants failed to provide Class Members with accurate itemized wage statements in writing, as required by the Labor Code. Specifically, the wage statements given to Class Members failed to accurately account for unpaid wages and overtime because Defendants had unlawfully rounded time entries to the detriment of the Class Members and their actual hours worked were under-reported due to off the clock work. Additionally, the wage statements given to

Class Members failed to accurately account for premium pay for deficiently provided meal periods and rest breaks.

86. Throughout the liability period, Defendants intentionally failed to furnish to Class Members, upon each payment of wages, itemized statements accurately showing: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate paid on a piece-rate basis, (4) all deductions, (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 a social security number, (8) the name and address of the legal entity that is the employer and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee pursuant to Labor Code § 226, amongst other statutory requirements. Defendants knowingly and intentionally failed to provide Class Members with such timely and accurate wage and hour statements.

87. Class Members suffered injury as a result of Defendants' knowing and intentional failure to provide them with the accurate wage and hour statements as required by law and are presumed to have suffered injury and be entitled to penalties under Labor Code § 226(e), as the Defendants have failed to provide wage statements with accurate and complete information as required by any one or more of items Labor Code § 226 (a)(1) to (9), inclusive, and Class Members cannot promptly and easily determine from the wage statement alone one or more of the following: (i) The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a), (ii) Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay period, (iii) The name and address of the employer and, (iv) 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 a social security number. For purposes of Labor Code § 226(e) "promptly and easily determine" means a reasonable person [i.e. an objective standard] would be able to readily ascertain the information without reference to other documents or information.

88. Therefore, as a direct and proximate cause of Defendants' violation of Labor Code § 226(a), Class Members suffered injuries, including among other things confusion over whether they received all wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact compensated them correctly for all hours worked.

89. Pursuant to Labor Code §§ 226(a) and 226(e) and 1174, and the applicable IWC Wage Order, paragraph 7(B), Class Members are entitled to recover the greater of all actual damages or fifty dollars ($50) for the initial pay period in which a violation occurs and one hundred dollars ($100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars ($4,000). They are also entitled to an award of costs and reasonable attorneys' fees.

SEVENTH CAUSE OF ACTION

VIOLATION OF LABOR CODE § 203

(Against All Defendants)

90. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

91. Numerous Class Members are no longer employed by Defendants; they either quit Defendants' employ or were fired therefrom.

92. Defendants failed to pay these Class Members all wages due and certain at the time of termination or within seventy-two (72) hours of resignation.

93. The wages withheld from these Class Members by Defendants remained due and owing for more than thirty (30) days from the date of separation from employment.

94. Defendants failed to pay Class Members without abatement, all wages as defined by applicable California law. Specifically, Class Members were not paid all regular and overtime wages because Defendants failed to pay for all hours worked, required off the clock work and unlawfully rounded time entries to the detriment of Class Members. Additionally, Defendants failed to pay premium wages owed for unprovided meal periods and rest periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the required time was

willful within the meaning of Labor Code § 203.

95. Defendants' failure to pay wages, as alleged entitles these Class Members to penalties under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

EIGHTH CAUSE OF ACTION

VIOLATION OF LABOR CODE § 204

(Against All Defendants)

96. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

97. Labor Code § 204 instructs that: "All wages, …earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month." Additionally, the requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period." As detailed above, Defendants maintained a consistently applied policy and practice of not paying all wages earned between the 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned between the 16th and the last day of the month between the 1st and 10th day of the following month. Defendants similarly failed to pay all wages earned by not more than seven calendar days following the close of the payroll period. These failures all arose from either Defendants' failure to pay for all hours worked or failure to pay all earned commission wages.

98. All wages due and owing to Plaintiff and the Class Members, including as required under Labor Code § 510, were therefore not timely paid by Defendants, as addressed in detail above. Additionally, wages required by Labor Code § 1194 and other sections became due and payable to each Class Member in each pay period that he or she was not provided with a meal

period or rest period or paid straight or overtime wages or commissions to which he or she was entitled.

99. Defendants thus violated Labor Code § 204 by systematically refusing to pay wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers are required "to pay each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, …" Under Labor Code § 1198, "[t]he employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Plaintiff and the Class Members may therefore pursue damages and penalties for violations of Labor Code § 204 and paragraph 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable IWC Wage Orders.

100. As a result of the unlawful acts of Defendants, Plaintiff and Class Members seek to represent they have been deprived of wages in amounts to be determined at trial, and they are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs, pursuant to Labor Code § 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the applicable IWC Wage Orders.

NINTH CAUSE OF ACTION

FAILURE TO KEEP REQUIRED PAYROLL RECORDS UNDER LABOR CODE § 1174 AND 1174.5

(Against All Defendants)

101. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

102. California Labor Code § 1174 requires that all employers shall keep accurate time and wage records for all employees. California Labor Code § 1174.5 further requires that any employee suffering injury due to a willful violation of the aforementioned obligations may seek damages, including civil penalties, from the employer.

103. During the course of Plaintiff's and Class Members' employment, Defendants consistently failed to maintain accurate time and wage records for Plaintiff and Class Members as

required by California Labor Code § 1174 by failing to pay Plaintiff and Class Members proper wages, overtime, and premium pay as discussed above.

104. Accordingly, Defendants are liable for civil penalties pursuant to the California Labor Code § 1174.5 for the three (3) years prior to the filing of this Complaint.

TENTH CAUSE OF ACTION

REIMBURSEMENT OF NECESSARY EXPENDITURES UNDER LABOR CODE § 2802

(Against All Defendants)

105. Plaintiff re-alleges and incorporates all preceding paragraphs as though set forth in full herein.

106. Under Labor Code § 2802(a) an employer must indemnify its employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.

107. Defendants have regularly required Class Members to incur business expenses in the course of performing their required job duties for Defendants including for cell phone expenses and mileage. These expenses incurred by Class Members were necessary and required of them in performing their assigned job duties, but Defendants failed to reimburse Class Members for all such necessary expenditures. Class Members were not reimbursed for those lawful and necessary work related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9.

108. As a result of the unlawful acts of Defendants, Class Members have been deprived of reimbursement in amounts to be determined at trial; they are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs.

ELEVENTH CAUSE OF ACTION

VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.*

(Against All Defendants)

109. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

110. Plaintiff, on behalf of himself, Class Members, and the general public, brings this claim pursuant to Business & Professions Code § 17200 *et seq*. The conduct of Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Class Members and the general public. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

111. Plaintiff is a "person" within the meaning of Business & Professions Code § 17204, has suffered injury, and therefore has standing to bring this cause of action for injunctive relief, restitution, and other appropriate equitable relief.

112. Business & Professions Code § 17200 *et seq*. prohibits unlawful and unfair business practices. By the conduct alleged herein, Defendants' practices were deceptive and fraudulent in that Defendants' policy and practice failed to provide the required amount of compensation for missed meal and rest breaks, and failed to adequately compensate Class Members for all hours worked, due to systematic business practices as alleged herein that cannot be justified, pursuant to the applicable California Labor Code and Industrial Welfare Commission requirements in violation of California Business and Professions Code §§ 17200, *et seq.,* and for which this Court should issue injunctive and equitable relief, pursuant to California Business & Professions Code § 17203, including restitution of wages wrongfully withheld.

113. Wage-and-hour laws express fundamental public policies. Paying employees their wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental public policies of California. Labor Code § 90.5(a) articulates the public policies of this State vigorously to enforce minimum labor standards, to ensure that employees are not required or permitted to work under substandard and unlawful conditions, and to protect law-abiding employers and their employees from competitors who lower costs to themselves by failing to comply with minimum labor standards.

114. Defendants have violated statutes and public policies. Through the conduct alleged in this Complaint Defendants have acted contrary to these public policies, have violated specific provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in violation of Business & Professions Code § 17200 *et seq*.; which conduct has deprived Plaintiff,

and all persons similarly situated, and all interested persons, of the rights, benefits, and privileges guaranteed to all employees under the law.

115. Defendants' conduct, as alleged above, constitutes unfair competition in violation of the Business & Professions Code § 17200 *et seq*.

116. Defendants, by engaging in the conduct herein alleged, by failing to pay wages and overtime, failing to provide meal periods and rest breaks, etc., either knew or in the exercise of reasonable care should have known that their conduct was unlawful; therefore their conduct violates the Business & Professions Code § 17200 *et seq*.

117. By the conduct alleged herein, Defendants have engaged and continue to engage in a business practice which violates California and federal law, including but not limited to, the applicable Industrial Wage Order(s), the California Code of Regulations, and the California Labor Code including Sections 203, 204, 226, 226.7, 512, 1194, 1197, and 1198, for which this Court should issue declaratory and other equitable relief pursuant to California Business & Professions Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute unfair competition, including restitution of wages wrongfully withheld.

118. As a proximate result of the above-mentioned acts of Defendants, Class Members have been damaged, in a sum to be proven at trial.

119. Unless restrained by this Court Defendants will continue to engage in such unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this Court should make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use by Defendants or their agents or employees of any unlawful or deceptive practice prohibited by the Business & Professions Code, including but not limited to the disgorgement of such profits as may be necessary to restore Class Members to the money Defendants have unlawfully failed to pay.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For an order certifying this action as a class action;

2. For compensatory damages in the amount of the unpaid minimum wages for work

performed by Class Members and unpaid overtime compensation from at least four (4) years prior to the filing of this action, as may be proven;

3. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;

4. For compensatory damages in the amount of all unpaid wages, including overtime and double-time pay, as may be proven;

5. For recovery of the unpaid balance of the full amount of the reporting time pay due pursuant to the applicable Wage Order as may be proven;

6. For compensatory damages in the amount of the hourly wage made by Class Members for each missed or deficient meal period where no premium pay was paid therefor from four (4) years prior to the filing of this action, as may be proven;

7. For compensatory damages in the amount of the hourly wage made by Class Members for each day requisite rest breaks were not provided or were deficiently provided where no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;

8. For penalties pursuant to Labor Code § 226(e) for Class Members, as may be proven;

9. For penalties pursuant to Labor Code § 203 for all Class Members who quit or were fired in an amount equal to their daily wage times thirty (30) days, as may be proven;

10. For restitution and/or damages for all amounts unlawfully withheld from the wages for all class members in violation of Labor Code § 204, as may be proven;

11. For restitution and/or damages for all amounts unlawfully withheld from the wages for all Class Members in violation of Labor Code § 2802, as may be proven;

12. For restitution for unfair competition pursuant to Business & Professions Code § 17200 *et seq*., including disgorgement or profits, as may be proven;

13. For an order enjoining Defendants and their agents, servants, and employees, and all persons acting under, in concert with, or for them, from acting in derogation of any rights or duties adumbrated in this Complaint;

14. For other wages and penalties under the Labor Code as may be proven;

15. For all general, special, and incidental damages as may be proven;

16. For an award of pre-judgment and post-judgment interest;

17. For an award providing for the payment of the costs of this suit;

18. For an award of attorneys' fees; and

19. For such other and further relief as this Court may deem proper and just.

DATED: March 10, 2023

DAVID YEREMIAN ASSOCIATES, INC.

By: _____
David Yeremian
Natalie Haritoonian
Attorneys for Plaintiff BRUCE KEHOE, and all others similarly situated

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial of his claims by jury to the extent authorized by law.

DATED: March 10, 2023

DAVID YEREMIAN & ASSOCIATES, INC.

By: _____
David Yeremian
Natalie Haritoonian
Attorneys for Plaintiff BRUCE KEHOE, and all others similarly situated

EXHIBIT 3