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

AUDRIANA SPARKS, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

LOGAN PROPERTY MANAGEMENT,
INC., a California Corporation; and DOES
1 through 20, inclusive;

Defendants.

Case No.: CVRI2302103
*[Assigned to Hon. Harold Hopp, Dept 1, for all
purposes]*

**DECLARATION OF BRIAN J. MANKIN,
ESQ., IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Hearing

Date: July 17, 2024

Time: 8:30 a.m.

Dept.: 1

I, Brian J. Mankin, state and declare:

1. I am an attorney licensed to practice before all of the courts of the State of California. I manage the employment department within my firm where I am also a Partner. I represent Plaintiff in this action and I am thoroughly familiar with and have personal knowledge of all of the facts set forth herein. I submit this declaration in support of Plaintiff's Motion for Preliminary Approval of this Class Action Settlement. If called as a witness, I could and would competently testify thereto.

1 **COUNSEL'S EXPERIENCE**

2 2. I have been a member, in good standing, of the State Bar of California since 2001.
3 I am admitted to practice in the United States District Courts for the Central and Southern
4 District of California and the Ninth Circuit Court of Appeal and have tried cases in various
5 courts in California.

6 3. I have handled over 500 employee vs. employer litigation matters during my 22
7 years in practice. Over the last 15 years, my practice has almost entirely consisted of
8 representing employees, the majority of which has included class action and representative
9 action wage and hour matters. In total, I have handled over 250 class action and representative
10 action wage/hour cases, and have been appointed by the court as class counsel and have received
11 final court approval and judgment in close to half of those actions to date, and anticipate
12 receiving final approval in many more of those in the future.

13 4. As part of these settlements and judgments, I have recovered in excess of \$250
14 million in damages for my clients and the class members (who often work as nurses, ambulance
15 drivers, technicians, warehouse workers, truck drivers, sales, professional occupations and
16 countless other trades). At one point, my team and I held the record for the largest known
17 PAGA-only case in California's history - a \$12.5 million-dollar court approved settlement,
18 which followed extensive litigation, summary adjudication and writs to the CA Supreme Court
19 against a Fortune 50 company (*Garcia v. Macy's*, San Bernardino Superior Court).

20 5. I have tried two class and PAGA cases against Fortune 100 companies. In 2018, I
21 was lead counsel in a PAGA case that my firm tried to the bench in the Orange County Superior
22 Court and received a \$425,000 judgment. In 2019, I was co-counsel in a class action case
23 against Walmart that was tried to the jury in District Court for the Central District, wherein the
24 jury awarded Plaintiffs over \$6 million. Following the successful outcome in trial, both cases
25 were appealed.

26 6. I was named by the LA Times as one "Southern California Leading Lawyers" in
27 the May 2023 issue of Consumer Attorney's of Southern California (a recognition given to 17
28 employment/labor law attorneys in 2023). Additionally, over the last five consecutive years, I

1 have been selected by my peers as a “Super Lawyer” in Employment Litigation, a distinction that
2 only 5% of lawyers receive.

3 **BRIEF SUMMARY OF THE SETTLEMENT**

4 7. Following mediation, Plaintiff and Defendant (collectively, the “Parties”)
5 eventually entered into a Class and PAGA Settlement Agreement and Release of Claims
6 resolving the wage and hour claims of the putative class (the “Settlement Agreement” or “S.A.”),
7 which is attached hereto as **Exhibit A**.

8 8. The Settlement Agreement seeks to release and discharge Defendant from the
9 claims brought against it in exchange for Defendant’s agreement to pay \$255,000 on a non-
10 reversionary, non-claims made basis (each Class Member will receive his/her share of the Net
11 Settlement Amount without having to submit a claim form or take any action, except for those
12 who opt-out).

13 9. Plaintiff seeks to represent a class of all current and former nonexempt (hourly
14 paid) employees employed by Defendant in California and who received bonus pay during the
15 Class Period (which is April 25, 2019, through April 29, 2024).

16 10. Under the terms of the Settlement Agreement, Defendant will not oppose Plaintiff
17 Counsel’s application for a reasonable award of attorneys’ fees not to exceed one-third of the
18 Settlement Amount, litigation expenses not to exceed \$20,000, Settlement Administrator Costs
19 of \$6,000, PAGA penalties of \$20,000 (with 75% to the LWDA and 25% to the Aggrieved
20 Employees on a pro rata basis), and a Service Payment of \$5,000 to Plaintiff. After subtracting
21 these deductions from the Settlement Amount, approximately \$119,000.00 will be available to
22 pay individual settlement amounts to approximately 98 Class Members who do not opt-out of the
23 settlement, as follows:

<i>Settlement Amount</i>	\$ 255,000.00
Attorneys’ Fees (1/3)	\$ 85,000.00
Litigation Costs (not to exceed)	\$ 20,000.00
Administrator Costs	\$ 6,000.00
PAGA Penalties	\$ 20,000.00
Class Representative Service Award	\$ 5,000.00
<i>Net Settlement Amount</i>	\$ 119,000.00

1 11. The Net Settlement Amount will be paid to the Class Members by first providing
2 each Participating Class Member with a guaranteed minimum payment of \$250 from the Net
3 Settlement Amount. The remaining balance of the Net Settlement Amount will then be
4 distributed to Participating Class Members on a Work Week basis, calculated by looking to the
5 relative number of weeks worked by each class member during the Class Period. And each
6 Class Member will receive the Class Notice, explaining the nature of the case, and the process
7 for participating, objecting and opting-out, and advising of his/her estimated settlement payment
8 and the number of Work Weeks he/she is credited with working during the applicable periods.
9 True and correct copies of the Class Notice, Request for Exclusion Form, Objection Form and
10 Dispute Form are attached hereto as **Exhibits B, C, D and E**, respectively.

11 **PROCEDURAL BACKGROUND**

12 12. My office has performed considerable work and diligently investigated and
13 prosecuted this case to a successful conclusion. Our work has resulted in the creation of a
14 significant settlement fund for the benefit of the Class. We efficiently communicated and
15 exchanged information informally with Defense counsel which enabled the parties to
16 successfully settle the case. Because of the risks involved in litigating the case and the contested
17 legal and factual issues, my office believes this settlement to be fair, reasonable, and adequate.

18 13. After being retained by Plaintiff, we submitted a letter to the Labor and
19 Workforce Development Agency (“LWDA”) for civil penalties under the Private Attorneys
20 General Act of 2004 (“PAGA”), and simultaneously sent a letter to Defendant requesting the
21 production of personnel and timekeeping records to further evaluate her wage and hour claims.
22 The LWDA ultimately declined to assert jurisdiction over the PAGA, thereby giving Plaintiff the
23 right to bring PAGA claims. A true and correct copy of Ms. Sparks’ LWDA Notice Letter is
24 attached hereto as **Exhibit F**.

25 14. On April 25, 2023, my office filed this class action, alleging that Defendant
26 violated various sections of the Labor Code. Then, on July 18, 2023, my office filed a First
27 Amended Complaint adding PAGA causes of action.
28

1 15. Defendant retained counsel and immediately began to defend the case. Then,
2 after early discussions among counsel, the Parties agreed to attend private mediation. In
3 preparation for mediation, the Parties informally exchanged documents and information that
4 allowed both sides to calculate the potential damages and evaluate potential risk, including
5 policies and procedures pertaining to the claims, statistics relating to the number of current and
6 former employees, number of shifts, pay periods worked and other things, and a sampling of
7 payroll and timekeeping records for Class Members. This information enabled both parties to
8 take a deep dive into the claims. Additionally, during this process, Plaintiff and her counsel
9 analyzed, researched, and investigated the potential issues, including matters related to the
10 calculation of damages, trial, and appellate issues and risks. However, the mediation was
11 ultimately unsuccessful.

12 16. Consequently, Plaintiff initiated class-wide discovery in preparation for class
13 certification, and requested the Class Members names and contact information.

14 17. This flurry of activity and the looming prospect of having to engage in full blown
15 discovery and a class certification hearing prompted the Parties to schedule a second round of
16 mediation, which was held on April 29, 2024 with Hon. Jonathan Cannon (Ret.), a well-
17 respected employment mediator. The matter resolved at this session of mediation and the Parties
18 entered into the Settlement Agreement submitted herewith. The Parties now seek the Court's
19 preliminary approval of the Settlement.

20 **SUMMARY OF THE CLAIMS AND DEFENSES**

21 18. Plaintiff alleged numerous wage and hour violations on behalf of the Class.
22 However, Defendant vigorously contested and denied each of Plaintiff's material allegations on
23 the merits and as to the propriety of a class action or PAGA representative action. Still, Plaintiff
24 believed there were several strong claims.

25 19. For instance, Plaintiff's primary claim was based on Defendant's policy that paid
26 the Class on an hourly basis plus various forms of bonus pay yet failed to include the bonus
27 payments in the calculations for overtime, meal premiums under Labor Code § 226.7, sick pay
28 under Labor Code § 246, and vested vacation under Labor Code § 227.3. Plaintiff argued these

1 violations resulted in significant unpaid wages, waiting time penalties under Labor Code § 203
2 and other derivative penalties. However, Defendant opposed each unpaid wage claim on the
3 merits and as to the propriety of class certification.

4 20. Plaintiff also alleged that she and the Class Members were often denied compliant
5 meal and rest breaks due to the nature of the work. However, Defendant argued that it provided
6 and made all mandated meal and rest breaks available to the Class, and any employee who did
7 not take a break did so entirely of their own volition. Thus, Defendant argued that these claims
8 were without merit because, for each violation, a fact-finder would have to determine why a
9 break was noncompliant, because if it was by the employee's choice, no liability attaches to
10 Defendant. LPM also argued that it had a practice of paying meal premiums when the
11 timekeeping records evidenced a noncompliant meal period (although Plaintiff argued this
12 amount was not paid at the proper rate [the "regular rate of pay"]).

13 21. Finally, Plaintiff alleged a variety of other claims (all of which Defendant
14 disputed), such as the failure to timely pay wages each period, failure to timely pay all wages
15 upon separation of employment, failure to provide accurate itemized wage statements, and
16 failure to reimburse business expenses.

17 22. Despite the disputed nature of the claims, the Parties concluded that further
18 litigation of the Action would be protracted and expensive, and that it is desirable that the Action
19 be fully and finally settled to limit further risk, expense, and protracted litigation.

20 CMO COMPLIANCE

21 23. In accordance with CMO ¶ G, this section will specifically identify and address
22 each CMO requirement. This information was compiled with the assistance of Peter Carlson,
23 who was responsible for preparing the pre-mediation data and calculations, and primarily
24 assisted in the preparation of the *Kullar* analysis. As such, the following is based largely on
25 information and belief, as it was largely prepared with Mr. Carlson's assistance (but I reviewed
26 all of the information).

27 ///

28 ///

1 CMO ¶ G(3)(a)(i)

2 24. Based on information obtained in discovery and through informal discovery
3 before mediation, I estimate that there will be approximately 98 individuals that fall within the
4 Class definition and 70 of those individuals are also PAGA “Aggrieved Employees.”

5 CMO ¶ G(3)(a)(ii), CMO ¶ G(3)(a)(iii), CMO ¶ G(9)(b)

6 25. The following paragraphs provide the maximum and risk-adjusted value for each
7 claim, and this includes all claims on a class and PAGA basis as required by the CMO.

8 26. The calculations below are based upon data points obtained through formal and
9 informal discovery, from which Plaintiff’s counsel estimated the following through mediation:
10 (1) 98 Class Members, (2) 60 *former* Class Members for purposes of Labor Code § 203, (3)
11 10,480 workweeks, (4) 47,160 shifts worked, and (4) approximately 1,938 semi-monthly wage
12 statements during the PAGA Period.

13 ***Unpaid Wage Claims***

14 27. Plaintiff alleged two unpaid wages on behalf of the Class: (1) Defendant paid the
15 Class on an hourly basis plus additional earned compensation but failed to include this
16 compensation in the regular rate calculations and overtime pay, and (2) Defendant failed to pay
17 for all compensable hours due to the failure to accurately record all hours worked.

18 28. As to the first unpaid wage, Plaintiff and the Class Members were paid on an
19 hourly basis along with nondiscretionary bonuses and other earned compensation. However, the
20 pre-mediation sampling showed that, on the occasions that a Class Member earned additional
21 compensation and worked overtime during the time period when such compensation was earned,
22 Defendant did not include the compensation in the regular rate (*i.e.*, Defendant only paid
23 overtime at 1.5 times the base rate). Plaintiff alleged that this led to a failure to pay all overtime
24 owed.

25 29. As to the second unpaid wage claim, Plaintiff argued that she and the Class
26 Members were, at times, required to perform work while “off-the-clock” (either before the shift
27 started, after it ended, or while on supposedly “off-duty” meal periods). As a result, Plaintiff
28 argued that he and other Class Members were forced to perform uncompensated work dbecause

1 they were under Defendant’s “control” at this time.

2 30. CMO ¶ G(3)(a)(ii): we calculated the maximum potential damages for the unpaid
3 minimum and overtime wages as \$419,200 based on amounts owed for the regular rate violations
4 plus additional amounts owed for the failure to pay all compensable hours. The value of this
5 claim was calculated by applying a calculated and approximated \$40 underpayment per week,
6 multiplied by the number of workweeks in the Class Period (10,480).

7 31. CMO ¶ G(3)(a)(iii): we calculated the risk-adjusted value of these unpaid
8 minimum and overtime claims as \$150,000. Defendant vehemently opposed these “off-the-
9 clock” unpaid wage claims on the merits and as to the propriety of class certification. However,
10 due to the objective nature of the regular rate violations, Plaintiff was confident that she would
11 succeed on that specific claim, and placed little risk at class certification or on the merits.

12 32. CMO ¶ G(9)(b): as for the PAGA penalty claims on these issues, Plaintiff
13 calculated the maximum potential PAGA penalty at trial as \$193,800 based on a 100% violation
14 rate for 1,983 wage statements issued during the period. We then applied a merits risk, similar to
15 the above, and further recognized that there were certain factors that reduce the possible value at
16 trial. Specifically, when considering the amount of discretionary reduction to apply against the
17 maximum penalties, we believe the Court would consider that: (a) if this claim succeeded, the
18 Class would already be receiving compensation for the same violations [and would thus apply a
19 smaller penalty because otherwise it is a double penalty], and (b) there were several “good faith”
20 defenses (including the CBA). As a result, we calculated a PAGA risk-adjusted value of \$50,000
21 for these unpaid wage claims.

22 ***Meal and Rest Break Claims***

23 33. Plaintiff also alleged meal and rest break claims against Defendant, and this
24 section provides CMO-compliant information as to the value and basis for such claims.

25 34. CMO ¶ G(3)(a)(ii): we calculated the maximum potential damages as follows. For
26 the meal period claims, we calculated 7,074 violations (based on 15% violation rate) and
27 multiplied that by an average hourly rate of \$25 (the applicable premium rate under Labor Code
28 § 226.7) to arrive at maximum potential damages of \$176,850. For the rest break claims, we

1 calculated 11,790 violations (25% violation) and multiplied that by \$25 to arrive at maximum
2 potential damages of \$294,750.

3 35. CMO ¶ G(3)(a)(iii): we calculated the risk-adjusted value of the meal period
4 claims as \$53,055 and for the rest break claim as \$73,688. These risk-adjusted figures are based
5 on the numerous defenses and risks attached to such claims. For instance, Defendant raised
6 numerous arguments in response to this claim, including that it maintained fully compliant
7 written policies and specifically authorized the Class Members to take meal and rest breaks,
8 meaning that no one had a reason or cause to miss a break or take a short/late break. Therefore,
9 Defendant asserted that a fact-finder would have to determine for each Class Member whether a
10 break was missed and why, and why a break was noncompliant or nonexistent, because if it was
11 by the employee's choice, no liability attaches to Defendant. Additionally, Defendant argued and
12 provided evidence that it paid Labor Code § 226.7 premium payments to the Class for allegedly
13 noncompliant meal periods, which would greatly reduce the alleged violation rates. These
14 defenses are factored into Plaintiff's analysis in two ways. First, these issues raise questions
15 regarding whether the meal and rest break claims could be certified, and Plaintiff placed a 40%
16 risk at the class certification stage for meal periods and a 50% risk for rest breaks. Second, these
17 defenses also go toward the merits given the evidentiary question of proving the number of meal
18 and rest violations. As such, Plaintiff placed a 50% risk on the merits for meal breaks, and an
19 additional 50% risk on the merits for rest breaks. This returns risk-adjusted values for meal
20 periods of \$53,055 [$\$176,850 \times 40\% \text{ class cert risk} \times 50\% \text{ merits risk}$] and for rest breaks of
21 \$73,688 [$\$294,750 \times 50\% \text{ cert risk} \times 50\% \text{ merits risk}$].

22 36. CMO ¶ G(9)(b): as for the PAGA penalty claims on these issues, Plaintiff
23 calculated the maximum potential PAGA penalty at trial as \$96,900 for meal periods (50% pay
24 period violation rate) and \$116,280 (60% pay period violation rate), based on \$100 for each
25 violation. But these claims faced the same merits and evidentiary risks discussed above, so we
26 applied a 50% risk on the merits for each claim. Then we also assumed that the Court, when
27 considering what discretionary reduction to apply, would give credit to Defendant's attempt to
28 enact and apply a compliant written meal and rest period policy. And, as a result, we estimated

1 that the Court would apply a discretionary reduction of 75%, leading to risk-adjusted PAGA
2 values of \$12,112 for meal periods and \$14,535 for rest breaks.

3 ***Failure to Pay Vested Vacation***

4 37. Plaintiff alleged that, due to the failure to properly include all nondiscretionary
5 compensation in the “regular rate” calculations, Defendant also failed to include those amounts
6 when calculating the “final rate” of pay under Labor Code § 227.3 and the amount of vested
7 vacation payable to the Class.

8 38. CMO ¶ G(3)(a)(ii): the value of this claim is very small given that it only applies
9 to 60 *former* employees and is only based on the underpaid vested vacation. As such, Plaintiff
10 and her counsel estimated that each Class Member was underpaid \$10 at termination, leading to
11 a maximum potential value of \$600.

12 39. CMO ¶ G(3)(a)(iii): given the small amount at issue, Plaintiff and her counsel did
13 not discount or otherwise apply any risk reduction to this claim, so the risk-adjusted value was
14 the full \$600.

15 40. CMO ¶ G(9)(b): as for the PAGA penalty claims on these issues, Plaintiff
16 calculated the maximum potential PAGA penalty at trial as \$4,000 (assuming 40 *former*
17 employees that were underpaid at termination in the PAGA Period). Plaintiff also did not apply
18 any risk reduction to this claim other than assuming that, if this claim was successful, the Court
19 would apply a 50% discretionary reduction given that the underpaid wages would have been paid
20 in full. Thus, the PAGA risk-adjusted value for this claim was \$2,000.

21 ***Failure to Reimburse Business Expenses***

22 41. Plaintiff alleged that she and the Class Members often had to use personal cell
23 phones to perform their work for Defendant, without reimbursement.

24 42. CMO ¶ G(3)(a)(ii): we calculated the maximum potential damages as \$104,800
25 based on \$10 of allegedly unreimbursed expenses per workweek in the Class Period.

26 43. CMO ¶ G(3)(a)(iii): we calculated the risk-adjusted damages for this Labor Code
27 § 2802 claim as \$37,728. Defendant raised many strong defenses to this claim, primarily
28 focused on the argument that the Class Members were not required to use personal cell phones

1 because they were, at all times, permitted and expected to use the phones available in the office
2 (since these were not remote workers). Defendant also argued against possible certification of
3 this claim by arguing a lack of manageability since analysis of this claim would required highly
4 individualized testimony from Class Members about whether they had to use personal cell
5 phones and why they did so (because if it was not “required” or “necessary” then it does not lead
6 to liability). Further, even if the claim was certified, Defendant would argue that there was an
7 evidentiary issue in proving the amount of expenses that were not reimbursed. As a result, for
8 this claim, Plaintiff placed a 40% risk at class certification and another 40% on the merits,
9 leading to a risk-adjusted value of \$37,728.

10 44. CMO ¶ G(9)(b): as for the PAGA penalty claims on these issues, Plaintiff
11 calculated the maximum potential PAGA penalty at trial as \$193,800 for alleged § 2802
12 violations based on a 100% violation rate for the 1,938 wage statements issued during the period
13 multiplied by \$100. However, we applied the same 40% merits risk and, even though there is no
14 requirement for “knowing and intentional” under PAGA, we assumed that the Court would apply
15 a discretionary reduction of 90% based on Defendant’s likely argument (if liability was found)
16 that they were already liable for damages to the Class and for PAGA penalties for the
17 overarching violations that triggered the derivative wage statement violations. Thus, the total
18 risk-adjusted PAGA penalties for these violations are \$11,628.

19 ***Wage Statement Claims***

20 45. Plaintiff alleged that, because of the unpaid wage and meal/rest violations above,
21 Defendant’s wage statements failed to accurately reflect the gross and net wages payable.

22 46. CMO ¶ G(3)(a)(ii): based on the formula under Labor Code § 226(e) (\$50 for
23 initial violation and \$100 for subsequent violations), we calculated the maximum class wage
24 statement penalties as \$190,300 (70 “initial” violations at \$50 and 1,868 “subsequent” violations
25 at \$100 ([70 x \$50] + [1,868 x \$100] = \$190,300).

26 47. CMO ¶ G(3)(a)(iii): we calculated the risk-adjusted value of the class wage
27 statement claims as \$66,605. This analysis incorporated Defendant’s arguments and defenses
28 from above, and also accounted for the fact that these were “derivative” as opposed to “direct”

1 wage statement violations (*i.e.*, because these claims were entirely derivative of the claims
2 above, they only had merit if the claims for unpaid wages or meal/rest breaks were successful).
3 Moreover, Defendant argued that “derivative” violations cannot trigger liability under § 226 and,
4 even if there was a “technical” violation, Plaintiff would be unable to prove the required
5 “knowing and intentional” and “injury” elements. Based on these facts and defenses, we placed
6 a 30% risk at class certification (in line with the claims on which the derivative wage statement
7 claim was based) and estimated another 50% risk on the merits, leading to a risk-adjusted value
8 for the derivative claims of \$66,605 [$\$190,800 \times 30\% \text{ cert risk} \times 50\% \text{ merits risk}$].

9 48. CMO ¶ G(9)(b): as for the PAGA penalty claims on these issues, Plaintiff
10 calculated the maximum potential PAGA penalty at trial as \$193,800 for wage statement claims
11 based on a 100% violation rate for the 1,938 wage statements issued during the period multiplied
12 by \$100. However, like above, the risk-adjusted value must consider the difference between the
13 direct and derivative claims. Thus, we applied the same 50% merits risk and, even though there
14 is no requirement for “knowing and intentional” under PAGA, we assumed that the Court would
15 apply a discretionary reduction of 80% based on Defendant’s likely argument (if liability was
16 found) that they were already liable for damages to the Class and for PAGA penalties for the
17 overarching violations that triggered the derivative wage statement violations. Thus, the total
18 risk-adjusted PAGA penalties for wage statement violations are \$19,380.

19 ***Waiting Time Penalty Claims***

20 49. Plaintiff’s claim for failure to timely pay final wages (and for waiting time
21 penalties under Labor Code § 203) was entirely derivative of the claims above (*e.g.*, because
22 Defendant failed to pay all wages and premiums owed, Defendant did not timely pay all final
23 wages owed because there are still amounts due and payable).

24 50. CMO ¶ G(3)(a)(ii): we calculated the maximum potential value of this claim as
25 \$360,000 based on 60 *former* employees who were paid \$200 per day (60 employees x \$200
26 daily pay x 30-day penalty = \$360,000).

27 51. CMO ¶ G(3)(a)(iii): we calculated the risk-adjusted value of the waiting time
28 penalty claim as \$151,200. The valuation had to account for the fact that this claim was

1 derivative of the unpaid wage and meal/rest break claims and, if those claims failed at
2 certification or on the merits, there would be no waiting time penalties owed, so the same risks
3 for those claims applied to this claim. Furthermore, even if the unpaid wage and/or meal/rest
4 claims succeeded at certification and on the merits, Plaintiff would have to prove that the
5 violations (if any existed) were “willful” under the meaning of Labor Code § 203. And, here,
6 Defendant argued there was no “willful” violation since they had compliant written policies and
7 any deviations therefrom were inadvertent and unintentional. Additionally, argued that they had
8 a “good faith” defense that prevents imposition of the waiting time penalties. As a result of this
9 analysis, Plaintiff’s counsel applied a 30% risk at class certification and a 40% risk on the merits,
10 setting a risk-adjusted value of \$151,200.

11 52. CMO ¶ G(9)(b): as for the PAGA penalty claims, Plaintiff calculated the
12 maximum potential PAGA penalty at trial as \$4,000 based on 40 violations multiplied by \$100.
13 But we had to incorporate the same risks as above (40% on the merits) and also assumed that,
14 given Defendant’s good faith attempts at compliance with California law, that the Court would
15 also apply a 50% discretionary reduction in PAGA penalties, setting the risk-adjusted PAGA
16 penalty value at \$2,600.

17 ***Failure to Timely Pay Wages Each Period***

18 53. This claim is pursued on a PAGA basis (the remedy for a violation is enforceable
19 either through PAGA or the Labor Commissioner); thus, the analysis here focuses on PAGA.

20 54. CMO ¶ G(9)(b): Plaintiff calculated the maximum potential PAGA penalty at trial
21 as \$193,800 for Labor Code § 204 claims based on a 100% violation rate for the 1,938 wage
22 statements issued during the period multiplied by \$100. This claim is based on the allegation that
23 Defendant did not pay all wages and wage premiums (for meal/rest violations) timely each
24 period, which violated Labor Code § 204. However, because these claims were entirely
25 derivative of the claims above, they only had merit if the claims for unpaid wages or meal/rest
26 breaks were successful. And, as such, we had applied a 30% risk on the merits to align with the
27 merits risk of the claims above. Additionally, we assumed that the Court would apply a
28 discretionary reduction of 95% based on Defendant’s likely argument (if liability was found) that

PAGA penalties for § 204 violations should be greatly reduced because these are “derivative” and they were already liable for damages to the Class and for PAGA penalties for the overarching violations. Thus, the risk-adjusted PAGA penalties under § 204 are \$6,783.

Collective Maximum and Risk-Adjusted Class Damages/Penalties and PAGA Penalties
CMO ¶¶ G(3)(a)(ii)(C), CMO G(3)(a)(iii)(C), and CMO ¶ G(9)(b)(iii and iv)

55. The table below provides the total sums (for all claims) of the maximum and risk-adjusted class damages and penalties and the total maximum and risk-adjusted PAGA penalties.

Claim	Class Values		PAGA Values	
	Maximum	Risk-Adjusted	Maximum	Risk-Adjusted
Unpaid Wages	\$400,000	\$150,000	\$193,800	\$50,000
Meal Periods	\$176,850	\$53,055	\$96,900	\$12,112
Rest Breaks	\$294,750	\$73,688	\$116,280	\$14,535
Vacation Pay	\$600	\$600	\$4,000	\$2,000
Failure to Reimburse	\$104,800	\$37,728	\$193,800	\$11,628
Wage Statement	\$190,300	\$66,605	\$193,800	\$19,380
Waiting Time Penalties	\$360,000	\$151,200	\$4,000	\$2,600
Labor Code § 204	n/a	n/a	\$193,800	\$6,783
Totals	\$1,527,300	\$532,876	\$996,380	\$119,038

CMO ¶ G(3)(a)(iv)

56. Based on an assumed Net Settlement Amount of \$119,000, and an estimated 98 Class Members, the average payment will be \$1,214.29. However, the actual amounts payable to the Class will be based on a guaranteed minimum payment plus an allocation based on each individual’s weeks worked compared to the total Class weeks worked. While we cannot generate an exact “range of recoveries” right now since the Class Data will not be provided to the Settlement Administrator until after Preliminary Approval, I can provide reasonable estimates of the high and low payments as follows.

57. Based on our analysis, we estimate that there 98 Class Members participating in the Settlement, who will reach receive a guaranteed minimum payment of \$250. This will reduce the Net Settlement Amount by \$24,500 (\$250 x 98) and leave a remaining balance of \$94,500. That remaining balance will then be paid to Class Members based on their total

workweeks compared to those of the Class as a whole. We estimate that there are 10,480 weeks worked by the Class; thus, each week worked will receive an estimated net amount of \$9.02 (\$94,500 remaining balance of Net Settlement Amount / 10,480). Thus, on the low end, a Class Member that worked only 2 weeks during the Class Period will receive \$268.04 (\$250 guaranteed minimum payment plus [\$9.02 x 2]). And, at the high end, a Class Member that worked for the entire Class Period (262 calendar weeks), will receive an estimated high payment of \$2,613.24 (\$250 guaranteed minimum payment plus [\$9.02 x 262]).

58. Given that these are only preliminary estimates, the Settlement Administrator will fill in the average, high, and low payments in the Class Notice (if necessary) after Preliminary Approval and after calculating those figures from the Class Data.

CMO ¶ G(3)(a)(v)

59. From the data and analysis conducted prior to mediation, derived through both formal and informal discovery, I estimate the following recoveries by the Aggrieved Employees. First, given that we estimate 70 Aggrieved Employees, those individuals will receive an estimated average share of \$71.43 (\$5,000 / 70). Then, based on an estimated 1,938 semi-monthly wage statements during the PAGA Period, which translates to approximately 4,200 workweeks, we estimate the value of each PAGA Workweek as \$1.19 (\$5,000 / 4,200); if an Aggrieved Employee worked only 2 weeks in the PAGA Period, the low payment would be \$2.38 and, if an Aggrieved Employee worked the maximum weeks during the PAGA Period (105), then the maximum PAGA payment will be \$124.95.

CMO ¶ G(3)(a)(vi)

60. My office conducted substantial informal discovery to investigate the size of the class and strength of the claims. Specifically, in preparation for mediation, we demanded and received informal discovery, including documents and information that allowed us calculate the potential damages and evaluate potential risk, including policies and procedures pertaining to the claims, statistics relating to the number of current and former employees, number of shifts, pay periods worked and other things, and a sampling of payroll and time records for Class Members.

///

1 CMO ¶ G(3)(a)(vii)

2 61. I am not aware of any other class, representative, or collective action in this or
3 any other court that asserts claims similar to those asserted in this action or behalf of a class or
4 group of individuals, some or all of whom would also be members of this Class. I have also
5 made reasonable inquiry of other members of my firm (we have no associated firms in this
6 instance), and none of the other attorneys are aware of any such similar actions.

7 CMO ¶ G(3)(c)(i)

8 62. The Court, at CMO ¶ G(C)(i), states that it “believes that redistribution of the
9 value of uncashed settlement check(s) to those class members who have cashed their checks will
10 better serve the public interest and the interest of the class than distribution in the manner
11 otherwise prescribed by [CCP § 384(b)]” (*i.e.*, payments to a *cy pres*).

12 63. Here, the Parties are not sending the value of uncashed checks to a *cy pres*.
13 Instead, any uncashed checks will be sent to the California State Controller in the name of the
14 Class Member (or Aggrieved Employee). Thus, those funds are – and always will be – paid to
15 and available for collection by the Class Member (or Aggrieved Employee) at any point in the
16 future. This does not fall under the umbrella of CCP § 384(b), as that section only relates to
17 payment of residue to “nonprofit organizations or foundations to support projects that will
18 benefit the class or similarly situated persons, or that promote the law consistent with the
19 objectives and purposes of the underlying cause of action, to child advocacy programs, or to
20 nonprofit organizations providing civil legal services to the indigent.”

21 64. I do not believe there is a need for the Parties to “explain[] the factual basis for
22 the disagreement” with the Court’s proposed method of redistributing funds, because the Court’s
23 proposal is, by its plain language, only applicable in lieu of a *cy pres* (not where the uncashed
24 funds are still paid to the Class Member, essentially held in trust by the State Controller).

25 65. However, in an abundance of caution and to prevent a delay, I want to explain
26 why we do not want to redistribute uncashed checks to class members that did cash checks.

27 66. First, the process to carry out the Court’s proposed redistribution is not as simple
28 as it sounds. Under the CMO’s proposed method, after 180 days have passed, the uncashed

1 funds would be redistributed to Class Members that cashed their checks. That step, on a
2 standalone basis, is not concerning. However, that is nowhere near the end of the process.
3 Indeed, after the second checks are issued, there will be another batch of checks that go
4 uncashed, as there always are in these class actions. What, then, happens to the funds from the
5 uncashed second checks? Are those amounts redistributed again? And to whom? Should the
6 third round of checks only go to those who cashed the first and second checks? Regardless of
7 the answer to these questions, the problem will continue because some of the third checks will
8 likely go uncashed as well, meaning that this process can repeat over and over – each time with a
9 180-day check cashing period.

10 67. Second, the Court’s proposal to redistribute uncashed checks to class members is
11 also problematic because it will greatly increase the cost of settlement administration. After all,
12 the administrator will have to keep banking and taxing accounts open for a much longer period,
13 possibly for multiple years, and will have to issue multiple tax forms with each new payment.
14 But how much extra will the Administrator charge to be exact? And how many additional
15 checks will be mailed a second and third time? How will this be priced? And once the court has
16 approved a specific amount of money for the Settlement Administrator, who will pay for the
17 increased costs, and who will be responsible for ensuring that the increased costs are fair,
18 reasonable and adequate - because after all, this entire process is occurring after the Court has
19 entered judgment.

20 CMO ¶ G(3)(d)

21 68. In accordance with CMO ¶ G(3)(d), we requested bids from four different
22 settlement administrators, which resulted in the following bids: CPT Group (\$12,200), ILYM
23 (\$6,650), Rust Consulting (\$10,600), Xpand (\$5,500) and Phoenix (\$6,000). Although Phoenix
24 was not the lowest bid, the Parties agreed to retain Phoenix based on its all-in (fixed) fee to
25 administer the settlement for \$6,000, and the fact it has a track record of performing very good
26 work and in accordance with the CMO. The concurrently filed Declaration of Michael Moore of
27 Phoenix covers the other information required in CMO ¶ G(3)(d)(ii). CMO ¶ G(9)(b)
28

69. The paragraphs above provide the information requested in CMO ¶ G(9)(b)(i-iv); this section addresses the remaining requests under CMO ¶ G(9)(b)(v-viii).

70. CMO ¶ G(9)(b)(v): I'd first like to point out that a finding of "knowing and intentional" is not necessary under claims for PAGA penalties; that is a required element of wage statement violations (on a class, not PAGA, basis) under Labor Code § 226(e). However, with that said, we believe there is an argument that Defendant's unpaid wage claims would not be found "knowing and intentional" (for purposes of Labor Code § 203, for instance) because Defendant argued that it was its payroll processor that caused the error (not Defendant itself). Additionally, we believed that Defendant had a good argument that the derivative wage statement violations were not "knowing and intentional."

71. CMO ¶ G(9)(b)(vi): If this action proceeded to trial, Defendant would have argued for a discretionary reduction in PAGA penalties because the assessment of significant PAGA penalties would be "unjust, arbitrary and oppressive, or confiscatory" in light of "the facts and circumstances of [this] case." *See* Labor Code § 2699(h). Defendant's reliance on several Labor Code exemptions presents a "mistake of law" fact pattern, and similar cases have applied large reductions in PAGA penalties in such situations. *See, e.g., Cotter v. Lyft, Inc.* (N.D. Cal. 2016) 193 F.Supp.3d 1030, 1037 (97.5% reduction in PAGA penalties "appropriate" based on the "unjust, arbitrary and oppressive, or confiscatory" factors because (i) the employer did not "deliberately evad[e] a clear obligation to provide legally required pay and benefits to employees," (ii) the employer did not "negligently fail to learn about its obligations under the wage and hour laws," and (iii) the employer's obligations were "genuinely unclear" because "there is no straight answer to the question").

72. CMO ¶ G(9)(b)(vii): The parties only reached settlement and the agreed-upon PAGA penalties after extensive informal discovery and arms-length negotiation between the parties and through an experienced mediator. Notably, Defendant raised many defenses which, if accepted by the Court, could result in a significant reduction of penalties, or the elimination of penalties altogether through dispositive motions. As such, an assessment of penalties greater than those agreed-upon would be unjust at this stage because this settlement reflects an informed,

1 fundamentally fair, and reasonable settlement of the PAGA claims herein based on the unique
2 facts, defenses, and risks in this case.

3 73. CMO ¶ G(9)(b)(viii): the sections above show that the amount of the agreed-upon
4 penalties is fair.

5 **THE SETTLEMENT IS FAIR, JUST, AND REASONABLE**

6 74. The settlement was the product of extensive arm's length negotiations, facilitated
7 by an experienced mediator. Though cordial and professional, the settlement negotiations were
8 adversarial and non-collusive in nature. The settlement reached is the product of substantial
9 effort by the parties and their counsel. Although we believed that there was a possibility of
10 certifying the claims, we recognized the potential risk, expense, and complexity posed by
11 litigation, such as unfavorable decisions on class certification, summary judgment, at trial and/or
12 on the damages awarded, and/or on an appeal that can take several more years to litigate.

13 75. The settlement will result in a fair payment to each class member based on the
14 number of weeks worked. Plaintiff and my firm have diligently investigated the claims and
15 defenses on behalf of the Class Members and worked to achieve a resolution of the claims to
16 maximize the recovery by avoiding further expenditure of attorneys' fees and costs. After
17 evaluating the significant risks attendant with further litigation described above and weighing
18 them against the benefits of a known compromise and settlement as set forth in the Settlement
19 Agreement, settlement on the terms agreed to is believed to be in the best interest of Plaintiff and
20 the Class, and is a fair and reasonable resolution of the claims alleged.

21 76. My firm brought to bear a great deal of experience in negotiating the settlement of
22 this case. As detailed herein, I, along with my senior associate Peter Carlson, engaged in the
23 necessary discovery and investigation, making it possible to exercise informed judgment
24 throughout the settlement process, including significant document review (*e.g.*, documents
25 pertaining to Defendant's policies and procedures, personnel documents, among others), and
26 conducted an extensive analysis of the detailed class-wide data provided by Defendant.

27 77. Based on my experience in other cases, including wage and hour matters, I
28 believe I am qualified to evaluate the class claims and viability of defenses in this class action.

1 In this case, the recovery for each class member is reasonable, fair, and adequate, and this
2 settlement is in the best interests of the class. The settlement provides each class member with
3 compensation for the alleged violations when viewed in relation to the costs and risks inherent in
4 obtaining class certification and proceeding to trial.

5 78. My firm, as well as defense counsel, fully endorse the terms and conditions of the
6 settlement as set forth in the abovementioned Settlement Agreement.

7 79. Of course, the settlement amount represents a compromise figure, taking into
8 account the various risks surrounding class certification and the merits of Defendant's asserted
9 defense. Nevertheless, the settlement provides for fair and adequate payments to the class
10 members, with no reversion to Defendant.

11 **PLAINTIFF'S REQUESTED ENHANCEMENT PAYMENT**

12 80. Plaintiff seeks an enhancement payment of \$5,000 for her service to the Class,
13 which I believe is fair and warranted. Plaintiff came forward and brought this case in an effort to
14 effectuate a policy and practice change that benefitted all other Class Members (and to recover
15 unpaid wages and other damages). She ultimately succeeded despite significant risk.

16 81. Plaintiff provided invaluable assistance to my office and the Class in this case,
17 including providing factual background; reviewing the litigation documents; providing
18 information and documents about Defendant's policies and practices; participating in phone calls
19 to discuss litigation and settlement strategy; making herself available throughout the litigation to
20 assist with analyzing the claims and defenses; helping Class Counsel prepare for the mediation;
21 making herself available for a full-day mediation, and reviewing the settlement documents.
22 Plaintiff agreed to participate in this case with no guarantee of personal benefit.

23 82. The Class Representative also assumed significant risk in bringing this
24 litigation—namely, had she lost, he would have been ordered to pay Defendant's costs.
25 Moreover, Plaintiff elected to pursue the class action claims on behalf of other employees. As
26 part of the negotiations, the parties ultimately reached a settlement of the class claims but the
27 requested service award is also reasonable and appropriate given that Plaintiff agreed to put the
28 interests of the class ahead of her own interests and performed work on behalf of the class. And,

1 as part of the negotiations, Plaintiff put the interests of the class ahead of her interests and agreed
2 to a general release as part of the settlement (whereas the Class will only release the claims
3 alleged).

4 **ADEQUACY OF COUNSEL AND THE PROVISIONAL REASONABLENESS OF THE**
5 **REQUESTED FEES AND COSTS**

6 83. As set forth above, I have handled over 250 class and representative actions, have
7 been appointed as class counsel and have successfully resolved over half of those cases, and
8 many others remain pending and will successfully resolve in the future.

9 84. When this case was taken on a contingency fee basis, with my firm agreeing to
10 assume responsibility for all litigation costs, the ultimate result was far from certain. In the
11 course of this litigation, my firm and my co-counsel paid all costs including filing fees, court
12 costs, research fees, and mediation costs. There was never a guarantee that we would recoup
13 those expenditures.

14 85. It is my experience that attorney fee awards of one-third of a common fund
15 settlement is the standard in California. In this case, my firm agreed to seek one-third of the
16 Settlement Amount for attorneys' fees. Defendant does not oppose this fee request. The fee is
17 further warranted because it is within the range of reasonableness typically awarded in class
18 actions. The litigation costs are reasonably capped at \$20,000 and will be based on the actual
19 amount of costs incurred at the time of final approval.

20 **SETTLEMENT ADMINISTRATOR**

21 86. The Parties request that the Court appoint Phoenix Settlement Administrators as
22 the Settlement Administrator. In accordance with CMO ¶ G(3)(d), we requested bids from four
23 different settlement administrators, which resulted in the following bids: CPT Group (\$12,200),
24 ILYM (\$6,650), Rust Consulting (\$10,600), Xpand (\$5,500) and Phoenix (\$6,000). Based on its
25 low bid, the Parties agreed to retain Phoenix based on its all-in (fixed) fee to administer the
26 settlement for \$6,000. The concurrently filed Declaration of Michael Moore of Phoenix covers
27 the other information required in CMO ¶ G(3)(d)(ii).

28 ///

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88. A true and correct copy of the Settlement Agreement is attached as **Exhibit A**.
89. The proposed Class Notice is attached as **Exhibit B**.
90. The proposed Request for Exclusion Form is attached as **Exhibit C**.
91. The proposed Objection Form is attached as **Exhibit D**.
92. The proposed Dispute Form is attached as **Exhibit E**.
93. A true and correct copy of the notice letter we submitted on behalf of Plaintiff the LWDA is attached as **Exhibit F**.
94. The LWDA's confirmation of receipt of this Motion and Declarations is attached hereto as **Exhibit G**.

88. A true and correct copy of the Settlement Agreement is attached as **Exhibit A**.
89. The proposed Class Notice is attached as **Exhibit B**.
90. The proposed Request for Exclusion Form is attached as **Exhibit C**.
91. The proposed Objection Form is attached as **Exhibit D**.
92. The proposed Dispute Form is attached as **Exhibit E**.
93. A true and correct copy of the notice letter we submitted on behalf of Plaintiff the LWDA is attached as **Exhibit F**.
94. The LWDA's confirmation of receipt of this Motion and Declarations is attached hereto as **Exhibit G**.

95. Counsel has carefully reviewed both the terms and the terminology of the order and the accompanying forms (notice, objection form, exclusion form, dispute form) to confirm that the various documents are internally consistent, consistent with each other, and consistent with the settlement agreement.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on June 24, 2024, at Riverside, California.

By: Brian J. Mankin, Esq.

EXHIBIT “A”

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Attorneys for Defendant, LOGAN PROPERTY MANAGEMENT, INC.

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

AUDRIANA SPARKS, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

LOGAN PROPERTY MANAGEMENT,
INC., a California Corporation; and DOES 1
through 20, inclusive;

Defendants.

Case No.: CVRI2302103
*[Assigned to Hon. Harold Hopp, Dept 1, for
all purposes]*

**CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT AND
RELEASE OF CLAIMS**

1 This Class Action and PAGA Settlement Agreement and Release of Claims is entered
2 into by and between Plaintiff Audriana Sparks, individually and on behalf of all others similarly
3 situated, and on behalf of the State of California, and Defendant Logan Property Management,
4 Inc., and is approved by their respective counsel of record, subject to the terms and conditions
5 hereof and the Court's approval.

6 **A. Definitions**

7 1. "Action" or "Lawsuit" means and refers to the case entitled *Sparks v. Logan*
8 *Property Management, Inc.*, Riverside County Superior Court, Case No. CVRI2302103.

9 2. "Aggrieved Employee(s)" means all current and former nonexempt (hourly paid)
10 employees employed by Defendant in California and who received bonus pay during the PAGA
11 Period.

12 3. "Agreement" or "Settlement Agreement" or "Settlement" shall mean this Class
13 Action and PAGA Settlement Agreement and Release of Claims.

14 4. "Class" is defined all current and former nonexempt (hourly paid) employees
15 employed by Defendant in California and who received bonus pay during the Class Period.

16 5. "Class Member(s)" refers to individual members of the Class.

17 6. "Class Counsel" refers to Brian Mankin and Peter Carlson of Lauby, Mankin &
18 Lauby LLP.

19 7. "Class Data" means a complete list that Defendant will diligently and in good
20 faith compile from their records and provide to the Settlement Administrator on one spreadsheet
21 which shall include, for each Class Member: the individual's full name; last known address;
22 Social Security Number; and total Weeks Worked during the PAGA Period and the Class Period.

23 8. "Class Period" is deemed to be any time during the period of April 25, 2019,
24 through April 29, 2024.

25 9. "Class Representative" or "Plaintiff" means and refers to Plaintiff Audriana
26 Sparks.

27 10. "Complaint" refers to the operative first amended complaint, which pleads class
28 action and PAGA representative claims.

- 1 11. “Court” (or “Judge”) means the California Superior Court, County of Riverside.
- 2 12. “Defendant” means and refers to Defendant Logan Property Management, Inc.
- 3 13. “Defendant’s Counsel” or “Defense Counsel” means and refers to Parker Law
- 4 Group, PC
- 5 14. “Effective Date” means the latest of the following dates: (i) if no Class Member
- 6 timely and properly intervenes, or files a motion to vacate the judgment approving the Settlement
- 7 Agreement under Code of Civil Procedure § 663, then the date the Court enters an order granting
- 8 Final Approval; (ii) if a Class Member intervenes, or files a motion to vacate the judgment
- 9 approving the Settlement Agreement, then sixty-one (61) calendar days following the date the
- 10 Court enters an order granting Final Approval, assuming no appeal is filed; or (iii) if a timely
- 11 appeal is filed, the date of final resolution of that appeal (including any requests for rehearing
- 12 and/or petitions for *certiorari*), resulting in final judicial approval of the Settlement.
- 13 15. “Escalator Clause:” Defendant represents that there are 98 Class Members who
- 14 worked during the Class Period. If the total number of Class Members during the Class Period
- 15 exceeds 108 (which is 10% more than Defendant’s representation), then the Settlement Amount
- 16 shall increase by \$2,602.04 (the Settlement Amount divided by 98) for each Class Member
- 17 above 108.
- 18 16. “Final Approval” refers to the order of the Court granting final approval of this
- 19 Settlement Agreement and entering a judgment approving this Agreement on substantially the
- 20 terms provided herein or as may be modified by subsequent agreement of the Parties.
- 21 17. “Individual Class Payment” refers to each Participating Class Members share of
- 22 the Net Settlement Amount, as further discussed in Paragraph 49(c) below.
- 23 18. “Individual PAGA Payment” refers to each Aggrieved Employees share of the
- 24 PAGA Penalties, as further discussed in Paragraph 49(c) below.
- 25 19. “Net Settlement Amount” shall have the meaning ascribed to it in Paragraph 49(b)
- 26 below.
- 27 20. “Notice” means the notice of proposed class settlement that will be sent to the
- 28 Class Members, and which will advise each Class Member of the settlement and his or her

1 estimated “Individual Settlement Amount” and will further advise of the setting of a Final
2 Approval Hearing.

3 21. “Notice Packet” means the Notice, Request for Exclusion Form, the Objection
4 Form, and the Dispute Form to be sent to all Class Members.

5 22. “Objecting Class Member” means a Class Member, other than Plaintiff, who
6 submits a valid and timely objection to the terms of this Agreement, pursuant to Paragraph 70(c)
7 below.

8 23. “PAGA Penalties” means the amount that the Parties have agreed to pay to the
9 Labor and Workforce Development Agency (“LWDA”) in connection with the California Labor
10 Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, “PAGA”), as well
11 as the individual PAGA payment allocated to each Aggrieved Employee.

12 24. “PAGA Period” is deemed to be any time during the period of April 25, 2022,
13 through April 29, 2024.

14 25. “Participating Class Member” means any and all Class Members who are deemed
15 to participate and receive an Individual Settlement Payment and do not opt-out by submitting
16 timely valid Requests for Exclusion.

17 26. “Parties” or “Settling Parties” mean Plaintiff and Defendant, collectively.

18 27. “Preliminary Approval Date” means the date the Court approves the Settlement
19 Agreement and enters the Preliminary Approval Order.

20 28. “Preliminary Approval Order” means the judicial Order to be entered by the
21 Court, upon the application or motion of the Plaintiff, preliminarily approving this Settlement
22 and providing for the issuance of the Notice Packet to the Class, an opportunity to opt out of the
23 Settlement, an opportunity to submit timely objections to the Settlement, and setting a final
24 approval hearing on the fairness of the terms of Settlement, including approval of attorneys’ fees
25 and costs. Provided that the motion is consistent with the terms herein, Defendant will not object
26 to Plaintiff’s motion for preliminary approval but will be provided with an opportunity to review
27 and comment upon the motion before it is filed.

28 29. “QSF” means the Qualified Settlement Fund set up by the Settlement

1 Administrator for the benefit of the Participating Class Members and Aggrieved Employees, and
2 from which the settlement payments shall be made.

3 30. “Released Class Claims” or “Class Claims” by the Participating Class Members
4 upon Final Approval of the Settlement will include the claims stated in the Complaint and those
5 based solely upon the facts in the Complaint, including: (1) failure to pay minimum wages, (2)
6 failure to pay overtime wages, (3) failure to provide meal periods, (4) failure to provide rest
7 breaks, (5) failure to pay vested vacation, (6) failure to reimburse business expenses, (7) failure to
8 timely pay final wages, (8) failure to provide accurate itemized wage statements, and (9) unfair
9 and unlawful competition.

10 31. “Released PAGA Claims” means any and all PAGA claims that Plaintiff alleged
11 against the Released Parties, based on the facts stated in the relevant LWDA notice letters and
12 only to the extent that they are alleged in the Complaint, including all PAGA claims seeking civil
13 penalties premised upon: (1) failure to pay minimum wages, (2) failure to pay overtime wages,
14 (3) failure to provide meal periods, (4) failure to provide rest breaks, (5) failure to pay vested
15 vacation, (6) failure to reimburse business expenses, (7) failure to timely pay wages each period,
16 (8) failure to timely pay wages upon separation of employment, (9) failure to provide accurate
17 itemized wage statements, and (10) all other claims for civil penalties recoverable under the
18 Private Attorneys General Act, Labor Code §§ 2698 et seq. based on the facts or claims alleged
19 in the LWDA notice letters and Complaint. The time period governing the Released PAGA
20 Claims shall be any time during the PAGA Period.

21 32. “Released Parties” means Defendant, together with its officers, directors,
22 employees, and agents.

23 33. “Release Period” shall be the time period governing the Released Class Claims,
24 which shall be the same as the Class Period.

25 34. “Release” shall mean the release and discharge of the Released Class Claims by
26 Plaintiff and all Participating Class Members and their assignees.

27 35. “Response Deadline” is 45 calendar days from the date the Notice is mailed to the
28 Class Members.

36. “Request for Exclusion” shall have the meaning ascribed to it in Paragraph 70(a) below.

37. “Settlement Amount” is \$255,000, subject to the Escalator Clause, as further discussed in Paragraph 49(c) below.

38. “Service Payment” or “Service Award” means the amount approved by the Court to be paid to Class Representative Audriana Sparks in addition to her Individual Settlement Payment as a Participating Class Member and individual PAGA payment as an Aggrieved Employee.

39. “Settlement Administrator” means and refers to Phoenix Settlement Administrators, the third-party class action settlement administrator agreed to by the Parties, that will provide the Notice Packet to the Class Members and distribute the settlement amounts as described in this Agreement.

40. “Settlement Administration Costs” means the costs payable from the Settlement Amount to the Settlement Administrator for administering this Settlement, including, but not limited to, printing, distributing, and tracking documents for this Settlement, tax reporting, and deposit of the employee and employer share of payroll taxes, unclaimed property due diligence, reporting and remittance obligations, distributing the Settlement Amount, and providing necessary reports and declarations, as requested by the Parties. The Settlement Administration Costs shall be paid from the Settlement Amount, and shall not exceed the amount approved by the Court, regardless of any additional costs that the Settlement Administrator may request or feel is necessary to administer the Settlement.

41. “Work Weeks” or “Weeks Worked” in the context of a Class Members means any and all work weeks during the Class Period during which the Class Member performed work for Defendant. Likewise, in the context of Aggrieved Employees, it means any and all weeks worked during the PAGA Period during which the Aggrieved Employee performed work for Defendant.

B. General Terms

42. On April 25, 2023, Plaintiff filed the instant class action, alleging that Defendant

1 violated various sections of the Labor Code. On the previous day (April 24, 2023), Plaintiff gave
2 written notice by online filing to the Labor and Workforce Development Agency (“LWDA”) and
3 by certified mail to Defendant of the specific provisions of the Labor Code alleged to have been
4 violated, including the facts and theories to support the alleged violations. Then, on about July
5 18, 2023, Plaintiff filed a First Amended Complaint adding causes of action under PAGA.
6 Defendant filed its Answer to the First Amended Complaint on August 14, 2023.

7 43. Defendant denies Plaintiff’s claims and allegations and contends that the Action is
8 not suitable for class certification.

9 44. The Class Representative believes she can proceed with the representative and
10 class claims, that the Action is meritorious, and that class certification is appropriate.

11 45. The Parties have conducted a thorough investigation into the facts of the Action.
12 This includes conducting formal discovery and an extensive exchange of informal discovery.
13 Class Counsel is both knowledgeable about and has done extensive research with respect to the
14 applicable law and potential defenses to the claims of the Class. Class Counsel has diligently
15 pursued an investigation of the Class Members’ claims against Defendant. Based on the
16 foregoing data and on their own independent investigation and evaluation, Class Counsel is of
17 the opinion that the settlement with Defendant for the consideration and on the terms set forth in
18 this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Class
19 Members in light of all known facts and circumstances, including the risk of significant delay
20 and uncertainty associated with litigation, various defenses asserted by Defendant, and numerous
21 potential appellate issues.

22 46. On March 1, 2024, and again on April 29, 2024, the Parties attended mediation
23 sessions with Hon. Jonathan Cannon (Ret.), a well-respected wage-and-hour mediator. At the
24 conclusion of the second mediation, and after extensive arms-length negotiations, the Parties
25 reached the settlement detailed herein.

26 47. The Parties agree that neither the Parties’ Settlement, this Agreement, nor the acts
27 to be performed or judgment to be entered pursuant to the terms of the Settlement and
28 Agreement, shall be construed as an admission by Defendant of any wrongdoing or violation of

any statute or law or liability on the claims or allegations in the Action.

48. Stipulation for Class Certification. For settlement purposes only, Defendant stipulates that the Class Members described herein who do not Request Exclusion from the Class may be conditionally certified as a Class. This stipulation to certification is in no way an admission that class action certification is proper and shall not be admissible in this action except for the sole purposes of enforcing this Agreement. Should, for whatever reason, the Court fail to issue Final Approval, the Parties' stipulation to class certification as part of the Settlement shall become null and void ab initio and shall have no bearing on, and shall not be admissible in this Action in connection with, the issue of whether certification would be appropriate in a non-settlement context. Defendant expressly reserves its rights and declare that it would continue to oppose class certification and the substantive merits of the case should the Court fail to issue Final Approval. Plaintiff expressly reserves her rights and declares that she will continue to pursue class certification and a trial should the Court fail to issue Final Approval.

C. Terms of Settlement

49. The financial terms of the Settlement are as follows:

(a) Settlement Amount: The Parties agree to settle this Action for the Settlement Amount, which is the maximum amount that will be paid by Defendant (unless the Escalator Clause is triggered), which includes payments to the Participating Class Members, PAGA Penalties (to the Aggrieved Employees and LWDA), Attorneys' Fees and Costs Award, the Service Payment to the Class Representative, and Settlement Administration Costs.

(b) Net Settlement Amount: The "Net Settlement Amount" is defined as the Settlement Amount less the Attorneys' Fees and Costs Award, the Service Payment to the Class Representative as awarded by the Court, the Settlement Administration Costs, and PAGA Penalties. If the Court reduces the Attorneys' Fees and Costs Award, Service Award, or Settlement Administrator Costs, or either increases or decreases the amount allocated to the PAGA Penalties, the difference shall be placed in the Net Settlement Amount and allocated to the Participating Class Members.

(c) Individual Class Payments for the Class will be calculated and apportioned

1 from the Net Settlement Amount as follows:

- 2 i. *First*, each Participating Class Member shall receive a guaranteed
3 minimum payment of \$250.00.
- 4 ii. *Second*, the remaining balance of the Net Settlement Amount shall
5 be distributed on a pro-rata Workweek basis, whereby each
6 additional amount allocated to Participating Class Members will be
7 calculated by: (a) dividing the remaining Net Settlement Amount
8 (*i.e.*, the amount remaining after deducting the guaranteed
9 minimum payments) by the total number of Weeks Worked by all
10 Participating Class Members during the Class Period, and (b)
11 multiplying the result by each Participating Class Members'
12 Weeks Worked.

13 The entire Net Settlement Amount will be disbursed to all Participating Class Members.
14 If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall
15 proportionally increase the Individual Class Payment for each Participating Class Member
16 according to the number of Weeks Worked, so that the amount actually distributed to
17 Participating Class Members equals one hundred percent (100%) of the Net Settlement Amount.

18 (d) Allocation of Individual Class Payments: The Individual Class Payments
19 to Participating Class Members shall be allocated as twenty percent (20%) as wages subject to
20 withholding of all applicable local, state and federal taxes, and eighty percent (80%) for interest
21 and statutory penalties (pursuant to, *e.g.*, California Labor Code sections 203, 210, 226) from
22 which no taxes will be withheld. The Settlement Administrator will issue to each Participating
23 Class Member (as applicable) an Internal Revenue Service Form W-2 and comparable state
24 forms with respect to the wage allocation and/or a Form 1099 with respect to the penalties and
25 interest allocations.

26 (e) Service Payment to Class Representative: The amount, if any, awarded to
27 the Class Representative as a Service Payment will be set by the Court in its discretion, not to
28 exceed \$5,000, in exchange for the service that Plaintiff performed on behalf of the Class.

1 Defendant agrees not to oppose this request. The Service Payment to Plaintiff will be paid out of
2 the Settlement Amount. The Class Representatives will be issued an IRS Form 1099 in
3 connection with this payment. Plaintiff shall be solely and legally responsible to pay any and all
4 applicable taxes on this payment. The Parties agree that any amount awarded as the Service
5 Payment to Plaintiff less than the requested amount shall not be a basis for Class Counsel to void
6 this Settlement Agreement. Should the Court approve a lesser amount for the Service Payment,
7 the difference shall be added to the Net Settlement Amount to be distributed to the Participating
8 Class Members.

9 (f) Attorneys' Fees and Costs Award: Defendant agrees to not oppose a
10 request by Class Counsel to the Court for an award of attorneys' fees of one-third of the
11 Settlement Amount, plus reasonable litigation costs not to exceed \$20,000 ("Attorney's Fees and
12 Cost Award"). Defendant agrees not to oppose any contention by Class Counsel that attorneys'
13 fees should be based on the common fund theory. The Attorneys' Fee and Cost Award shall be
14 paid from the Settlement Amount, and, except for this award, Defendant shall have no further
15 obligation to pay any attorneys' fees, costs, or expenses to Class Counsel. Should the Court
16 approve a lesser amount than what is sought by Class Counsel, the difference shall be added to
17 the Net Settlement Amount to be distributed to the Participating Class Members. Any Court
18 order awarding less than the amount sought by Class Counsel shall not be grounds to rescind the
19 Settlement Agreement or otherwise void the Settlement. The Settlement Administrator shall
20 issue to Class Counsel an IRS Form 1099 reflecting the amount of attorneys' fees and costs
21 awarded by the Court.

22 (g) Settlement Administration Costs: The fees and other charges of the
23 Settlement Administrator will be paid from the Settlement Amount, not to exceed \$6,000, unless
24 (1) the Escalator Clause is triggered (whereby any reasonable increase in Settlement
25 Administration Costs shall be paid from the increased Settlement Amount, subject to Court
26 approval), or (2) as otherwise approved by all Parties and the Court.

27 (h) PAGA Penalties: The Parties agree that \$20,000 is allocated to PAGA
28 Penalties, and is to be paid from the Settlement Amount, subject to Court approval. Of this

1 amount, \$15,000 (75%) shall be paid to the LWDA in satisfaction of civil penalties under the
2 Private Attorney General Act of 2004 (“PAGA”) and \$5,000 (25%) will form the Individual
3 PAGA Payments to the Aggrieved Employees, which shall be calculated and allocated pro-rata
4 on a Work Week basis, which will be treated as civil penalties and shall be reported as required
5 on an IRS Form 1099. Class Counsel shall give proper notice to the LWDA of the Settlement.

6 (i) Tax Liability: Class Counsel and Defendant make no representations as to
7 the tax treatment or legal effect of settlement amounts called for hereunder, and Plaintiff and the
8 Class Members are not relying on any statement or representation by Class Counsel or Defendant
9 in this regard. Plaintiff, Participating Class Members, and Aggrieved Employees understand and
10 agree that they will be solely responsible for the payment of any taxes and penalties assessed on
11 their respective Individual Class Payments and Individual PAGA Payments, described herein.
12 Forms 1099 will be distributed in the manner required by the Internal Revenue Code of 1986 (the
13 “Code”) and consistent with this Agreement. If the Code, the regulations promulgated
14 thereunder, or other applicable tax law, is changed after the date of this Agreement, the processes
15 set forth in this Section may be modified in a manner to bring Defendant into compliance with
16 any such changes. Plaintiff, Participating Class Members, and Aggrieved Employees understand
17 and agree that they will be solely responsible for the payment of any taxes and penalties assessed
18 on their respective payments described herein.

19 (j) CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS
20 AGREEMENT (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY”
21 AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING
22 PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO
23 PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR
24 DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND
25 OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH
26 COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE
27 RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
28 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE

1 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS
2 OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX
3 ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO
4 THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY
5 OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT
6 ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY
7 ATTORNEY OR ADVISOR TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY
8 THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO
9 ATTORNEY OR ADVISOR TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION
10 THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR
11 ADVISOR'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS
12 LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF
13 THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING
14 ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

15 (k) "Non-Reversionary" Settlement. This is a "non-reversionary" settlement.
16 Under no circumstances will any portion of the Settlement Amount revert to Defendant.
17 Participating Class Members and Aggrieved Employees will not have to make a claim to receive
18 an Individual Class Payment or Individual PAGA Payment. Distributions, in the form of
19 Individual Class Payment or Individual PAGA Payments will be made directly to each
20 Participating Class Member and Aggrieved Employee. The Settlement Administrator shall be
21 responsible for accurately and timely reporting and remittance obligations with respect to
22 unclaimed funds as a result of a Participating Class Member and/or Aggrieved Employee not
23 cashing any checks delivered pursuant to the Settlement by the check cashing deadline, as set
24 forth herein.

25 (l) Class Counsel and Plaintiff believe that the Settlement is fair and
26 reasonable and will so represent same to the Court.

27 **D. Release by the Participating Class Members**

28 50. Upon entry of the Final Approval Order and Defendant's funding of the

1 Settlement Amount, and except as to such rights or claims as may be created by this Agreement,
2 Plaintiff and the Participating Class Members will forever completely release and discharge the
3 Released Parties from the Released Class Claims for the Release Period.

4 51. Each Participating Class Member will be deemed to have made the foregoing
5 Release as if by manually signing it.

6 52. Class Representative, on behalf of herself and the Class, acknowledges and agrees
7 that the claims for unpaid wages and untimely payment of wages in the Action are disputed, and
8 that the payments set forth herein constitute payment of all sums allegedly due to them. Class
9 Representative, on behalf of herself and the Class, acknowledges and agrees that California
10 Labor Code Section 206.5 is not applicable to the Parties or Settlement. Labor Code § 206.5
11 provides in pertinent part as follows: “An employer shall not require the execution of any release
12 of any claim or right on account of wages due, or to become due, or made as an advance on
13 wages to be earned, unless payment of those wages has been made.”

14 **E. Release of PAGA Claims**

15 53. Upon entry of the Final Approval Order and Defendant’s funding of the
16 Settlement Amount, Plaintiff – in her individual capacity and on behalf of the State of California
17 and LWDA – shall completely release and discharge the Released Parties from the Released
18 PAGA Claims for the PAGA Period.

19 54. Regardless of submitting a valid Request for Exclusion, neither Plaintiff nor any
20 Aggrieved Employee shall have the right to opt-out or otherwise exclude themselves from
21 releasing the Released PAGA Claims.

22 55. It is the intent of the Parties that the Final Approval Order shall have full
23 equitable and collateral estoppel and res judicata effect to the fullest extent permitted by law.

24 **F. Release by Plaintiff and Class Representative**

25 56. Class Representative does hereby, for herself and her spouses, heirs, successors,
26 beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians,
27 personal representatives, and assigns forever and completely release and discharge the Released
28 Parties from any and all charges, complaints, claims, liabilities, obligations, promises,

1 agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs,
2 losses, debts, and expenses (including back wages, statutory penalties, civil penalties, liquidated
3 damages, exemplary damages, interest, attorneys' fees, and costs) of any nature whatsoever,
4 from the beginning of time through the execution of this Agreement, whether known or
5 unknown, suspected or unsuspected, including but not limited to all claims arising out of, based
6 upon, or relating to Class Representative's employment with Defendant or the remuneration for
7 or termination of such employment (the "Class Representative's Claims"). The Release of Class
8 Representative's Claims is expressly conditioned on and subject to the terms of the separate
9 individual settlement agreement into by Plaintiff and Defendant.

10 57. Without limiting the generality of the foregoing, this general release by Plaintiff
11 includes all federal, state and local statutory claims, federal and state common law claims
12 (including but not limited to those for contract, tort and equity), including without limitation any
13 claims for breach of any implied or express contract or covenant; claims for promissory estoppel;
14 claims of entitlement to any pay; claims of wrongful denial of insurance and employee benefits
15 (except workers' compensation benefits); claims for failure to hire, public policy violations,
16 defamation, invasion of privacy, fraud, misrepresentation, emotional distress, assault/battery, or
17 other common law or tort matters; claims of harassment, retaliation or discrimination based on
18 age, race, color, religion, sex, national origin, ancestry, physical or mental disability, protected
19 activity, medical condition, marital status, sexual preference, union activity, or veteran status;
20 claims under the Americans with Disabilities Act, Age Discrimination in Employment Act, Title
21 VII of the Civil Rights Act of 1964 (as amended), the Civil Rights Act of 1991; 42 USC sec.
22 1981, 42 USC sec. 1983, the Older Workers Benefit Protection Act, the Family and Medical
23 Leave Act; claims for unfair competition; claims based on legal restrictions on Defendant's right
24 to terminate, not to hire or promote employees, or to change an employee's compensation; and
25 claims based on any federal, state or other governmental statute, regulation or ordinance, all
26 statutory, constitutional, contractual or common law claims for wages, damages, unpaid costs or
27 expenses, penalties, liquidated damages, punitive damages, interest, attorneys' fees, litigation
28 costs, restitution, or equitable relief, or any other claims arising under the Fair Labor Standards

1 Act, the Employment Retirement Security Income Act of 1974, the California Constitution, the
2 California Fair Employment and Housing Act, the California Unfair Competition Act (California
3 Business and Professions Code section 17200 et seq.), the California Labor Code, or Industrial
4 Welfare Commission Wage Orders, or arising out of or based upon the following categories of
5 allegations regardless of the forum in which they may be brought, to the fullest extent such
6 claims are releasable by law: (i) all claims for unpaid overtime; (ii) all claims for unpaid wages;
7 (iii) all claims for meal break violations; (iv) all claims for rest period violations; (v) all claims
8 for paid sick leave violations; (vi) all claims for the failure to timely pay wages upon
9 termination; (vii) all claims for the failure to timely pay wages during employment; (viii) all
10 claims for wage statement violations; (ix) all claims for reporting time pay; and (x) all other
11 penalties recoverable for such claims under PAGA.

12 58. Plaintiff agrees that there is a risk that any injury that she may have suffered by
13 reason of the Released Parties' relationship with them might not now be known, and there is a
14 further risk that said injuries, whether known or unknown at the date of this Settlement
15 Agreement, might possibly become progressively worse, and that as a result thereof further
16 damages may be sustained. Nevertheless, Plaintiff agrees to forever and fully release and
17 discharge the Released Parties, and understands that by the execution of this Settlement
18 Agreement no further claims for any such injuries that existed at the time of the execution of this
19 Settlement Agreement may ever be asserted by Plaintiff with respect to claims arising in the time
20 period from the beginning of time to the execution of this Settlement Agreement.

21 59. Plaintiff expressly waives and relinquishes all rights and benefits afforded by
22 Section 1542 of the Civil Code of the State of California and does so understanding and
23 acknowledging the significance of the waiver of Section 1542. Section 1542 of the Civil Code
24 of the State of California states:

25 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
26 THAT THE CREDITOR OR RELEASING PARTY DOES NOT
27 KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT
28 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.

1 Notwithstanding the provisions of Section 1542, and for the purpose of implementing a
2 full and complete release and discharge of all parties, Class Representative expressly
3 acknowledges that this Settlement Agreement is intended to include in its effect, without
4 limitation, all claims that Class Representative knew of, as well as all claims that she does not
5 know or suspect to exist in her favor against the Released Parties, or any of them, for the time
6 period from the beginning of time to the execution of this Settlement Agreement, and that this
7 Settlement Agreement contemplates the extinguishment of any such Class Representative's
8 claims. Notwithstanding the above, the general release by Class Representative shall not extend
9 to claims for workers' compensation benefits, claims for unemployment benefits, or other claims
10 that may not be released by law.

11 **G. Interim Stay of Proceedings**

12 60. Pending completion of all prerequisites necessary to effectuate this Settlement,
13 the Parties agree, subject to Court approval, to a stay of all proceedings in the Action except such
14 as are necessary to effectuate the Settlement.

15 **H. Notice Process**

16 61. Appointment of Settlement Administrator. The Parties have agreed to the
17 appointment of the Settlement Administrator to perform the duties of a settlement administrator,
18 including mailing the Notice Packet, using standard devices to obtain forwarding addresses,
19 independently reviewing and verifying documentation associated with any claims or opt-out
20 requests, resolving any disputes regarding the calculation or application of the formula for
21 determining the Individual Settlement Amounts, drafting and mailing the settlement checks to
22 Participating Class Members and Aggrieved Employees, issuing all necessary tax forms, and
23 performing such other tasks as set forth herein or as the Parties mutually agree or that the Court
24 orders.

25 62. Disputes Regarding Settlement Administration. Any and all disputes relating to
26 administration of the Settlement by the Settlement Administrator (except for disputes regarding
27 Class Data) shall be referred to the Court, if necessary, which will have continuing jurisdiction
28 over the terms and conditions of this Agreement, until Plaintiff and Defendant notify the Court

1 that all payments and obligations contemplated by this Agreement have been fully carried out.
2 Prior to presenting any issue to the Court, counsel for the Parties will confer in good faith to
3 resolve the dispute without the necessity of Court intervention. The Settlement Administrator
4 shall also be responsible for issuing to Plaintiff, Participating Class Members, and Aggrieved
5 Employees, and Class Counsel any Tax Forms as may be required by law for all amounts paid
6 pursuant to this Agreement.

7 63. Class Data. Within fourteen (14) calendar days after entry of the Preliminary
8 Approval Order, Defendant shall provide the Class Data to the Settlement Administrator. The
9 Settlement Administrator will run a check of the Class Members' addresses against those on file
10 with the U.S. Postal Service's National Change of Address List. The Class Data provided to the
11 Settlement Administrator will remain confidential and will not be used or disclosed to anyone,
12 except as required by applicable tax authorities, pursuant to Defendant's express written consent,
13 or by order of the Court. Although Class Counsel will not be provided with the list of Class Data,
14 nothing herein shall prevent Class Counsel from communicating with Class Members regarding
15 the Action and Settlement.

16 64. Total Class Members. At least five (5) calendar days prior to mailing the Notice
17 Packet, the Settlement Administrator shall provide a spreadsheet to Class Counsel and Defense
18 Counsel containing a preliminary calculation of all payments to be paid from the Settlement
19 Amount, including the estimated Individual Class Payments to each Class Member and
20 Individual PAGA Payments to each Aggrieved Employee (a person's name shall be redacted and
21 a control number used in place of the name). In the event that the total number of Class
22 Members triggers the Escalator Clause, the Settlement Administrator shall notify the Parties of
23 the increased Settlement Amount, and shall modify the Notice (where needed) to reflect the
24 increased Settlement Amount and related increased payments from the Settlement Amount,
25 including increased Attorneys' Fees and Costs and any increased Settlement Administration
26 Costs, all of which shall be subject to Court approval.

27 65. Notice Packet. The Notice Packet, as approved by the Court, shall be sent by the
28 Settlement Administrator to the Class Members, by first class mail, in English and Spanish,

1 within ten (10) calendar days following the Settlement Administrator's receipt of the Class Data.
2 For all Class Members, the Notice Packet will include the Notice, a Request for Exclusion Form,
3 an Objection Form, and a Dispute Form. The Settlement Administrator shall use standard
4 devices, including a skip trace, to obtain forwarding addresses of Class Members if any
5 envelopes are returned.

6 66. Returned Notice Packets. The Settlement Administrator will take steps to ensure
7 that the Notice Packet is received by all Class Members, including utilization of the National
8 Change of Address Database maintained by the United States Postal Service to review the
9 accuracy of and, if possible, update a mailing address. Notices will be re-mailed to any Class
10 Member for whom an updated address is located within ten (10) calendar days following both
11 the Settlement Administrator learning of the failed mailing and its receipt of the updated address.
12 The Notice Packet shall be identical to the original Notice Packet, except that it shall notify the
13 Class Member that the exclusion (opt-out) request or objection must be returned by the later of
14 the Response Deadline or fifteen (15) calendar days after the remailing of the Notice Packet.

15 67. Presumption Regarding Receipt of Notice Packet. It will be conclusively
16 presumed that if an envelope has not been returned to Settlement Administrator by the Response
17 Deadline that the Class Member received the Notice Packet.

18 68. Disputes Regarding Class Data. Class Members are deemed to participate in the
19 Settlement unless they opt-out, and Aggrieved Employees may not opt out of the Released
20 PAGA Claims. The Notice will inform Class Members of his/her estimated Individual Class
21 Payment and Individual PAGA Payment, as well as the number of Weeks Worked during the
22 Class Period and the PAGA Period. Class Members may dispute their Weeks Worked by timely
23 submitting evidence to the Settlement Administrator. Defendant's records will be presumed
24 determinative absent reliable evidence to rebut Defendant's records, but the Settlement
25 Administrator will evaluate the evidence submitted by the Class Member and provide the
26 evidence submitted to Class Counsel and Defense Counsel who agree to meet and confer in good
27 faith about the evidence to determine the Class Member's actual number of Work Weeks, and
28 estimated Individual Class and PAGA Payments. If Class Counsel and Defense Counsel are

1 unable to agree, they agree to submit the dispute to the Court to render a final decision. Class
2 Members and Aggrieved Employees will have until the Response Deadline to dispute Weeks
3 Worked, object or opt out, unless extended by the Court.

4 69. Declaration of Due Diligence. The Settlement Administrator shall provide
5 counsel for the Parties, at least five (5) days after the initial Response Deadline, a declaration of
6 due diligence and proof of mailing with regard to the mailing of the Notice Packet.

7 70. Class Members' Rights. Each Class Member will be fully advised of the
8 Settlement, the ability to object to the settlement, and the ability to opt-out or request exclusion
9 from the Class Claims portion of the Settlement. The Notice Packet will inform the Class
10 Members of the Court-established deadlines for filing objections or requesting exclusion from
11 the Settlement in accordance with the following guidelines:

12 (a) Requests for Exclusion from Class. Any Class Member, other than
13 Plaintiff, may request to be excluded from the Class by completing the Request for Exclusion
14 Form provided within the Notice Packet. The Request for Exclusion Form must be mailed to the
15 Settlement Administrator and postmarked on or before the Response Deadline in order to be
16 timely, unless the Parties otherwise agree in writing. Any such Request must be made in
17 accordance with the terms set forth in the Notice Packet. The Settlement Administrator shall
18 attach each Request for Exclusion to its declaration of due diligence and file with the Court prior
19 to the Final Approval Hearing. Any Class Member who timely requests exclusion in compliance
20 with these requirements: (i) will not have any rights under this Agreement, including the right to
21 object, appeal or comment on the Settlement; (ii) will not be entitled to receive any payments
22 under this Agreement; and (iii) will not be bound by this Agreement, or the Judgment. Any
23 Class Member who is an Aggrieved Employee who requests timely exclusion will still be subject
24 to the Released PAGA Claims to the fullest extent permitted by law and receive an Individual
25 PAGA Payment. All Parties and their counsel, including Defendant and their agents and
26 employees, shall not encourage or solicit opt-outs or objections, directly or indirectly, through
27 any means.

28 (b) Binding Effect on Participating Class Members. All Participating Class

1 Members will: (i) be bound by the terms and conditions of this Agreement, the Judgment, and
2 the releases set forth herein; and (ii) except as otherwise provided herein, will be deemed to have
3 waived all objections and oppositions to the fairness, reasonableness, and adequacy of the
4 Settlement.

5 (c) Objections to Settlement. Any Class Member, other than Plaintiff, who
6 does not submit a valid and timely Request for Exclusion may object to the terms of this
7 Agreement by completing the Objection Form provided within the Notice Packet. Any Class
8 Member that intends to object must mail the Objection Form to the Settlement Administrator.
9 The Objection Form must be postmarked on or before the Response Deadline in order to be
10 timely, unless the Parties otherwise agree in writing. Additionally, any objection must be made
11 in accordance with the terms set forth in the Notice Packet. The Settlement Administrator shall
12 provide any objections to Class Counsel and Defense Counsel within three (3) days of receipt,
13 and the Settlement Administrator shall attach the same to its declaration of due diligence and file
14 with the Court prior to the Final Approval Hearing. Any Participating Class Member who files
15 an objection remains eligible to receive monetary compensation from the Settlement. Plaintiff
16 and Defendant shall not be responsible for any fees, costs, or expenses incurred by any Class
17 Member and/or his or her counsel related to any objections to the Settlement. Submitting an
18 objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is
19 preserved by becoming a party of record by timely and properly intervening or filing a motion to
20 vacate the judgment under Code of Civil Procedure § 663.

21 (d) Failure to Object. Any Class Member who does not timely and properly
22 become a party of record by intervening or filing a motion to vacate the judgment waives any
23 and all rights to appeal from the Judgment, including all rights to any post-judgment proceeding
24 and appellate proceeding, such as a motion to vacate judgment, motion for new trial, a motion
25 under California Code of Civil Procedure § 473, and extraordinary writs.

26 (e) Responses to Objections. Counsel for the Parties may file a response to
27 any objections submitted by Objecting Class Members at least five (5) court days before the date
28 of the Final Approval Hearing.

1 (f) Class Members will have until the Response Deadline to object or submit
2 a Request for Exclusion to the Settlement Administrator by U.S. Mail. The Settlement
3 Administrator shall disclose jointly to Class Counsel and Defense Counsel what objections or
4 Requests for Exclusion were timely submitted on a weekly basis, and upon the request of Class
5 Counsel or Defense Counsel.

6 71. Funding of the Settlement Amount. Defendant shall deposit the Settlement
7 Amount with the Settlement Administrator within fifteen (15) calendar days after the Effective
8 Date.

9 72. Distribution of Funds. No later than ten (10) calendar days after the deposit of the
10 Settlement Amount by Defendant, the Settlement Administrator shall mail the Individual Class
11 Payments to the Participating Class Members, the Individual PAGA Payments to the Aggrieved
12 Employees, the payment to Class Counsel for the Attorneys' Fees and Costs Award, any Service
13 Payment to the Class Representative, the payment to the LWDA for PAGA Penalties, mail to the
14 Aggrieved Employees their portion of the PAGA Penalties, and will pay itself the Settlement
15 Administration Costs.

16 73. Deadline for Cashing Settlement Checks. Participating Class Members and
17 Aggrieved Employees shall have 180 calendar days after mailing by the Settlement
18 Administrator to cash their settlement checks. The release will be binding upon all Participating
19 Class Members who do not cash their checks within the 180-day period. In the event that any
20 settlement check is returned to the Settlement Administrator within 180 days of mailing, the
21 Settlement Administrator will, within five (5) business days of receipt of the returned settlement
22 check, perform a skip trace to locate the individual, and notify Defense Counsel and Class
23 Counsel of the results. If a new address is located by these means, the Administrator will have
24 ten (10) business days to re-issue the check. Neither Defendant, Defense Counsel, Class
25 Counsel, Plaintiff, nor the Settlement Administrator will have any liability for lost or stolen
26 settlement checks, forged signatures on settlement checks, or unauthorized negotiation of
27 settlement checks. Without limiting the foregoing, in the event a Participating Class Member
28 and/or Aggrieved Employee notifies the Settlement Administrator that he or she believes that a

1 settlement check has been lost or stolen, the Settlement Administrator shall immediately stop
2 payment on such check. If the check in question has not been negotiated prior to the stop
3 payment order, the Settlement Administrator will issue a replacement check.

4 a. If any Participating Class Member's check is not cashed within the time
5 periods noted above, the check will be void and a stop-payment will be issued, and the
6 Settlement Administrator shall issue the unclaimed funds to the California State Controller's
7 Office in the name of the Class Member.

8 b. If any Aggrieved Employee's check is not cashed within the time periods
9 noted above, the check will be void and a stop-payment will be issued, and the Settlement
10 Administrator shall issue the unclaimed funds to the California State Controller's Office in the
11 name of the Aggrieved Employee.

12 **I. Duties of the Parties Prior to the Court's Approval**

13 74. Promptly after execution of this Agreement, Plaintiff will move the Court for
14 Preliminary Approval of this Settlement and entry of the Preliminary Approval Order
15 accomplishing the following:

16 (a) Scheduling the Final Approval Hearing on the issue of whether this
17 Settlement should be finally approved as fair, reasonable and adequate as to the Class Members
18 and a hearing on fees, costs and the Service Payments;

19 (b) Approving as to form and content the proposed Notice Packet;

20 (c) Directing the mailing of the Notice Packet by first class mail to the Class
21 Members;

22 (d) Preliminarily approving this Settlement;

23 (e) Preliminarily certifying the class for purposes of this Settlement; and

24 (f) Advising the LWDA of the proposed Settlement.

25 **J. Duties of the Parties Following Court's Final Approval**

26 75. In connection with the Final Approval Hearing provided for in this Agreement,
27 Class Counsel shall submit a proposed Final Approval Order:

28 (a) Approving the Settlement, adjudging the terms thereof to be fair,

reasonable and adequate, and directing consummation of its terms and provisions;

(b) Approving Class Counsel's application for an award of attorneys' fees and reimbursement of litigation costs and expenses, the Service Payment to the Class Representative, and the payment to the Settlement Administrator for costs of administering the settlement; and

(c) Entering judgment approving settlement.

K. Voiding the Agreement

76. If the Court fails or refuses to issue the Final Approval Order or fails to approve any material condition of this Agreement which effects a fundamental change of the Settlement, the entire Agreement shall be rendered voidable and unenforceable as to all Parties herein at the option of either Party.

77. If the Settlement is voided or fails for any reason, Plaintiff and Defendant will have no further obligations under the Settlement, including any obligation by Defendant to pay the Settlement Amount, or any amounts that otherwise would have been owed under this Settlement.

78. If the Settlement is voided or fails for any reason, any costs incurred by the Settlement Administrator shall be borne equally by Defendant and Plaintiff, unless otherwise specified in this Agreement.

L. Other Terms

79. Waiver. The waiver by one Party of any breach of this Agreement by another Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

80. Parties' Authority. The signatories hereto represent that they are fully authorized to enter into this Agreement and bind the Parties hereto to the terms and conditions hereof.

81. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to accomplish the terms of this Agreement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Agreement. The Parties to this Agreement shall use their best efforts, including all efforts contemplated by this Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Agreement and the terms set forth herein. As soon as

1 practicable after execution of this Agreement, Class Counsel shall, with the assistance and
2 cooperation of Defendant and Defense Counsel, take all necessary steps to secure the Court's
3 preliminary and final approval of the settlement, and the final entry of judgment.

4 82. No Prior Assignments. The Parties hereto represent, covenant, and warrant that
5 they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign,
6 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,
7 cause of action or rights released and discharged by this Agreement.

8 83. No Admission. Defendant denies any and all liability to Plaintiff and/or any Class
9 Member and/or Aggrieved Employee in this Action, as to any and all causes of action that were
10 asserted or that might have been asserted in this Action. Nonetheless, Defendant wishes to settle
11 and compromise the matters at issue in the Complaint to avoid further substantial expense and
12 the inconvenience and distraction of protracted and burdensome litigation. Defendant has taken
13 into account the uncertainty and risks inherent in litigation, and without conceding any infirmity
14 in the defenses that they have asserted or could assert against Plaintiff, have determined that it is
15 desirable and beneficial that Plaintiff's claims be settled in the manner and upon the terms and
16 conditions set forth in this Agreement.

17 84. Inadmissibility of Agreement. Whether or not the Court issues the Final Approval
18 Order, nothing contained herein, nor the consummation of this Agreement, is to be construed or
19 deemed an admission of liability, culpability, negligence, or wrongdoing on the part of
20 Defendant or any of the other Released Parties. Each of the Parties hereto has entered into this
21 Agreement with the intention of avoiding further disputes and litigation with the attendant
22 inconvenience and expenses. This Agreement is a settlement document, and it, along with all
23 related documents such as the notices, and motions for preliminary and final approval, shall,
24 pursuant to California Evidence Code § 1152 and/or Federal Rule of Evidence 408, be
25 inadmissible in evidence in any proceeding, except an action or proceeding to approve the
26 settlement, and/or interpret or enforce this Agreement. The stipulation for class certification as
27 part of this Agreement is for settlement purposes only and if, for any reason the settlement is not
28 approved, the stipulation will be of no force or effect.

1 85. No Publicity. The Parties will not publicize the Settlement or disclose it to third
2 parties prior to the Court granting Preliminary Approval, except as required or necessary to
3 effectuate its terms and comply with law. After the Final Approval Date, Class Counsel and
4 Class Representatives agree that they will not discuss the Settlement with the media, any
5 settlement and verdict reporting service, any social media postings or other Internet postings.
6 Nothing herein shall be construed to prevent Class Counsel from the public filing of motions or
7 other case materials in the Action related to seeking and obtaining Court approval of this
8 Settlement and the related awards of attorneys' fees and costs, or to communications with Class
9 Members or their representatives about this Settlement, including through the posting of Court-
10 filed documents on Class Counsel's websites for access solely by the Class Members, or to
11 prevent the Parties or their representatives from communicating with financial or legal advisors
12 regarding the Settlement. In response to any media inquiry, Class Counsel may state only that
13 the Action has been settled on terms mutually agreeable to the Parties.

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

18 *To the Class:*

19 Brian J. Mankin
20 **brian@lmlfirm.com**
21 Lauby, Mankin & Lauby LLP
22 5198 Arlington Ave, PMB 513
23 Riverside, CA 92504
24 Tel: (951) 320-1444 | Fax: (951) 320-1445

25 *To Defendant:*

26 Joseph M. Parker, Esq.
27 **jparker@parkerlegalgrp.com**
28 Parker Legal Group, PC
29 600 West Broadway, Suite 700
30 San Diego, CA 92101
31 Tel: (619) 930-9874

1 87. Construction. The Parties hereto agree that the terms and conditions of this
2 Agreement are the result of lengthy, intensive arms' length negotiations between the Parties and
3 that this Agreement shall not be construed in favor of or against any Party by reason of the extent
4 to which any Party or his or its counsel participated in the drafting of this Agreement. Plaintiff
5 and Defendant expressly waive the common-law and statutory rule of construction that
6 ambiguities should be construed against the drafter of an agreement and further agree, covenant,
7 and represent that the language in all parts of this Agreement shall be in all cases construed as a
8 whole, according to its fair meaning.

9 88. Captions and Interpretations. Paragraph titles or captions contained herein are
10 inserted as a matter of convenience and for reference, and in no way define, limit, extend, or
11 describe the scope of this Agreement or any provision hereof. Each term of this Agreement is
12 contractual and not merely a recital.

13 89. Modification. This Agreement may not be changed, altered, or modified, except
14 in writing and signed by the Parties hereto, and approved by the Court. This Settlement
15 Agreement may not be discharged except by performance in accordance with its terms or by a
16 writing signed by all of the Parties hereto.

17 90. Dispute Resolution. Prior to instituting legal action to enforce the provisions of
18 this Agreement or to declare rights and/or obligations under this Agreement, a Party shall
19 provide written notice to the other Party and allow an opportunity to cure the alleged
20 deficiencies, and Plaintiff and Defendant may agree to seek the help of the Mediator to resolve
21 any dispute they are unable to resolve informally. During this period, the Parties shall bear their
22 own attorneys' fees and costs. This provision shall not apply to any legal action or other
23 proceeding instituted by any person or entity other than Plaintiff or Defendant.

24 91. Choice of Law. This Settlement Agreement shall be governed by and construed,
25 enforced and administered in accordance with the laws of the State of California, without regard
26 to its conflicts-of-law rules.

27 92. Integration Clause. This Settlement Agreement contains the entire agreement
28 between the Parties relating to the settlement and transaction contemplated hereby, and all prior

or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

93. Binding On Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors and assigns.

94. Signatures of All Class Members Unnecessary to be Binding. It is agreed that, because the members of the Class are numerous, it is impossible or impractical to have each Class Member execute this Agreement. The Notice Packet will advise all Class Members of the binding nature of the release provided herein and such shall have the same force and effect as if this Agreement were executed by each Class Member.

95. Counterparts. This Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully signed Agreement, which shall be binding upon and effective as to all Parties. Electronic signatures shall have the same force and effect as an original.

Dated: Jun 19, 2024

PLAINTIFF AND CLASS REPRESENTATIVE


Audriana Sparks (Jun 19, 2024 12:40 PDT)

Audriana Sparks

Dated: _____

DEFENDANT LOGAN PROPERTY MANAGEMENT, INC.

By: _____

Title: _____

1 or contemporaneous agreements, understandings, representations, and statements, whether oral
2 or written and whether by a Party or such Party's legal counsel, are merged herein. No rights
3 hereunder may be waived except in writing.

4 93. Binding On Assigns. This Agreement shall be binding upon and inure to the
5 benefit of the Parties hereto and their respective heirs, trustees, executors, administrators,
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14 original, and, when taken together with other signed counterparts, shall constitute one fully
15 signed Agreement, which shall be binding upon and effective as to all Parties. Electronic
16 signatures shall have the same force and effect as an original.

17
18 Dated: _____

PLAINTIFF AND CLASS REPRESENTATIVE

19
20 _____
21 Audriana Sparks

22 Dated: _____

DEFENDANT LOGAN PROPERTY MANAGEMENT, INC.

23 _____
24 

25 By: Martha Enriquez

26 Title: President
27
28

1 **APPROVED AS TO FORM:**

2 Dated: June 24, 2024

3 **CLASS COUNSEL**
4 **LAUBY, MANKIN & LAUBY LLP**

5 

6 Brian J. Mankin, Esq.
7 Attorneys for Plaintiff

8 Dated: June 21, 2024

9 **DEFENSE COUNSEL:**
10 **PARKER LEGAL GROUP, PC**

11 

12 Joseph M. Parker, Esq.
13 Attorneys for Defendant

EXHIBIT “B”

COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT

Sparks v. Logan Property Management
(Riverside Superior Court, Case No. CVRI2302103)

The Riverside Superior Court 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 a class action lawsuit (“Action”) filed by Plaintiff Audriana Sparks (“Plaintiff”) against Defendant Logan Property Management, Inc. (“Defendant”) for alleged violations of the California Labor Code. In the Action, Plaintiff pursues claims against Defendant and seeks payment of:

- (1) Unpaid wages, statutory damages and penalties, interest, and attorneys’ fees on behalf of the “Class Members” who are defined as “current and former nonexempt (hourly paid) employees employed by Defendant in California and who received bonus pay during the Class Period (which is April 25, 2019, through April 29, 2024)” and
- (2) Penalties under the California Private Attorneys General Act of 2004 (“PAGA”) for the “Aggrieved Employees” who are defined as “current and former nonexempt (hourly paid) employees employed by Defendant in California and who received bonus pay during the PAGA Period (which is April 25, 2022, through April 29, 2024).” PAGA is a California law that allows employees to bring claims for civil penalties on behalf of the California Labor and Workforce Development Agency (“LWDA”) and all Aggrieved Employees for alleged violations of the Labor Code, and any payment for PAGA penalties shall be paid 75% to the LWDA and 25% to all Aggrieved Employees as civil penalties (rather than wages).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Class Payments to Class Members, and (2) a PAGA Settlement requiring Defendant to fund Individual PAGA Payments to Aggrieved Employees and pay penalties to the LWDA. Based on Defendant’s records, and the Parties’ current assumptions, your Individual Class and PAGA Payments are shown in the charts below, along with the applicable data points from which these estimates are derived.

[CLASS MEMBER NAME] [ID/CONTROL NUMBER]

	Weeks Worked	Your Estimated Share
Class Member	INSERT (During Class Period)	\$INSERT (Individual Class Payment)
Aggrieved Employee	INSERT (During PAGA Period)	\$INSERT (Individual PAGA Payment)

Please note that the actual amount you receive may be different from the above and will depend on several 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.) Also, while the range of recovery will differ for Class Members, it is estimated that the average payment will be \$XXXX, the high payment will be \$XXXX, and the low payment will be \$XXXX. If you believe that you worked more weeks during the periods discussed above, you can submit a challenge by DATE, 2024 (“Response Deadline”). See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. 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 under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the Class Period and/or the PAGA Period, you have a few options as shown in the Chart below:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE A SETTLEMENT PAYMENT	If you want to receive your full settlement payment, then no further action is required on your part. You will be a “Participating Class Member” (<i>i.e.</i> , a Class Member that did not request exclusion from the Settlement) and will automatically receive a settlement payment if the Settlement receives final approval by the Court. You will be bound by the terms of the Settlement Agreement and will give up your right to sue on the Released Class Claims described in Section 3 .
EXCLUDE YOURSELF	If you do not wish to participate in the settlement of the Class Claims, you may “opt-out” of the settlement of the Class Claims. If you choose to opt-out, you must submit a Request for Exclusion Form by [REDACTED], 2024 (see Section 6 for more details on how to opt-out). If you opt-out, you will no longer be a Class Member, and you will (1) <u>not</u> receive an Individual Class Payment, but you will preserve your right to pursue the Released Class Claims described below subject to applicable statutes of limitations, and (2) be barred from filing an objection to the settlement. 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 Released PAGA Claims. See Section 6 of this Notice.
OBJECT	If you decide to object to the settlement with respect to the Class Claims because you find it unfair or unreasonable, you must submit an Objection Form stating why you object to the settlement by [REDACTED], 2024 (see Section 7 for more details on how to object).
DISPUTE THE NUMBER OF WEEKS WORKED	If you believe the number of workweeks that you were credited with working in the chart above is incorrect, you may submit the enclosed Dispute Form with any supporting evidence to [REDACTED] (the “Settlement Administrator”), a third party that is responsible for sending this Notice) (see Section 4 for more details on how to submit a Dispute Form). Defendant’s records will be presumed correct, but you may provide evidence to the Settlement Administrator showing how many Work Weeks you believe you should be credited.

YOU MAY ATTEND THE FINAL APPROVAL HEARING, BUT IT’S NOT REQUIRED	
DATE: [REDACTED], 2024 TIME: 8:30 A.M.	At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement. 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. See Section 8 of this Notice.

1. WHAT IS THE ACTION ABOUT?

In the Action, Plaintiff alleges that Defendant violated California labor laws, including the alleged failure to pay proper minimum and overtime wages, failure to provide proper meal and rest breaks, failure to pay vested vacation, failure to reimburse business expenses, failure to timely pay wages each period and upon separation of employment, and failure to provide accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the PAGA.

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

Both Parties are represented by attorneys in the Action. See Section 9 below for their contact information.

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

Plaintiff and Defendant hired an experienced, neutral mediator in an effort to resolve the Action by negotiating to end the case by 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”), 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 have 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. So far, the Court has made no determination whether Defendant or Plaintiff is correct on the merits, and has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at final hearing. The Court preliminarily approved the proposed Settlement, authorized this Notice, and scheduled a hearing to determine Final Approval.

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

1. Defendant Will Pay \$255,000 as the “Settlement Amount.” Defendant have agreed to pay a total Settlement Amount of \$255,000, and will deposit the Settlement Amount into an account controlled by Settlement Administrator. The Settlement Administrator will use the Settlement Amount to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel’s attorney’s fees and expenses, the Administrator’s Costs, and PAGA Penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Defendant will fund the Settlement Amount approximately 15 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if the Judgment is appealed.

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 Settlement Amount, the amounts of which will be decided by the Court at the Final Approval Hearing:

A. Up to one-third of the Settlement Amount (\$85,000) to Class Counsel for attorneys’ fees and up to \$20,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

B. Up to \$5,000 to the Class Representative as a Service Payment for litigating the Action, working with Class Counsel and representing the Class.

C. \$XXXXXX to the Settlement Administrator for services administering the Settlement.

D. Up to \$20,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their share of Weeks Worked during the PAGA Period.

E. 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 remainder (the “Net Settlement Amount”) by making Individual Class Payments to Participating Class Members based on the allocation described in Section 4.

4. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve a tax allocation with (20%) as wages subject to withholding of all applicable local, state and federal taxes, and eighty percent

(80%) for interest and statutory penalties (pursuant to, *e.g.*, California Labor Code sections 203, 210, 226) from which no taxes will be withheld.

Although Plaintiff and Defendant have agreed to this method of allocation, 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 Fund, 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 Settlement, unless you opt-out of the Settlement, not later than the Response Deadline. See Section 6 of this Notice for details on how to Opt-Out.

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 to 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. Settlement Administrator. The Court has appointed a neutral company, **INSERT ADMIN NAME** to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Settlement Administrator will also decide any Disputes over weeks worked, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Settlement Administrator's contact information is contained in Section 9 of this Notice.

9. Participating Class Members' Release. After the Judgment is final and Defendant has fully funded the Settlement Amount, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant for wages based on the facts alleged in the Action for the duration of the Class Period, which are resolved by this Settlement. The Participating Class Members will be bound by the following release:

All Participating Class Members release the Released Parties (which includes Defendant, together with its officers, directors, employees and agents) from all claims stated in the Complaint and those based solely upon the facts in the Complaint, including: (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) failure to provide meal periods, (4) failure to provide rest breaks, (5) failure to pay vested vacation, (6) failure to reimburse business expenses, (7) failure to timely pay final wages, (8) failure to provide accurate itemized wage statements, and (9) unfair and unlawful competition. The operative release period for the Released Class Claims is the Class Period. 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. Release of Released PAGA Claims. After the Court's judgment is final, and Defendant has paid the Settlement Amount, Plaintiff on behalf of herself, the State of California and the LWDA shall release the Released Parties (which includes Defendant, together with its officers, directors, employees and agents) from all PAGA claims that Plaintiff alleged against the Released Parties, based on the facts stated in the relevant LWDA notice letters and only to the extent that they are alleged in the Complaint, including all PAGA claims seeking civil penalties premised upon: (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) failure to provide meal periods, (4) failure to provide rest breaks,

(5) failure to pay vested vacation, (6) failure to reimburse business expenses, (7) failure to timely pay wages each period, (8) failure to timely pay wages upon separation of employment, (9) failure to provide accurate itemized wage statements, and (10) all other claims for civil penalties recoverable under the Private Attorneys General Act, Labor Code §§ 2698 et seq. based on the facts or claims alleged in the LWDA notice letters and Complaint. The time period governing the Released PAGA Claims shall be any time during the PAGA Period.

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

1. Individual Class Payments. The Administrator will calculate Individual Class Payments as follows:
 - A. *First*, each Participating Class Member shall receive a guaranteed minimum payment of \$25,000.
 - B. *Second*, the remaining balance of the Net Settlement Amount shall be distributed on a pro-rata Workweek basis, whereby each additional amount allocated to Participating Class Members will be calculated by: (a) dividing the remaining Net Settlement Amount (*i.e.*, the amount remaining after deducting the guaranteed minimum payments) by the total number of Weeks Worked by all Participating Class Members during the Class Period, and (b) multiplying the result by each Participating Class Members' Weeks Worked.
2. Individual PAGA Payments. The Settlement Administrator will calculate Individual PAGA Payments by (a) dividing \$5,000 by the total number of Weeks Worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by the number of Weeks Worked by each individual Aggrieved Employee during the PAGA Period.
3. Disputing Weeks Worked. The number of weeks you worked during the Class Period and PAGA Period, as recorded in Defendant's records, are stated in the tables on page 1 of this Notice. You have until **DATE** ("Response Deadline") to dispute the number of Workweeks credited to you by mailing the enclosed Dispute Form to the Settlement Administrator on or before [**INSERT DATE 45 Days After Mailing**]. Section 9 of this Notice has the Administrator's contact information.

You need to support your dispute by sending copies of the applicable documents or other records. The Settlement Administrator will accept Defendant's calculation of weeks worked 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 Settlement Administrator will resolve challenges based on your submission and on input from Class Counsel and Defendant's Counsel. The Settlement Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members and Aggrieved Employees. The Settlement Administrator will send, by U.S. mail, a single check to every Participating Class Member (which includes every Class Member who doesn't opt-out) and Aggrieved Employee. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
2. Aggrieved Employees Only. If you opted out of the Class settlement, but qualify as an Aggrieved Employee, then the Settlement Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee, including those who opt out of the Class Settlement.

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Settlement Administrator as soon as possible. Section 9 of this Notice has the Settlement Administrator's contact information.

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

You will be treated as a Participating Class Member, participating fully in the Settlement, unless you opt-out of the Settlement, not later than the Response Deadline. To opt-out, you must complete, sign, and mail the accompanying Request

for Exclusion Form to the Settlement Administrator, postmarked on or before the Response Deadline (as a reminder, **the “Response Deadline” is DATE, 2024**). Any person who submits a timely Request for Exclusion from the Class Claims (1) will not have any rights under this Settlement, including the right to object, appeal or comment on the Settlement; (2) will not be entitled to receive an Individual Class Payment; (3) will preserve the right to pursue the Released Class Claims, and (4) will not be bound by this Settlement, or the Judgment.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Claims remain eligible to receive an Individual PAGA Payment.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. A Participating Class Member who disagrees with any aspect of the Settlement may wish to object. If you wish to object to the proposed Settlement, you or your own attorney must submit a written objection, on the enclosed Objection Form and include any and all evidence and supporting papers. The Objection Form and any accompanying evidence and papers must be sent to the Settlement Administrator at the address listed in Section 9 on the Objection Form, **postmarked** on or before the Response Deadline. If you do not comply with these procedures and the deadline for objections, the Court may not consider your objection at the Final Approval Hearing, and you may lose the right to contest the approval of the Settlement. You are still eligible to receive a settlement payment should the settlement become Final even if you object to the settlement. Submitting an objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is preserved by becoming a party of record by timely and properly intervening or filing a motion to vacate the judgment before entry of judgment.

8. WHEN IS THE FINAL APPROVAL HEARING?

On **INSERT DATE**, the Court will hold a public hearing in Department 1 of the Superior Court for the State of California, County of Riverside, 4050 Main St, Riverside, CA 92501, for the purposes of determining whether the proposed Settlement is fair, adequate and reasonable and should be approved, whether to approve Class Counsel’s applications for attorneys’ fees and costs, whether to approve the payments to the LWDA, and whether to approve Plaintiff’s request for the service award. This hearing may be continued or rescheduled by the Court. Objectors to the proposed settlement will be provided notice in the event that the Final Approval Hearing is continued to a later date. Class Members who support the proposed Settlement do not need to appear at the hearing and do not need to take any other action to indicate their approval. Class Members who object to the proposed Settlement are not required to attend the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

If you have questions about this Notice, the enclosed Request for Exclusion Form, Dispute Form, or Objection Form, or the Settlement itself, or if you did not receive this Notice in the mail and you believe that you are or may be a member of the Class, you should contact the Administrator for more information or to request that a copy of this Notice and request for Exclusion, Objection, and Dispute Forms be sent to you in the mail. If you wish to communicate directly with Class Counsel, you may contact them at the information below. You may also seek advice and guidance from your own private attorney at your own expense if you so desire.

This Notice is only a summary. For more detailed information, you may review the Settlement Agreement, containing the complete terms of the proposed Settlement, which is on file with the Court and attached to the Declaration of Brian J. Mankin in Support of Motion for Preliminary Approval of Class Action Settlement filed on **INSERT DATE HERE** and available to be inspected at any time during regular business hours at the Clerk’s Office, Superior Court for the State of California, County of Riverside, 4050 Main St, Riverside, CA 92501. You may also review the pleadings, records, and other papers on file in this lawsuit at the Clerk’s Office or online at <https://epublic-access.riverside.courts.ca.gov/public-portal/>. To access the case file, click on “Case Number Search,” then create a free online account, then type in the case number (CVRI2302103) where requested, and click “Search.” You may also email Class Counsel and request a copy of the Settlement Agreement.

DO NOT TELEPHONE THE COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT

The contact information for Class Counsel and the Settlement Administrator are below:

Class Counsel	Settlement Administrator
Brian Mankin, Esq. <i>brian@LMLfirm.com</i> Peter Carlson, Esq. <i>peter@LMLfirm.com</i> Lauby Mankin Lauby LLP 5198 Arlington Ave, PMB 513 Riverside, CA 92504 Tel: (951) 320-1444	Name Mailing Address Telephone Number

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Settlement 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 Unclaimed Property Fund for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

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

EXHIBIT “C”

REQUEST FOR EXCLUSION FORM

Sparks v. Logan Property Management

(Riverside Superior Court, Case No. CVRI2302103)

[NAME]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

DO YOU WANT TO PARTICIPATE IN THE SETTLEMENT AND RECEIVE A SETTLEMENT CHECK? (check the box that applies)

☐

YES: STOP HERE -- DO NOT RETURN THIS FORM. NO FURTHER ACTION IS NEEDED TO PARTICIPATE IN THE SETTLEMENT.

☐

NO: SIGN, DATE AND RETURN THIS FORM TO EXCLUDE YOURSELF FROM THE SETTLEMENT.

By signing below, I am excluding myself from the Settlement:

I do NOT want to participate in the settlement in *Sparks v. Logan Property Management, Inc.* (Riverside Superior Court Case No. CVRI2302103). I understand by excluding myself that I will no longer be a Class Member, and I will not receive an Individual Class Payment. I further understand that I cannot opt-out of the PAGA portion of the Settlement, and that if I qualify as an Aggrieved Employee (see first page of the Notice), I will receive an Individual PAGA Payment and give up my rights to pursue the Released PAGA Claims even if I exclude myself.

Signed on _____, 2024

[NAME]

MAIL TO THE SETTLEMENT ADMINISTRATOR, BY U.S. MAIL, POSTMARKED NO LATER THAN [INSERT DEADLINE]:

Settlement Administrator:

Name

Mailing Address

Telephone Number

EXHIBIT “D”

OBJECTION FORM

Sparks v. Logan Property Management

(Riverside Superior Court, Case No. CVRI2302103)

Please verify and/or complete any missing identifying information:

[NAME]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

DO YOU OBJECT TO THE SETTLEMENT? (check the box that applies)

☐

NO: STOP HERE -- DO NOT RETURN THIS FORM

☐

YES: COMPLETE THE REVERSE SIDE AND RETURN THIS FORM

I OBJECT to the Settlement in the case of *Sparks v. Logan Property Management, Inc.* (Riverside Superior Court Case No. CVRI2302103) on the following grounds (if additional space is necessary, please include additional sheets of paper):

[illegible]

[NAME]

Settlement Administrator:

Page 2

EXHIBIT “E”

DISPUTE FORM

Sparks v. Logan Property Management

(Riverside Superior Court, Case No. CVRI2302103)

Please verify and/or complete any missing identifying information:

[NAME]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

The following charts are based on the records of Defendant Logan Property Management, Inc. (“Defendant”) and reflect the number of weeks that you performed work for Defendants during the applicable periods:

<i>Data Points for Calculations of Individual Class Payment</i>	
Weeks Worked from 4/25/2019 to 4/29/2024	INSERT

<i>Data Points for Calculations of Individual PAGA Payment</i>	
Weeks Worked from 4/25/2022 to 4/29/2024	INSERT

DO YOU DISAGREE WITH THE INFORMATION ABOVE AND WANT THE PARTIES AND ADMINISTRATOR TO INVESTIGATE FURTHER?

☐

NO: STOP HERE -- *DO NOT RETURN THIS FORM.*

☐

YES: COMPLETE THE REVERSE SIDE AND RETURN THIS FORM.

Please state why you believe that you should be credited with more Weeks Worked than shown in the chart and attach copies (not originals) of supporting documentation. The Parties and Settlement Administrator will consider your challenge and make a determination as to these issues.

Signed on _____, 2024

[NAME]

MAIL TO THE SETTLEMENT ADMINISTRATOR, BY U.S. MAIL, POSTMARKED NO LATER THAN [INSERT DEADLINE]:

Settlement Administrator:

Name
Mailing Address
Telephone Number

EXHIBIT “F”



LAUBY, MANKIN & LAUBY LLP

April 24, 2023

Submitted Via Online Filing to the LWDA

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

Sent Via U.S. Mail and Certified Mail

Logan Property Management, Inc.
PO Box 880367
San Diego, CA 92168

Logan Property Management, Inc.
1927 Adams Ave., Suite 200
San Diego, CA 92116

Re: PAGA Civil Penalty Claim
Audriana Sparks v. Logan Property Management, Inc., et al.

To the Labor and Workforce Development Agency and Logan Property Management, Inc.:

Pursuant to the Private Attorneys General Act of 2004 (“PAGA”), Labor Code §§ 2699, *et seq.*, this letter shall serve as notification of the PAGA civil penalty claim of aggrieved employee Audriana Sparks (“Claimant”), on behalf of the State of California and all Aggrieved Employees, against her employer, Logan Property Management, Inc., and any affiliated entities as well as its owner/officers (the “Owners”) (collectively, the “Company”), for violations of Labor Code §§ 200, 201, 202, 203, 204, 208, 210, 218.6, 226, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, 1199, and 2802, among possibly other sections inadvertently omitted, and/or sections of the applicable IWC Wage Order(s).

FACTUAL BACKGROUND

Claimant was employed by the Company from approximately December 2022 through April 2023. Claimant alleges that she and all other employees employed by the Company in California (the “Aggrieved Employees”) were subjected to the same policies, working conditions, and corresponding wage and hour violations to which Claimant was subjected during his employment.

For instance, at all relevant times, Claimant and the Aggrieved Employees were not provided proper minimum and overtime wages due to the Company’s failure to accurately record and compensate for all hours worked. For example, the Aggrieved Employees were frequently required to perform work while clocked out for meal periods, yet they were not paid for this time spent under the direction and control of the Company. This violates California law. See *Troester v. Starbucks Corporation* (2018) 5 Cal.5th 829 (California law “do[es] not allow employers to require employees to routinely work for minutes off the clock without compensation”); See also *Frlekin v. Apple Inc.* (2020) 8 Cal.5th 1038 (tasks are compensable when employee is under company’s control and where the tasks served the employer’s interests).

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Also, at all relevant times, Claimant and the Aggrieved Employees were compensated on an hourly basis plus additional earned nondiscretionary compensation. However, on the occasions when the Aggrieved Employees worked overtime hours and received additional earned compensation during the same workweek, the Company failed to properly include these amounts in the calculations for Claimant's regular rate of pay – in violation of California law and which led to the failure to pay proper overtime.

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

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

Also, the Company required Claimant and the Aggrieved Employees to incur necessary business-related expenses and costs without reimbursement, including, but not limited to, acquiring and maintaining a smart phone and related monthly data plan to communicate with the Company via phone and text message. Moreover, at all relevant times, the Company utilized a policy and practice through which Claimant and the Aggrieved Employees accrued vacation and/or PTO hours (collectively, "vacation hours"). However, on the occasions when Claimant and the Aggrieved Employees had accrued but unused vacation hours upon separation of employment, Defendants failed to pay for these earned wages and, further, failed to pay for vested and unused vacation at the "final rate" as required by Labor Code § 227.3.

The Company also failed to comply with the mandates of Labor Code §§ 204 and 210 regarding the timing of the payment of wages to its employees each period, including minimum and overtime wages, as well as meal and rest period premiums. Also, the Company failed to comply with the mandates of Labor Code §§ 201–203 regarding timing of payment of final wages and failed to pay all wages due and owing upon separation of employment including minimum wages, overtime, meal and rest break premiums, vacation wages, and the Company further failed to pay the Aggrieved Employees for mandated sick time at a rate "calculated in the same manner as the regular rate of pay" as required by Labor Code § 246.

Finally, during employment with the Company, Claimant received inaccurate and incomplete wage statements that failed to accurately state all necessary items required under Labor Code § 226(a).

Claimant alleges that she worked under the joint direction and control of the Company and the Owners and is informed and believes that each of them acted in all respects pertinent to this action as the agent of the others, carried out a joint scheme, business plan or policy in all respect pertinent hereto, and the acts of each are legally attributable to the others. On information and belief, a unity of interest and ownership between each exists such that the Company and the Owners acted as a single employer of Claimant and the Aggrieved Employees. Furthermore, on information and belief, the Company and the Owners are an integrated enterprise and should be treated as a single employer because the Company and the Owners share an interrelation of operations, with common human resources and personnel policies and shared common

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offices and facilities. Upon information and belief, the Company and the Owners share common management, a centralized control of labor operations, and common ownership or financial control.

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

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

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

Based on Claimant's own personal observations, all Aggrieved Employees employed or formerly employed by the Company are entitled to similar wage and hour claims, as further set forth below.

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

(Labor Code §§ 204, 210, 221-223, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198; IWC Wage Order §§ 3, 4(B))

As discussed above, the Company failed to pay all required minimum, regular, and overtime wages to Claimant and the Aggrieved Employees due to the Company's failure to accurately record and compensate for all hours worked and the failure to pay proper overtime. This resulted in earned, but unpaid, wages due and owing to Claimant and the Aggrieved Employees. Therefore, Claimants and the Aggrieved Employees

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performed work for the Company without receiving proper payment of the requisite minimum, overtime, and/or doubletime wages.

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

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

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

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

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

FAILURE TO PAY VESTED VACATION UPON SEPARATION OF EMPLOYMENT

(Labor Code § 227.3)

Pursuant to Labor Code § 227.3, an employer that has implemented a paid vacation, paid time off, or compensated time off policy must, upon an employee’s separation from employment, pay to the employee all vested but unused vacation and/or paid time off at her final rate of pay. However, as alleged herein, the Company failed to pay all vested vacation upon separation of employment and, further, only paid vested vacation upon separation at the base rate of pay, leading to a violation on each such occasion. As a result of these violations, penalties may be assessed pursuant to Labor Code § 2699.

PAGA ASSESSMENT FOR FAILURE TO REIMBURSE BUSINESS EXPENSES

(Labor Code § 2802; IWC Wage Order § 9(b))

Labor Code § 2802(a) states “An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties.” IWC Wage Order § 9(b) states “[w]hen tools or equipment are required by the employer or are necessary to

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the performance of a job, such tools and equipment shall be provided and maintained by the employer.”

Here, the Company required Claimant and the Aggrieved Employees to incur expenses in direct consequence of the discharge of their duties. Accordingly, Labor Code § 2699 imposes a penalty upon the Company for each such violation of Labor Code § 2802.

FAILURE TO PAY SICK TIME AT PROPER RATE OF PAY

(Labor Code § 246)

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

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

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

(Labor Code §§ 204, 204.1, 208, 210, 256 and 2699)

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

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

PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY FINAL WAGES

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

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

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

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

**PAGA ASSESSMENT FOR FAILURE TO PROVIDE ACCURATE,
ITEMIZED WAGE STATEMENTS**

(Labor Code §§ 226, 226.3, and 1174)

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

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

PAGA ASSESSMENT FOR VIOLATIONS OF LABOR CODE § 1199

(Labor Code § 1199)

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

ATTORNEYS’ FEES, INTEREST, AND PENALTIES

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

Labor Code § 2699(g)(1), give employees the right to recover in a civil action the unpaid balance of the full amount of wages, including interest thereon, penalties and other damages, as applicable, reasonable attorneys’ fees, and costs of suit. Additionally, Claimant seeks the assessment of penalties, including civil penalties, under Labor Code §§ 203, 210, 225.5, 226.3, 1174.5, 1197.1, 2699, and/or § 20 of the IWC Wage

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Orders, among possibly other provisions inadvertently omitted herein. Furthermore, Claimant is entitled to bring a wage/hour claim on behalf of all current and former similarly situated employees of the Company. Thus, the Company is exposed to these same penalties for violations involving all Aggrieved Employees. Additionally, Claimant seeks attorney's fees pursuant to C.C.P. § 1021.5. Please construe this correspondence as Claimants' notification of alleged wrongdoing and attempted resolution in accordance with C.C.P. § 1021.5 and *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553.

CONCLUSION

Based on the foregoing, the Company may be liable for civil penalties related to the foregoing claims and remedies. If Claimant becomes aware of any additional claims for Labor Code violations related to his employment or other employees of the Company, she reserves the right to supplement this notice letter.

Very Truly Yours,



By: Peter J. Carlson, Esq.

E-mail: peter@lmfirm.com

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EXHIBIT “G”