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Gray and Ryan Giesbrecht

14 Attorneys For Plaintiffs

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

16 **FOR THE COUNTY OF STANISLAUS**

17 ADAN CARDENAS, ANTHONY GRAY and
18 RYAN GIESBRECHT, individuals, on behalf
of themselves and on behalf of all persons
19 similarly situated, and on behalf of the State of
California, as private attorney general

20 Plaintiffs,

21 vs.

22 CRYSTAL CREAMERY, INC., a
Corporation; and DOES 1 through 50,
23 inclusive,

24 Defendants

Case No. CV-23-003591 [Consolidated with
CV-23-004915 and CV-23- 006174]

[Assigned for all purposes to the Honorable
Clifford H. Tong, Dept. 23]

**DECLARATION OF MATTHEW J. MATERN
IN SUPPORT OF PLAINTIFFS' MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: May 5, 2026

Time: 8:30 a.m.

Dept.: 23

Action Filed: October 20, 2023

Trial Date: None Set

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I, MATTHEW J. MATERN, declare as follows:

1. I am an attorney at law duly licensed to practice in the State of California. I am the principal of Matern Law Group, PC (“MLG”), counsel of record for Plaintiffs Anthony Gray and Ryan Giesbreth (collectively, “the Gray Plaintiffs”) in the above-entitled action.

2. This declaration is based on my personal firsthand knowledge, unless another source of information or belief clearly appears from the context, and as to all such matters I believe them to be true. If called as a witness, I could and would readily and competently testify to all matters stated in this declaration.

3. I submit this declaration in support of Plaintiffs' Motion for Final Approval of Class Action Settlement ("Motion").

The Parties

4. Defendant Foster Dairy Farms dba Crystal Creamery (“Foster Dairy Farms” or “Defendant”) is a producer of dairy products in California.

5. Plaintiff Anthony Gray (“Gray”) worked for Defendant as an hourly non-exempt employee from February 2022 to August 2022 as an Operator. Plaintiff Ryan Giesbrecht (“Giesbrecht”) worked for Defendant as an hourly non-exempt employee from June 2021 to July 2022 as a Tanker Loadout.

Background

6. On June 30, 2023, Plaintiffs Gray and Giesbrecht submitted a notice to Defendant and the Labor and Workforce Development Agency (“LWDA”) pursuant to Labor Code section 2699.3. A true and correct copy of Plaintiffs’ PAGA Notices are attached hereto as **Exhibit A** and **Exhibit B**.

7. On October 20, 2023, Plaintiffs Gray and Giesbrecht filed a wage and hour class action against Defendant, alleging causes of action for (1) failure to provide meal periods; (2) failure to provide rest periods; (3) failure to pay overtime wages; (4) failure to pay minimum wages; (5) failure to pay all wages due to discharged and quitting employees; (6) failure to furnish accurate itemized wage statements; (7) failure to maintain required records; (8) failure to indemnify employees for necessary expenditures incurred in discharge of duties; (9) unfair and unlawful

1 business practices; and (10) penalties under the Labor Code Private Attorneys General Act
2 (“PAGA”), as a representative action, Stanislaus Superior Court Case No. CVRI2303312 (the “Gray
3 Action”).

4 8. On January 26, 2024, Plaintiffs Gray and Giesbrecht served a Notice of Related Case
5 identifying the related case *Adan Cardenas v. Crystal Creamery, Inc.*, Stanislaus County Superior
6 Court, Case No. CV-23-004915 (“*Cardenas* Action”).

7 9. On or about October 30, 2024, Plaintiffs’ counsel in the instant action and the
8 *Cardenas* Action joined forces and entered into a Joint Prosecution Agreement (Gray, Giesbrecht,
9 and Adan Cardenas are herein referred to as “Plaintiffs”).

10 10. As part of the Settlement, the Parties agreed to consolidate Plaintiff Gray’s and
11 Giesbrecht’s action into Plaintiff Cardenas’s action by filing an amended Complaint to add Plaintiffs
12 Gray and Giesbrecht as plaintiffs and any claims in Gray and Giesbrecht’s action that were not
13 already included within Plaintiff Cardenas’s action.

14 11. On July 9, 2025, the Court approved the Parties stipulation in this regard, Plaintiffs
15 filed the operative first amended complaint (the “Consolidated Complaint”) on August 15, 2025.

16 12. On December 4, 2025, the Court granted Plaintiffs’ Motion for Preliminary Approval
17 of Class Action Settlement.

18 **Settlement Negotiations**

19 13. On October 29, 2024, the Parties participated in an all-day mediation with the Lynn
20 Frank, Esq. However, the Parties were not able to reach an agreement on that date.

21 14. On February 5, 2025, the Parties participated in an all-day mediation with the
22 Honorable Carl J. West (Ret.). Following the mediation, each side, represented by its respective
23 counsel, were able to agree to settle the Action based upon a mediator’s proposal which was
24 memorialized in the form of a Memorandum of Understanding. Pursuant to this Memorandum of
25 Understanding, the Parties agreed to consolidate Plaintiff Gray’s and Giesbrecht’s action into
26 Plaintiff Cardenas’s action by filing an amended Complaint to add Plaintiffs Gray and Giesbrecht as
27 plaintiffs and any claims in Gray and Giesbrecht’s action that were not already included within
28 Plaintiff Cardenas’s action on or about August 15, 2025.

1 15. The Parties thereafter finalized a long-form agreement which was fully executed as
2 of September 16, 2025. A true and correct copy of the Class Action Settlement Agreement and
3 Release (“Settlement” or “Settlement Agreement”) is attached hereto as **Exhibit C**.

4 16. The settlement discussions were hard-fought and conducted at arm’s length between
5 experienced counsel who were fully informed of the relative strengths of the claims and the
6 defenses thereto. Prior to mediation, Plaintiffs obtained sufficient documents and information to
7 sufficiently investigate the claims such that Plaintiffs’ investigation was sufficient to satisfy the
8 criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794,
9 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-30 (“*Dunk/Kullar*”).
10 The Settlement is the result of an informed analysis of Defendants’ potential liability exposure in
11 relation to the costs and risks associated with continued litigation. The Parties went into the
12 mediation willing to explore the potential for a settlement of the lawsuit, but Plaintiffs were also
13 prepared to litigate their position through trial and appeal if a settlement was not reached.

14 **Class Representative Enhancement Payments**

15 17. The Settlement provides for a \$15,000 Class Representative Enhancement Payment
16 for each Plaintiff. These payments are intended to recognize the time, effort, and risks each Plaintiff
17 undertook in prosecuting this Action. Each Plaintiff has endeavored to protect the interests of the
18 Settlement Class, the State of California, and the Allegedly Aggrieved Employees. Plaintiffs
19 underwent a lengthy intake process, cooperated and maintained regular contact with my office,
20 searched for and provided my office with relevant documents to support their claims, discussed their
21 work experiences with my office, made themselves available to my office, including for the full-day
22 of the mediation, kept themselves apprised of developments in the Action, and reviewed the
23 Settlement Agreement and their declarations. Plaintiffs provided valuable information regarding the
24 claims including, but not limited to, noncompliant meal periods and rest periods, unpaid overtime,
25 noncompliant wage statements, and unreimbursed business expenses. The information the Plaintiffs
26 provided was instrumental in attempting to establish the wage and hour violations alleged in the
27 Action.

28 18. Plaintiffs faced many risks in pursuing this case as a class and representative action.

1 Because of their efforts, 1,029 current and former employees had the opportunity to participate in a
2 settlement and recover payment for wage violations they may never have known about on their own
3 or been willing to pursue on their own. If each employee attempted to pursue his or her legal
4 remedies individually, each person would have been required to expend a significant amount of their
5 own time and monetary resources. Few individuals are willing to act as a class representative and
6 assume the substantial risk should the employer prevail in a class action. Plaintiffs' willingness to
7 assume the financial risk is significant, as California law provides that the losing party must pay the
8 prevailing party's costs in a class action. Additionally, Plaintiffs may face reputational harm among
9 potential future employers that could adversely impact their future job prospects because they may be
10 viewed as litigious by prospective employers. This is a genuine and significant concern. Moreover,
11 each Plaintiff is relinquishing more rights than the other Participating Settlement Class Members by
12 agreeing to sign a general release and waive their rights under Civil Code section 1542, subject to
13 two limited exceptions.

14 19. The Action and excellent recovery would not have been possible without the aid of
15 Plaintiffs, who devoted their personal time and effort to the Action, sacrificed the value of their own
16 individual claims by placing the class claims ahead of their own, put themselves at risk for the sake of
17 the other Settlement Class Members, the Allegedly Aggrieved Employees, and the State of California
18 and relinquished more rights than the other Participating Settlement Class Members and the
19 Allegedly Aggrieved Employees. Indeed, by actively pursuing this Action, Plaintiffs furthered
20 California's public policy goal of enforcing the State's wage and hour laws. *Sav-On Drug Stores,*
21 *Inc. v. Superior Court* (2004) 34 Cal. 4th 319, 340 (recognizing the "clear public policy" that is
22 specifically directed at the enforcement of California wage laws).

23 20. The Settlement will provide substantial monetary compensation to Participating
24 Settlement Class Members and the requested Enhancement Payments do not significantly reduce the
25 total amount of the Settlement fund. The proposed Class Representative Enhancement Payments are
26 reasonable sums to compensate Plaintiffs for their time, effort, risks and waiver of rights in bringing
27 and prosecuting the Action. For these reasons, I believe that the proposed Class Representative
28 Enhancement Payments are fair and reasonable.

1 21. I am not aware of any actual or potential conflicts of interest between any of the
2 Plaintiffs and the other Settlement Class Members or Allegedly Aggrieved Employees.

3 **Attorneys' Fees**

4 22. The Settlement provides for attorneys' fees and costs to Class Counsel in an amount
5 up to one-third of the Gross Settlement Fund, for a maximum fee award of \$600,000, ten percent of
6 which will be provided to my firm pursuant to Joint Prosecution Agreement between Plaintiffs'
7 counsel in the instant action and the *Cardenas* Action.

8 23. I am informed and believe that the fee provision is reasonable. The fee percentage
9 requested is less than that charged by my office for other employment cases and it is in line with the
10 one-third recovery that was recognized as standard for class actions in the *In re Consumer Privacy*
11 *Cases* (2009) 175 Cal.App.4th 545. The efforts of Class Counsel have resulted in substantial benefits
12 to the Settlement Class Members in the form of a significant settlement fund established to
13 compensate the Settlement Class for the alleged wage and hour violations. On information and
14 belief, without the efforts of Class Counsel, the claims alleged in the complaint would likely have
15 gone without remedy. My office invested significant time and resources in the case, with payment
16 deferred to the end of the case, and then, of course, contingent on the outcome.

17 24. The efforts expended by Class Counsel thus far include, but are not limited to, the
18 following: interviews with Plaintiffs and review of documents provided by Plaintiffs; preparation of
19 multiple drafts of the class action complaint; filing of the class action complaint; meeting and
20 conferring with Defendants' counsel to obtain relevant documents and information; communicating
21 with Plaintiffs regularly regarding the status of the case; review and analysis of time records, payroll
22 records, and other employment records; legal research regarding Defendants' wage and hour
23 practices; appearing at and preparing for two full-day mediations; drafting status conference reports;
24 participating in settlement discussions; drafting, negotiation, and revision of the Settlement
25 Agreement; working with co-counsel; preparing and filing a consolidated complaint; drafting papers
26 in support of the Motion for Preliminary Approval; and drafting papers in support of the Motion for
27 Final Approval.

28 25. The amount of requested attorney's fees is also reasonable based upon Class

Counsel's lodestar. As of the filing date, MLG's lodestar is **\$29,990.00**, which is based upon 37.1 attorney hours at customary hourly rates. All of the hours were reasonable and necessary to achieve the excellent result on behalf of the Settlement Class. This amount does not include any estimate of the time MLG will invest to complete this case following approval. Based upon my experience, I estimate that MLG will spend another 10-20 hours on this case, including attending the final approval hearing, communicating with the Settlement Administrator, monitoring the settlement payment process, answering questions from Settlement Class Members, and providing a final report to the Court. Based on my experience, we will have numerous Settlement Class Members calling our office to inquire about the status of the case and to ask for further information about settlement payments.

26. The regular and customary practice at MLG is for all attorneys to maintain electronic time records setting forth the amount of time spent (rounded to the nearest one-tenth of an hour) on each task in each case, with explanatory descriptions of each task performed. The attorneys and staff working on this case followed this practice throughout this litigation. During the course of this litigation, my law firm used time entry programs to record our billable time. At or near the time the work was performed, individual billers' hours were inputted into these programs, which recorded and stored the time as individual electronic entries, along with detailed descriptions of the tasks performed. To calculate my firm's lodestar for this case, my bookkeeper retrieved all of the attorney and legal assistant time records for this case. A table summarizing MLG's hours and rates is below, but note that it does not include any of my time, nor the time of any legal assistants or law clerks who worked on this matter:

MLG Biller	Year Admitted	Hours Billed	Hourly Rate	Lodestar
Joshua D. Boxer	2003	14.9	\$1,150	\$17,135.00
Julieta C. Hernandez	2023	15.9	\$550	\$8,745.00
Clare Moran	2021	2.90	\$650	\$1,885.00
Matthew D. Scammahorn	2026	2	\$500	\$1,000.00
Max Sloves	2001	1.4	\$850	\$1,225.00
MLG LODESTAR:		37.1		\$29,990.00

27. I received a B. A. with honors in 1986 from Tulane University. I received my J.D. from Southwestern University School of Law in 1991. I became an Active Member of the State Bar

1 of California in September 1992, and have been an Active Member in good standing continuously
2 since then. I have been practicing as a litigation attorney in Los Angeles since 1992, and have been
3 concentrating on employment litigation since approximately 1997.

4 28. In 1992, I founded the general partnership, which is the predecessor of Rastegar &
5 Matern, Attorneys at Law, A Professional Corporation. In 2012, I founded Law Offices of Matthew
6 J. Matern, which changed its name to Matern Law Group in January 2014 and became Matern Law
7 Group, PC in 2016. Since 1992, I have been heavily, successfully, and continuously involved in
8 active litigation and trial work, including extensive work in employment litigation and wage and hour
9 class actions.

10 29. My current firm, Matern Law Group, PC (“MLG”), is a 24-attorney law firm that is
11 actively and continuously practicing in employment litigation, representing almost entirely employee
12 plaintiffs, in both individual and class actions, in this Superior Court, and other Superior Courts
13 throughout the State, in the Court of Appeal, and in various Federal courts.

14 30. Over the course of my career, I have been involved in over 100 class action
15 settlements, with many of them settling in the seven-, eight-, and even nine-figure range, including
16 settlements in the amount of \$140 million, \$50 million, \$26 million, \$19.9 million, and \$18 million.
17 I have represented clients in numerous wage and hour class action lawsuits that settled with per-class-
18 member recoveries in a range similar to the anticipated per-class-member recovery in the instant case.
19 I have also been appointed class counsel in over thirty certified wage and hour class action cases
20 which involved contested certification proceedings.

21 31. I have been counsel in a number of cases which resulted in published appellate
22 victories including two of the leading “me-too” witness cases in California, *Pantoja v. Anton* (2011)
23 198 Cal.App.4th 87 and *Meeks v. AutoZone, Inc.* (2018) 24 Cal.App.5th 855. Recently, MLG
24 obtained the published reversal of an adverse judgment in a PAGA bench trial, *Zuniga v. Alexandria*
25 *Care Center, LLC* (2021) 67 Cal.App.5th 871. Other published appellate victories include *ABM*
26 *Industries Overtime Cases* (2017) 19 Cal.App.5th 277; *Julian v. Glenair* (2017) 17 Cal.App.5th 853;
27 *Ventura v. ABM Industries, Inc.* (2012) 212 Cal.App.4th 258; *Franco v. Arakelian Enterprises, Inc.*
28 (2012) 211 Cal.App.4th 314; *Fuentes v. AutoZone, Inc.* (2011) 200 Cal.App.4th 1221; *Gutierrez v.*

1 *California Commerce Club* (2010) 187 Cal.App.4th 969; *Franco v. Athens Disposal Company, Inc.*
2 (2009) 171 Cal.App.4th 1277. Unpublished appellate successes include *Christman v. Apple Am. Grp.*
3 *II, LLC*, No. B271937, 2017 WL 4402124 (Cal. Ct. App. Oct. 4, 2017); *Pauley v. CF Entm't*, No. 14-
4 55131, 2016 WL 1169425 (9th Cir. Mar. 25, 2016) (two related appeals); *Pauley v. CF Entm't*, No.
5 17-56057, 2019 WL 2089930 (9th Cir. May 13, 2019) (three related appeals); *Navarro v. 4 Earth*
6 *Farms, Inc.*, No. B28485, 2019 WL 493781 (Cal. Ct. App. Feb. 8, 2019); *Soto v. Superior Court of*
7 *San Bernardino Cty.*, No. E071920, 2019 WL 4254631 (Cal. Ct. App. Sept. 9, 2019) (writ issued),
8 and *Rojas v. Glenair, Inc.*, No. B302402, 2020 WL 4435156, (Cal. Ct. App. Aug. 3, 2020) review
9 den. (Nov. 10, 2020). The California Supreme Court granted MLG's request for depublishing of
10 three opinions detrimental to workers: *Cacho v. Eurostar, Inc.*, No. S260295, *Starks v. Vortex*
11 *Industries, Inc.*, No S264854 and *Salazar v. See's Candy Shops, Inc.*, No. S269268.

12 32. My office is qualified to handle this litigation because we are experienced in litigating
13 Labor Code violations in both individual and class action cases. Matern Law Group, PC has handled,
14 and is currently handling numerous wage and hour class action lawsuits.

15 33. Throughout my practice as an attorney, I have become familiar with customary billing
16 rates for attorneys of comparable background, training, and experience as mine in federal and state
17 courts in California.

18 34. I have obtained knowledge of the prevailing hourly rates in the community for work of
19 similar nature and complexity to the work in this case from a variety of sources, including: (a) my
20 communications with other employment law attorneys about their rates; (b) my familiarity with fee
21 applications and orders in other cases; (c) my independent research and knowledge of the prevailing
22 market rates based on fee requests of other counsel and my familiarity with rates charged in other law
23 firms; and (d) my independent reading and research of legal newspapers, journals, and treatises
24 regarding law firms' billing rates. Based on this information, I believe that MLG's current rates are
25 consistent with the market rate for attorneys with comparable expertise, experience, and
26 qualifications in Santa Clara County and the Northern District of California.

27 35. The hourly rates for MLG attorneys and support staff are commensurate with their
28 qualifications and experience. The following MLG attorneys contributed to achieving the excellent

1 Settlement in this action:

- 2 a. Joshua D. Boxer is a partner and shareholder at MLG. He received his J.D.
3 from the University of California, Davis School of Law and was admitted to
4 the California State Bar in 2003. He primarily represents plaintiffs in
5 individual employment litigation but also has significant experience in wage
6 and hour and consumer protection class actions. Mr. Boxer successfully co-
7 tried the sexual harassment case, *Aguilar v. Blaze Pizza, LLC*, Los Angeles
8 County Superior Court Case No. BC651278, a three-week trial resulting in a
9 judgment of over \$1.7 million, including rarely awarded punitive damages.
10 Other notable jury trial victories include a verdict of over \$25 million, one of
11 the top 100 Verdicts of 2006, as co-counsel in *Valladares v Madera Quality*
12 *Nut* (Madera County Superior Court Case No. MCV024133), a whistle-
13 blower case, while employed by the Law Offices of Mayor Joseph L. Alioto
14 & Angela Alioto; and in 2007, Mr. Boxer served as lead trial counsel in
15 *Vandenberg v. Santa Clara County Fire Department* (Santa Clara County
16 Superior Court Case No. 1-06-CV-063186), vindicating the rights of the
17 Department's first female Fire Captain and winning over \$400,000. Mr.
18 Boxer has also achieved several appellate victories advancing workers'
19 rights, including *Jesus Mendoza v. Century Fast Foods* (No. B267158, 2016
20 WL 6610287 (Cal. Ct. App. Nov. 9, 2016)), where the California Court of
21 Appeal affirmed the denial of a motion to compel arbitration in a wage and
22 hour class action. He also argued before the Ninth Circuit Court of Appeals
23 in *In re Wal-Mart Wage & Hour Employment Practices Litig.*, 737 F.3d 1262
24 (9th Cir. 2013), a published opinion in which the Court refused to enforce an
25 arbitration agreement that barred judicial review. Based on his skill and
26 experience, Mr. Boxer's 2026 hourly billing rate of \$1,150 is reasonable.
- 27 b. Former Associate Attorney Clare Moran received her J.D. degree from the
28 University of California, Hastings College of Law in 2021. While in law

1 school, Ms. Moran served as the Executive Production Editor of the Hastings
2 Law Journal, received the CALI Excellence for the Future Award for the
3 highest grade in Mass Torts and participated in the Refugee & Human Rights
4 Clinic. Ms. Moran's practice involved representing employees in all aspects of
5 employment litigation. Ms. Moran handled wage and hour class and
6 representative actions involving claims related to overtime and minimum
7 wages, meal and rest break violations, improper wage statements, the
8 California Private Attorneys General Act of 2004 and unfair business practices.
9 Ms. Moran also represented employees in cases involving claims for
10 harassment, discrimination, and unfair termination. In November 2023, Ms.
11 Moran served as second-chair in a race discrimination arbitration hearing,
12 which resulted in an award in favor of the claimant. *The Daily Journal*
13 published an article she authored about California Senate Bill 497, titled
14 "Protecting Workers from Retaliation and Unequal Pay," in January 2024. As a
15 result of Ms. Moran's work, she was selected to the 2025 Southern California
16 Rising Stars list, an award which is only given to 2.5% of attorneys in
17 Southern California. Based on her skill and experience, Ms. Moran's 2025
18 hourly billing rate of \$650 is reasonable.

- 19 c. Julieta Hernandez is a former MLG Associate Attorney. Ms. Hernandez
20 earned her undergraduate degree from California State University, Long Beach
21 in 2016. During college, Ms. Hernandez was captain of the 2015-2016 Moot
22 Court Team and placed second in the 2016 American Moot Court Association
23 (AMCA) Upper Midwest Regional competition and placed fifth in the 2016
24 AMCA National Brief Writing Competition. She also was in the Top 32 of the
25 Oral Argument Competition of the 2016 ACMA National Championship. Ms.
26 Hernandez earned her J.D. from UCLA School of Law during which she was a
27 Staff Member of the UCLA Law Review. Ms. Hernandez received a Civil
28 Justice Scholarship Recipient and Faculty Scholarship for Underrepresented

1 Students of Color Recipient and was a Mexican American Bar Foundation
2 Scholarship Recipient. During law school, Ms. Hernandez worked as a law
3 clerk for the Screen Actors Guild and interned at the Mexican American Legal
4 Defense and Education Fund. Prior to law school, Ms. Hernandez served as a
5 Judicial Operations Intern to the Honorable Halim Dhanidina. While at MLG,
6 Ms. Hernandez represented employees in all aspects of employment litigation,
7 including FEHA and wage and hour violations. She is fluent in Spanish.
8 Based on her skill and experience, Ms. Hernandez's 2025 hourly billing rate of
9 \$550 is reasonable.

10 d. Associate Attorney Matthew Scammahorn earned his undergraduate degree at
11 the University of California, San Diego in 2022 and his J.D. from the
12 University of California, Irvine School of Law in 2025 and was admitted to the
13 California State Bar that year. While attending law school, Mr. Scammahorn
14 dedicated more than 120 hours to pro bono causes and was awarded Pro Bono
15 Honors upon graduation. He also received the Best Brief award in the 2023-
16 2024 UC Irvine School of Law Moot Court Competition, and served as the
17 Chair of the 2024-2025 UC Irvine School of Law Moot Court Board. While in
18 law school, Mr. Scammahorn worked as a Summer Law Clerk for the Writers
19 Guild of America, West during the 2023 Writers Guild of America strike, and
20 assisted the Negotiating Committee in determining bargaining items for labor
21 contract negotiations. Mr. Scammahorn's practice at MLG involves
22 representing employees in all aspects of employment litigation, including
23 single-plaintiff and class and representative action lawsuits. Based on his skill
24 and experience, Mr. Scammahorn's 2026 billing rate of \$500 is reasonable.

25 36. I believe the above rates should be applied in this action because they are consistent
26 with the market rates for attorneys and legal assistants working in employment law in this district and
27 in Southern California.

28 37. These hourly rates are commensurate with MLG's experience litigating complex class

1 and PAGA actions. Indeed, many courts in California have approved MLG’s requested hourly rates:

- 2 a. On July 25, 2025, Judge Anthony J. Battaglia issued an order granting final
3 approval of a wage and hour class action settlement and finding that MLG’s
4 “hourly rates ranging from \$1,025 to \$1,200 for partners and senior attorneys,
5 \$500 to \$995 for associates, and \$325 for legal assistants” are “reasonable for
6 the district.” *Cabrales v. BAE Sys. San Diego Ship Repair, Inc.*, No. 21-CV-
7 02122-AJB-DDL, 2025 WL 2098757, at *13-14 (S.D. Cal. July 25, 2025)
8 (awarding fees in the amount of one-third of the gross settlement amount).
- 9 b. In *Morgan v. Rohr, Inc.*, United States District Court for the Southern District
10 of California, Case No. 3:20-CV-00574, the Honorable Gonzalo P. Curiel
11 approved MLG’s hourly rates, which included Debra J. Tauger’s 2025 hourly
12 rate of \$1,100, Matthew W. Gordon’s 2025 hourly rate of \$975, and Vanessa
13 M. Rodriguez’s 2025 hourly rate of \$775, stating that “Plaintiffs’ counsel’s
14 hourly rates are reasonable and in line with rates prevailing in the community
15 for attorneys of comparable skill, experience, and reputation.”
- 16 b. In *Saflor v. Esa Management, LLC*, United States District Court for the
17 Northern District of California, Case No. 22-cv-05800-AGT, Judge Alex G.
18 Tse found that MLG’s requested attorneys’ fees are “reasonable based on
19 Class Counsel’s lodestar” and approved the following attorneys’ 2024 hourly
20 rates: Matthew J. Matern: \$1,075, Matthew W. Gordon: \$925 .
- 21 c. In *Reyna v. Westrock Company*, United States District Court for the Northern
22 District of California Case No. 5:20-cv-01666-BLF, Judge Beth Labson
23 Freeman approved the following MLG attorneys’ 2024 hourly rates: Matthew
24 J. Matern: \$1,125; Debra J. Tauger: \$1,050.
- 25 d. In *Ordonez Socop v. Miracle Mile Properties, LP*, Los Angeles County
26 Superior Court Case No. 21STCV32715, Judge Laura A. Seigle found that
27 MLG’s attorneys’ “hourly rates are reasonable and in line with rates
28

prevailing in the community” and approved the following attorneys’ 2024 hourly rates: Matthew W. Gordon: \$925.

- f. In *Tovar v. Western University of Health Sciences*, Los Angeles County Superior Court, Case No. 19STCV23464, Judge Kenneth R. Freeman approved MLG’s attorney fee request with a 3.82 multiplier and approved the following MLG attorneys’ 2024 hourly rates: Matthew J. Matern: \$1,125; Debra J. Tauger: \$1,050.

43. Several courts have awarded MLG attorneys’ fees in similar cases based upon the common fund method:

- a. In 2025, Magistrate Judge Alex G. Tse of the United States District Court for the Northern District of California awarded MLG attorney fees of one-third of the Gross Settlement Amount in *Saflor v. ESA Management, LLC*, Case No. 22-cv-05800-AGT, finding that the fees requested were “reasonable as a percentage of the common fund.”
- b. In 2025, in the matter of *Tovar v. Western University of Health Sciences*, Los Angeles County Superior Court Case No. 19STCV23464, Judge Kenneth R. Freeman approved MLG’s attorney fee request of one-third “under the common fund doctrine.”
- c. In 2025, Judge J. Omar Rodriguez of the San Benito County Superior Court granted MLG’s attorney fee request for “one-third of the Gross Settlement Amount under the common fund doctrine” in *Avena v. Pacific Scientific Energetic Materials Company (California) LLC*, Case No. CU-20-00062.
- d. In 2024, Judge Melissa R. McCormick awarded MLG’s attorney fee request of one-third of the Gross Settlement Amount in the matter of *Quezada v. Shock Doctor, Inc.*, Orange County Superior Court Case No. 30-2018-01027519-CU-OE-CXC, finding that the requested fees are “reasonable under the common fund method.”
- e. In 2024, Judge Lawrence P. Riff of the Los Angeles County Superior Court,

1 approved MLG's common fund fee request of one-third of the Gross
2 Settlement Amount in *Salcedo v. Dynamic Nursing Services, Inc.*, Case No.
3 BC488516.

4 f. In 2024, Judge Joseph T. Ortiz of the Los Angeles County Superior Court,
5 approved MLG's requested fee award, finding that one-third of the Maximum
6 Settlement Amount "is reasonable as a percentage of the common fund" in
7 *Knox v. Express Messenger Systems, Inc.*, Case No. CIV-DS-1932323.

8 g. In 2024, Judge Michael Markman of the Alameda County Superior Court
9 approved MLG's common fund fee request of one-third of the Maximum
10 Settlement Amount as "reasonable under the common fund method" in *Dimas*
11 *v. BLT Enterprises of Fremont, LLC*, Case No. RG20075373.

12 h. In 2023, Judge Brad Seligman found MLG's fee request of one-third of the
13 Maximum Settlement Amount to be "reasonable under the common fund
14 method" in *Enriquez v. Salwan Property Management & Investments*, Case
15 No. RG20082869.

16 i. In 2023, Judge David S. Cohn of the San Bernardino County Superior Court,
17 approved MLG's common fund fee request of one-third of the Gross
18 Settlement Amount in *Knox v. Express Messenger Systems, Inc.*, Case No.
19 BC488516.

20 j. In 2023, Judge Evelio Grillo of the Alameda County Superior Court, approved
21 MLG's common fund fee request of one-third of the Gross Settlement Amount
22 in *Gray v. DAA Draexlmaier*, Case No. HG20062125.

23 k. In 2023, Judge Joseph T. Ortiz of the San Bernardino County Superior Court,
24 approved MLG's common fund fee request of one-third of the Maximum
25 Settlement Amount in *Carro v. West Coast Fire & Integration, Inc.*, Case No.
26 CIVDS2015390.

27 l. In 2023, Judge Maren E. Nelson of the Los Angeles County Superior Court,
28 approved MLG's fee request of one-third of the Maximum Settlement Amount

1 "reasonable under the common fund method" in *Banks v. Luxe Worldwide*
2 *Hotels, LLC*, Case No. 21STCV12379.

3 m. In 2023, Judge Elihu M. Berle of the Los Angeles County Superior Court,
4 approved MLG's fee request of one-third of the Maximum Settlement Amount
5 "reasonable...as a percentage of the common fund" in *Zuniga v. Alexandria*
6 *Care Center, LLC*, Case No. BC529776.

7 n. In 2023, Judge David S. Cohn of the San Bernardino County Superior Court,
8 approved MLG's fee request of one-third of the Settlement Fund as
9 "reasonable...as a percentage of the common fund" in *Cabrera v. Tradesmen*
10 *International, LLC*, Case No. CIVSB2104468.

11 o. In 2023, Judge Theodore C. Zayner of the Santa Clara County Superior Court,
12 approved MLG's common fund fee request of one-third of the Gross
13 Settlement Amount in *Perez v. Service By Medallion*, Case No. 19CV353407.

14 p. In 2023, Judge Bernard C. Barmann, Jr. of the Kern County Superior Court
15 awarded attorneys' fees of one-third of the Gross Settlement Amount in *Jurado*
16 *v. Kann Enterprises, Inc.*, Case No. BCV-19-10066.

17 q. In 2023, Judge Mark C. Kim of the Los Angeles County Superior Court
18 granted MLG's fee request of 33.33% of the Gross Settlement Amount in
19 *Vazquez v. GL LBT, LLC*, Case No. 19STCV30814.

20 r. In 2023, Judge Maren E. Nelson of the Los Angeles County Superior Court
21 approved MLG's fee request of one-third of the Gross Settlement Amount as
22 "represent[ing] a reasonable percentage of the total funds paid by Defendant"
23 in *Gamboa v. Nelson Name Plate Company*, Case No. BC658201.

24 s. In 2023, Judge David S. Cohn of San Bernardino County Superior Court found
25 that MLG's requested fee of one-third of the Maximum Settlement Amount "is
26 reasonable under the common fund method" in *Hinojosa v. Permanent*
27 *General Companies, Inc.*, Case No. CIVSB2135124.

28 t. In 2023, Judge Joseph T. Ortiz found that MLG's request for one-third of the

1 Gross Settlement Amount is reasonable under the common fund method” in
2 *Schmidtberger v. Western Refining Retail*, San Bernardino County Superior
3 Court, Case No. CIVSB2209052.

4 44. Class Counsel also bears the risk of taking whatever actions are necessary if
5 Defendants fail to pay. In two cases, my firm spent over 500 hours post-final approval in efforts to
6 collect on behalf of the class.

7 45. MLG took this case on a contingent basis and has put a substantial amount of time
8 and effort into litigating the claims, all while receiving no payment. Because of the significant
9 amount of attorney time devoted to this important case on behalf of over the Class, my office was
10 precluded from working on many other employment cases over the course of over three years. The
11 risk to my office has been very significant, given that, if the case was unsuccessful, MLG would
12 not have received any compensation for the thousands of hours it spent litigating the case. For
13 instance, in a pair of de-published opinions, the Court of Appeal affirmed the trial court’s order
14 denying certification in an action alleging that the defendant failed to provide its restaurant workers
15 with uninterrupted, 30-minute off-duty meal breaks: *Hernandez v. Chipotle Mexican Grill, Inc.*
16 (2012) 208 Cal.App.4th 1487 and *Hernandez v. Chipotle Mexican Grill* (2010) 189 Cal.App.4th
17 751. Similarly, in *Gonzalez v. Officemax North America* (C.D. Cal. Nov. 5, 2012) Nos. SACV
18 F07-00452 JVS (MLGx) and CV 07-04839 JVS MLGx) 2012 WL 5473764, at *4-5, the court
19 issued an order denying certification of plaintiffs’ meal and rest break claims, finding that the
20 reason any particular employee missed any particular break required individualized fact finding.
21 *See Gonzalez v. OfficeMax N. Am.* (C.D. Cal. Nov. 5, 2012) 2012 U.S. Dist. LEXIS 163853. In
22 each of these cases, my firm incurred over \$100,000 in costs and expended over 5,000 hours in
23 attorney time, only to have class certification denied.

24 46. Because most individuals cannot afford to pay for representation in litigation on an
25 hourly basis, MLG represents virtually all of its employment law clients on a contingency fee basis.
26 Pursuant to this arrangement, we are not compensated for our time unless we prevail at trial or
27 successfully settle our clients’ cases. Because the firm is taking the risk that we will not be
28 reimbursed for our time unless our client settles or wins his or her case, we cannot afford to

1 represent an individual employee on a contingency basis if, at the end of our representation, all we
2 are to receive is our regular hourly rate for services. It is essential that we recover more than our
3 regular hourly rate when we win if we are to remain in practice so as to be able to continue
4 representing other individuals in civil rights employment disputes.

5 47. Based on the contingent risk, the significant benefit conferred on the Class and State
6 of California as a result of the settlement, the skill displayed by Class Counsel in achieving a
7 substantial settlement, and the quality of its representation, application of a 2.1 multiplier is
8 reasonable and appropriate in this action. Without Class Counsel's tenacious efforts, this
9 exceptional outcome would not have been achieved. Class Counsel bears the risk of taking
10 whatever actions are necessary if Defendants fail to pay. Plaintiffs respectfully request that the
11 court award Class Counsel the requested fees of \$600,000 under the common fund theory with a
12 lodestar cross-check and the application of an imputed 2.1 multiplier.

13 48. I am not aware of any conflicts of interest between MLG and the Settlement Class
14 Members.

15 **Litigation Costs**

16 49. The Settlement provides for an award of litigation costs to Class Counsel in an amount
17 not to exceed \$65,000. As of the date of this declaration, my firm has reasonably incurred costs in
18 the amount of \$16,990.00 litigating these matters. The costs were reasonable and necessary to
19 prosecute the actions to a successful conclusion, including fees for such things as court filings and
20 fees, expert services, mediation services, process service, and research services. The costs are
21 precisely the sort that are reimbursable by an ordinary client because they were necessarily incurred
22 during the pendency of the actions. *Id.* Therefore, the following table shows MLG's costs incurred
23 in these matters:

24 Cost Description	Amount
25 Court Costs and Filing Fees	\$1,348.64
26 Service of Process	\$63.75
27 Research Services	\$113.16
Jury Fees	\$1,585.00
Postage	\$139.03
28 Investigation	\$13,740.42

1 **TOTAL MLG COSTS:**

\$16,990.00

2
3 **Division of Attorneys' Fees**

4 50. All Plaintiffs and their counsel have signed a joint prosecution agreement regarding
5 the Action. Pursuant to that agreement, any attorneys' fees awarded to Plaintiffs will be divided as
6 follows: 90 percent to Blumenthal Nordrehaug Bhowmik De Blouw LLP and 10 percent to MLG.

7 **Settlement Administration Costs**

8 51. The Settlement Agreement provides that Apex Class Action, LLC ("Apex") will be
9 paid no more than \$16,000.00 to administer the Settlement. Given the size of the Settlement Class
10 and the scope of the duties to be performed by Apex, I believe this amount is reasonable. No one at
11 MLG has any financial interest in or otherwise has a relationship with Apex that would create a
12 conflict of interest.

13 I declare under penalty of perjury under the laws of the State of California that the foregoing
14 is true and correct. Executed on April 3, 2026 at Venice, California.

15 /s/ Matthew J. Matern

16 MATTHEW J. MATERN

EXHIBIT A



MATERN LAW GROUP, PC

1230 Rosecrans Avenue, Suite 200
Manhattan Beach, California 90266
www.maternlawgroup.com
Tel: (310) 531-1900 | Fax: (310) 531-1901

June 30, 2023

Via Online Submission

California Labor & Workforce
Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

Via Certified U.S. Mail – Return

Receipt Requested

Crystal Creamery
529 Kansas Avenue
Modesto, CA 95351

Via Certified U.S. Mail – Return

Receipt Requested

Foster Dairy Farms dba Crystal Creamery
c/o Matthew E. Hoffman
5260 North Palm Ave., Suite 421
Fresno, CA 93704

Re: Notice Pursuant to California Labor Code § 2699.3

Employee: Anthony Gray

Employers: Foster Dairy Farms dba Crystal Creamery

To Whom It May Concern:

This office represents Anthony Gray (“Mr. Gray”), who was employed by Foster Dairy Farms dba Crystal Creamery (“Crystal Creamery”). Pursuant to the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor Code § 2698, *et seq.*, this letter sets forth the specific provisions of the Labor Code and Industrial Welfare Commission (“IWC”) Wage Order No. 8-2001, which Mr. Gray alleges Crystal Creamery has violated, including the facts and theories to support the alleged violations. Please be advised that this letter constitutes written notice required by Labor Code § 2699.3, subdivisions (a)(1)(A) and (c)(1)(A) and may lead to immediate action against Employers in a court of law and/or administrative proceedings, as well as the imposition of substantial penalties and other remedies against Employers. Enclosed please find a draft of Mr. Gray’s proposed complaint, which is incorporated by reference into this notice. Pursuant to Labor Code § 2699.3, subdivisions (a)(1)(B) and (c)(1)(B), our office is submitting a \$75.00 filing fee to the Accounting Unit of the Department of Industrial Relations.

This letter also serves as notice of Mr. Gray’s demand for preservation and non-spoliation of evidence, requesting that all relevant documents and data be saved and that all electronic files and hard-copy documents that are related to Mr. Gray’s employment and potential claims must be preserved, even without a court order.

Spoliation of evidence may result in legal claims for damages and monetary and evidentiary sanctions, including “adverse inference” jury instructions. Furthermore, intentional

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spoliation of evidence may carry criminal consequences pursuant to California Penal Code § 135.

We are investigating a potential class and representative action on behalf of Crystal Creamery's current and former non-exempt employees in the State of California regarding, among other things, the following violations: failure to provide meal and rest periods to employees in violation of Labor Code §§ 226.7 and 512 and Wage Order No. 8-2001, §§ 11-12; failure to pay one additional hour of compensation at the employee's regular rate of compensation for each workday that a meal or rest period is not provided in violation of Labor Code § 226.7 and Wage Order No. 8-2001, §§ 11(B) and 12(B); failure to pay employees minimum wages for all hours worked in violation of Labor Code §§ 1194, 1197 and 1197.1 and Wage Order No. 8-2001, § 4; failure to pay employees overtime wages in violation of Labor Code §§ 510 and 1194 and Wage Order No. 8-2001, § 3; failure to timely pay employees all wages earned in violation of Labor Code § 204; willful failure to pay all wages due to discharged and quitting employees in violation of Labor Code §§ 201-203; failure to furnish accurate itemized wage statements to employees in violation of Labor Code § 226; failure to maintain required records pursuant to Labor Code §§ 226, 1174 and 1174.5 and Wage Order No. 8-2001, § 7; and unlawful deductions and withholdings from employees' wages in violation of Labor Code §§ 221, 223 and 224.

The allegations made by Mr. Gray on behalf of themselves and all other similarly-situated current and former non-exempt employees of Crystal Creamery in the State of California during the four years preceding the date of this notice are based on the following facts and theories: meal periods were less than thirty minutes, late (first meal periods starting after the fifth hour of work and/or second meal periods starting after the tenth hour), not given at all (including second meal periods after ten hours of work), or interrupted; rest periods were less than ten minutes, not provided, interrupted, and/or late; employees were not provided one hour of pay at the regular rate of pay for each workday a meal period was not provided; employees were not provided one hour of pay at the regular rate of pay for each workday a rest break was not authorized and permitted; and employees were not paid proper minimum and overtime wages for all hours worked as required by California law.¹ Given the overtime, meal period and rest period violations and Crystal Creamery's failure to compensate its employees fully, as set forth above, employees' wage statements were inaccurate and failed to comply with California law. In short, Crystal Creamery's unlawful employment practices and policies have deprived their employees of earned wages and other compensation.

Failure to Provide Meal Periods

Pursuant to Labor Code §§ 226.7 and 512 and Wage Order No. 8-2001, § 11, an employer is required to provide meal periods to its employees. An employer must provide a meal period to any employee who works a shift of more than five (5) hours and a second meal period to any employee who works a shift of more than ten (10) hours. Furthermore, an employer must pay one extra hour of compensation for each workday a meal period is not provided.

¹ "[T]he statement that defendant has not provided its employees with proper rest periods states both the facts and the theory." *Gutierrez v. California Commerce Club, Inc.* (2010) 187 Cal.App.4th 969, 979 n.5.

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If an employee is not relieved of all duty during a meal period, the meal period shall be considered an “on duty” meal period and counted as time worked. A paid “on duty” meal period is permitted only when 1) the nature of the work prevents an employee from being relieved of all duty and 2) the parties have agreed in writing to on duty meal periods.

Mr. Gray and other aggrieved employees are non-exempt employees and are entitled to the protections of California Labor Code §§ 226.7 and 512 and Wage Order No. 8-2001, § 11. Crystal Creamery failed to provide their employees timely and uninterrupted thirty-minute meal breaks. In fact, Mr. Gray’s and other aggrieved employees’ meal periods were short (less than thirty minutes), late (first meal periods after the fifth hour of work and second meal periods after the tenth hour), interrupted and/or missed. Crystal Creamery consistently failed to provide Mr. Gray and other aggrieved employees meal breaks because Mr. Gray and other aggrieved employees were given too much work to perform to take meal breaks.

Crystal Creamery further violated Labor Code § 226.7 and Wage Order No. 8-2001 by failing to compensate Mr. Gray and other aggrieved employees who were not provided with meal periods in accordance with California law one additional hour of pay at each employee’s regular rate of compensation for each workday a meal period was not provided.

Failure to Authorize and Permit Rest Periods

Pursuant to Labor Code § 226.7 and Wage Order No. 8-2001, § 12, an employer is required to provide rest periods to its employees. An employer must provide a ten (10) minute rest period for every four (4) hours worked or major action thereof which insofar as practicable shall be in the middle of each work period. Furthermore, an employer must pay one extra hour of compensation for each workday a rest period is not authorized and permitted.

Mr. Gray and other aggrieved employees were and are non-exempt employees and are entitled to the protections of Labor Code § 226.7 and Wage Order No. 8-2001. Crystal Creamery failed to authorize and permit their employees to take required rest periods. Specifically, Crystal Creamery maintained a policy or practice of not authorizing and permitting Mr. Gray and other aggrieved employees to take one 10-minute rest break for shifts 3.5-6.0 hours, a second rest break for shifts greater than 6 hours and less than or equal to 10 hours, and a third rest break for shifts in excess of 10 hours. Crystal Creamery consistently failed to authorize and permit Mr. Gray and other similarly-situated individual to take rest breaks because Mr. Gray and other similarly-situated individuals were given too much work to perform to take rest breaks. When Mr. Gray and other aggrieved employees were able to take rest breaks, Crystal Creamery failed to authorized and permit Mr. Gray and other aggrieved employees to take their rest breaks in the middle of each work period insofar as practicable.

Crystal Creamery further violated Labor Code § 226.7 and Wage Order No. 8-2001, § 12 by failing to pay Mr. Gray and other aggrieved employees one additional hour of pay at each employee’s regular rate of compensation for each workday a rest period was not authorized and permitted.

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Failure to Pay Minimum Wages

Pursuant to Labor Code §§ 1194 and 1197 and Wage Order No. 8-2001, § 4, payment to an employee of less than the applicable minimum wage for all hours worked in a payroll period is unlawful.

Mr. Gray and other aggrieved employees are current and former non-exempt employees and are entitled to the protections of Labor Code §§ 1194 and 1197 and Wage Order No. 8-2001, § 4. Crystal Creamery failed to pay Mr. Gray and other aggrieved employees minimum wages for all hours worked by, among other things: requiring, suffering or permitting Mr. Gray and other similarly-situated individuals to work off-the-clock, including requiring Mr. Gray and other similarly-situated individuals to don their uniform before clocking in for their scheduled shifts; requiring, suffering or permitting Mr. Gray and other aggrieved employees to work through their meal breaks but not compensating them for this time; illegally and inaccurately recording time worked by Mr. Gray and other aggrieved employees; failing to properly maintain Mr. Gray's and other aggrieved employees' records; failing to provide accurate itemized wage statements to Mr. Gray and other aggrieved employees for each pay period; and other methods to be discovered.

Crystal Creamery's conduct violates Labor Code §§ 1194 and 1197 and Wage Order No. 8-2001, § 4.

Failure to Pay Overtime Wages

Pursuant to California Labor Code §§ 510 and 1194 and Wage Order No. 8-2001, § 3, an employer must compensate its employees for all overtime, which is calculated at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the first eight (8) hours on the seventh consecutive work day, with double time for all hours worked in excess of eight (8) hours on the seventh day of any workweek, or after twelve (12) hours in any workday.

Mr. Gray and other aggrieved employees are current and former non-exempt employees and are entitled to the protections of Labor Code §§ 510 and 1194 and Wage Order No. 8-2001. Crystal Creamery failed to compensate Mr. Gray and other aggrieved employees for all overtime hours worked as required under the foregoing provisions of the Labor Code and IWC Wage Order by, among other things: failing to pay overtime at one and one-half (1 ½) times or double the regular rate of pay as provided by Labor Code §§ 510 and 1194 and Wage Order No. 8-2001, § 3, including but not limited to failing to include all remuneration in the calculation of the regular rate of pay for overtime purposes; requiring, suffering or permitting Mr. Gray and other aggrieved employees to work off-the-clock, including requiring Mr. Gray and other similarly-situated individuals to don their uniform before clocking in for their scheduled shifts; requiring, suffering or permitting Mr. Gray and other aggrieved employees to work through meal periods but not compensating them for this time; illegally and inaccurately recording time worked by Mr. Gray and other aggrieved employees; failing to properly maintain Mr. Gray's and other aggrieved employees' records through falsifying hours worked; failing to provide accurate itemized

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statements to Mr. Gray and other aggrieved employees for each pay period; and other methods to be discovered.

In violation of California law, Crystal Creamery has refused to perform its obligations to compensate Mr. Gray and other aggrieved employees for all wages earned and all hours worked. Crystal Creamery's conduct violates Labor Code §§ 510 and 1194 and Wage Order No. 8-2001, § 3.

Failure to Timely Pay All Wages Earned

Pursuant to Labor Code § 204, an employer must pay its employees at least twice a month for all wages earned during the preceding pay period. Labor Code § 204 provides that labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. An employer using an alternate payday schedule must pay wages within seven calendar days of the end of the payroll period in which the wages were earned.

Crystal Creamery failed to pay Mr. Gray and other aggrieved employees on their regularly scheduled payday for all work performed during the preceding pay period. Specifically, Crystal Creamery required Mr. Gray and other aggrieved employees to work off-the-clock without compensation, including requiring Mr. Gray and other similarly-situated individuals to don their uniform before clocking in for their scheduled shifts, and required Mr. Gray and other aggrieved employees to work through required meal breaks without compensation. Additionally, Crystal Creamery failed to pay Mr. Gray and other aggrieved employees premium wages owed for each workday a meal period was not provided and each workday a rest period was not authorized and permitted.

Crystal Creamery also failed to pay Mr. Gray and other aggrieved employees for the overtime wages they earned in violation of Labor Code § 204. Labor Code § 204 requires an employer to pay overtime wages no later than the payday for the next regular payroll period following the payroll period in which the overtime wages were earned. Crystal Creamery knew it was required to pay overtime wages, yet on many occasions failed to pay Mr. Gray and other aggrieved employees overtime wages on any payday.

Failure to Pay All Wages Due Upon Separation

Pursuant to Labor Code § 201, 202 and 203, an employer is required to pay all earned and unpaid wages to an employee upon separation. Labor Code § 201 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid at the time of discharge are due and payable immediately. Pursuant to Labor Code § 202, an employer is required to pay all accrued wages due to an employee no later than 72 hours after the employee quits his or her employment, unless the employee provided 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.

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Labor Code § 203 provides that if an employer willfully fails to pay, in accordance with Labor Code §§ 201 and 202, any wages of an employee who is discharged or who quits, the employer is liable for waiting time penalties in the form of continued compensation to the employee at the same rate for up to thirty (30) days.

Crystal Creamery willfully failed to pay accrued wages and other compensation to Mr. Gray and other aggrieved employees in accordance with Labor Code §§ 201 and 202. Because Crystal Creamery required Mr. Gray and other aggrieved employees to work off-the-clock without compensation and through required meal breaks without compensation and failed to pay Mr. Gray and other aggrieved employees the proper premium wages for all meal periods which were not provided and all rest periods which were not authorized or permitted, Crystal Creamery failed and continues to fail to pay the full earned and unpaid wages due to Mr. Gray and other aggrieved employees upon separation.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226 requires every employer to furnish each of its employees an accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

Crystal Creamery failed to provide Mr. Gray and other aggrieved employees with timely and accurate itemized wage statements in writing showing each employee's gross wages earned, total hours worked, the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, all deductions made, net wages earned, the inclusive dates of the period for which the employee is paid, the name and address of the legal entity or entities employing Mr. Gray and other aggrieved employees, and all applicable hourly rates in effect during each pay period and the corresponding number of hours worked at each hourly rate, in violation of Labor Code § 226 and Wage Order No. 8-2001, § 7.

Specifically, Crystal Creamery had knowledge it was not providing employees with proper meal and rest breaks; nevertheless, Crystal Creamery knowingly failed to include in the wage statements the extra hour of compensation at the regular rate of pay owed for each workday a meal break was not provided and each workday a rest break was not authorized and permitted. As a result, Mr. Gray and other aggrieved employees lost wages. In addition, Crystal Creamery had knowledge it was requiring employees to work off-the-clock and were not properly compensating their employees for all hours worked, yet Crystal Creamery knowingly failed to include this time worked in the wage statements. As a result, Mr. Gray and other aggrieved employees lost wages. Crystal Creamery also did not properly calculate the regular rate of pay of Mr. Gray and other

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aggrieved employees. As a result, Mr. Gray's and other aggrieved employees' wage statements did not include all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate.

Failure to Maintain Required Records

Crystal Creamery failed to maintain records as required under Labor Code §§ 226 and 1174 and Wage Order No. 8-2001, § 7, including but not limited to the following records: total daily hours worked by each employee; applicable rates of pay; all deductions; meal periods; time records showing when each employee begins and ends each work period; and accurate itemized statements.

Specifically, Crystal Creamery had knowledge it was not providing employees with proper meal and rest breaks; nevertheless, Crystal Creamery knowingly failed to include in the wage statements the extra hour of compensation at the regular rate of pay owed for each workday a meal break was not provided and each workday a rest break was not authorized and permitted. In addition, Crystal Creamery had knowledge it was requiring employees to work off-the-clock and were not properly compensating their employees for all hours worked, yet Crystal Creamery knowingly failed to include this time worked in the regular rate of pay of aggrieved employees.

Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties

Labor Code § 2802(a) requires an employer to indemnify an employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of her his or her duties, or of his or her obedience to the directions of the employer. Crystal Creamery failed to indemnify Mr. Gray and other aggrieved employees for all business expenses and/or losses incurred in direct consequence of the discharge of their duties while working under the direction of Crystal Creamery, including but not limited to expenses for uniforms, tools, safety equipment, boots, and other employment-related expenses, in violation of Labor Code § 2802.

This notice is hereby given to Crystal Creamery and any and all related and/or alter ego companies, corporations, partnerships, and/or business entities, as well as against any and all officers, owners, directors, managers, managing agents, or entities who are or may be liable under California law for any of the violations alleged herein as to any locations or employees who worked at any time in the State of California.

This notice is made on behalf of all persons who are, were, or will be non-exempt employees of Crystal Creamery, or any related or alter-ego company, corporation, partnership, and/or business entity at any time on or after a date four years prior to the date of this letter in the State of California.

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This notice shall be construed as extending without limitation to any past, present, future, or continuing violation of the Labor Code, the applicable IWC Wage Order, or any applicable regulation which might be discovered as a result of a reasonable and diligent investigation made pursuant to this notice.

This notice shall further represent Mr. Gray's reasonable attempt to settle his dispute with Crystal Creamery prior to litigation. Pursuant to *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to apprise Crystal Creamery of Mr. Gray's aforementioned grievances and the proposed remedies as detailed below, while affording Crystal Creamery reasonable opportunity to meet Mr. Gray's demands.

Demand is hereby made that Crystal Creamery shall agree, in writing received at this office no later than 30 calendar days from the postmark date of this notice, as follows:

1. Crystal Creamery shall pay Mr. Gray and all other similarly-situated persons employed by Crystal Creamery at any time during the past 48 months back pay and compensation for the above-referenced violations.
2. Crystal Creamery shall comply with all California labor laws and ensure that its non-exempt employees are paid proper overtime compensation and given required meal and rest periods.
3. Crystal Creamery shall conduct a survey or interview all current and former non-exempt employees in California during the past 48 months to obtain information from them regarding the number of meal breaks which were not provided, the number of rest breaks which were not authorized and permitted, and the number of employees who were required to pay for uniforms, or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.
4. Crystal Creamery shall pay each employee one hour of pay for each workday he or she was not authorized and permitted one or more rest periods, as required by Labor Code § 226.7. Crystal Creamery also shall pay each employee one hour of pay for each workday he or she was not provided one or more and meal periods, as required by Labor Code § 226.7.
5. Crystal Creamery shall reimburse those employees who were forced to pay for any business expenses incurred for Crystal Creamery's benefit, including but not limited to uniforms, tools, safety equipment, and boots.
6. Crystal Creamery shall pay waiting time penalties, equal to thirty days of pay, to each former employee who was not paid all wages due as described herein.
7. Crystal Creamery shall pay accrued interest to all employees at the rate of ten percent per annum for said unpaid wages.

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8. Crystal Creamery shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code § 2698 *et seq.*, including but not limited to penalties under Labor Code §§ 206.5, 210, 225.5, 226.3, 558, 1174.5, 1182.12, 1197.1, 1198, 1199 and 2699 and Wage Order No. 8-2001, § 20.

If the Labor and Workforce Development Agency intends to investigate the allegations set forth herein, please notify this office of that decision by certified mail addressed to Matern Law Group, PC, 1230 Rosecrans Avenue, Suite 200, Manhattan Beach, California 90266. Additionally, please advise us if the LWDA or Crystal Creamery require additional information regarding Mr. Gray's allegations.

Thank you for your prompt attention to this matter.

Very truly yours,

MATERN LAW GROUP, PC

A handwritten signature in dark ink, appearing to read 'Max N. Sloves', with a long horizontal flourish extending to the right.

Max N. Sloves, Esq.

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Attorneys for Plaintiff
ANTHONY GRAY, individually and on
behalf of all others similarly situated

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

ANTHONY GRAY, an individual, on behalf
of himself and all others similarly situated,

Plaintiff,

vs.

FOSTER DAIRY FARMS dba CRYSTAL
CREAMERY, a California corporation; and
DOES 1 through 50, inclusive,

Defendants.

CASE NO.:

CLASS ACTION

[DRAFT] COMPLAINT

1. Failure to Provide Required Meal Periods
2. Failure to Provide Required Rest Periods
3. Failure to Pay Overtime Wages
4. Failure to Pay Minimum Wages
5. Failure to Pay All Wages Due to Discharged and Quitting Employees
6. Failure to Furnish Accurate Itemized Wage Statements
7. Failure to Maintain Required Records
8. Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties
9. Unfair and Unlawful Business Practices

REPRESENTATIVE ACTION:

10. Penalties under the Labor Code Private Attorneys General Act, as Representative Action

DEMAND FOR JURY TRIAL

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1 5. PLAINTIFF brings this action on behalf of himself and the following similarly
2 situated class of individual (“CLASS MEMBERS”): all current and former non-exempt
3 employees of DEFENDANTS in the State of California at any time within the period
4 beginning four (4) years prior to the filing of this action and ending at the time this action
5 settles or the class is certified (the “CLASS PERIOD”). PLAINTIFF reserves the right to
6 name additional class representatives.

7 6. PLAINTIFF is informed and believes, and thereon alleges, that defendant
8 CRYSTAL CREAMERY, is, and at all times relevant hereto was, a California corporation.
9 PLAINTIFF is further informed and believes, and thereon alleges, that defendant CRYSTAL
10 CREAMERY, is authorized to conduct business in the State of California, and does conduct
11 business in the State of California. Specifically, defendant CRYSTAL CREAMERY, maintains
12 offices and facilities and conducts business in, and engages in illegal payroll practices or policies
13 in, the County of Stanislaus, State of California.

14 7. The true names and capacities of DOES 1 through 50, inclusive, are unknown to
15 PLAINTIFF at this time, and PLAINTIFF therefore sues such DOE defendants under fictitious
16 names. PLAINTIFF is informed and believes, and thereon alleges, that each defendant
17 designated as a DOE is in some manner highly responsible for the occurrences alleged herein, and
18 that PLAINTIFF and CLASS MEMBERS’ injuries and damages, as alleged herein, were
19 proximately caused by the conduct of such DOE defendants. PLAINTIFF will seek leave of the
20 court to amend this Complaint to allege their true names and capacities of such DOE defendants
21 when ascertained.

22 8. At all relevant times herein, DEFENDANTS were the joint employers of
23 PLAINTIFF and CLASS MEMBERS. PLAINTIFF is informed and believes, and thereon alleges,
24 that at all times material to this complaint DEFENDANTS were the alter egos, divisions,
25 affiliates, integrated enterprises, joint employers, subsidiaries, parents, principals, related entities,
26 co-conspirators, authorized agents, partners, joint venturers, and/or guarantors, actual or
27 ostensible, of each other. Each defendant was completely dominated by his, her or its co-
28 defendant, and each was the alter ego of the other.

1 9. At all relevant times herein, PLAINTIFF and CLASS MEMBERS were employed
2 by DEFENDANTS under employment agreements that were partly written, partly oral, and partly
3 implied. In perpetrating the acts and omissions alleged herein, DEFENDANTS, and each of them,
4 acted pursuant to, and in furtherance of, their policies and practices of not paying PLAINTIFF
5 and CLASS MEMBERS all wages earned and due, through methods and schemes which include,
6 but are not limited to, failing to pay overtime premiums; failing to provide rest and meal periods;
7 failing to properly maintain records; failing to provide accurate itemized statements for each pay
8 period; failing to properly compensate PLAINTIFF and CLASS MEMBERS for necessary
9 expenditures; and requiring, permitting or suffering the employees to work off the clock, in
10 violation of the California Labor Code and the applicable Welfare Commission ("IWC") Orders.

11 10. PLAINTIFF is informed and believes, and thereon allege, that each and every one
12 of the acts and omissions alleged herein were performed by, and/or attributable to, all
13 DEFENDANTS, each acting as agents and/or employees, and/or under the direction and control
14 of, each of the other DEFENDANTS, and that said acts and failures to act were within the course
15 and scope of said agency, employment and/or direction and control.

16 11. Pursuant to California Labor Code § 558.1, DEFENDANTS and any person acting
17 on behalf of any of the DEFENDANTS, are liable for violating, or causing to violate, any
18 provision regulating minimum wages or hours and days of work in any order of the Industrial
19 Welfare Commission, or Labor Code §§ 203, 226, 226.7, 1193.6, 1194, or 2802.

20 12. As a direct and proximate result of the unlawful actions of DEFENDANTS,
21 PLAINTIFF and CLASS MEMBERS have suffered, and continue to suffer, from loss of earnings
22 in amounts as yet unascertained, but subject to proof at trial, and within the jurisdiction of this
23 Court.

24 **CLASS ACTION ALLEGATIONS**

25 13. This action is appropriately suited for a Class Action because:

26 a. The potential class is a significant number. Joinder of all current and
27 former employees individually would be impractical.
28

b. This action involves common questions of law and fact to the potential class because the action focuses on DEFENDANTS' systematic course of illegal payroll practices and policies, which was applied to all non-exempt employees in violation of the Labor Code, the applicable IWC wage order, and the Business and Professions Code which prohibits unfair business practices arising from such violations.

c. The claims of PLAINTIFF are typical of the class because DEFENDANTS subjected all non-exempt employees to identical violations of the Labor Code, the applicable IWC wage order, and the Business and Professions Code.

d. PLAINTIFF is able to fairly and adequately protect the interests of all members of the class because it is in his best interests to prosecute the claims alleged herein to obtain full compensation due to them for all services rendered and hours worked.

FIRST CAUSE OF ACTION

Failure to Provide Required Meal Periods

[Cal. Labor Code §§ 226.7, 510, 512, 1194, 1197; IWC Wage Order No. 8-2001, § 11]

(Against DEFENDANTS)

14. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the allegations in the foregoing paragraphs.

15. During the CLASS PERIOD, as part of DEFENDANTS' illegal payroll policies and practices to deprive their non-exempt employees all wages earned and due, DEFENDANTS required, permitted or otherwise suffered PLAINTIFF and CLASS MEMBERS to take less than the 30-minute meal period, or to work through them, and have failed to otherwise provide the required meal periods to PLAINTIFF and CLASS MEMBERS pursuant to California Labor Code § 226.7, 512 and IWC Order No. 8-2001, § 11.

16. DEFENDANTS further violated California Labor Code §§ 226.7 and IWC Wage Order No. 8-2001, § 11 by failing to compensate PLAINTIFF and CLASS MEMBERS who were not provided with a meal period, in accordance with the applicable wage order, one additional hour of compensation at each employee's regular rate of pay for each workday that a meal period was not provided.

1 17. DEFENDANTS further violated California Labor Code §§ 226.7, 510, 1194,
2 1197, and IWC Wage Order No. 8-2001 by failing to compensate PLAINTIFF and CLASS
3 MEMBERS for all hours worked during their meal periods.

4 18. As a proximate result of the aforementioned violations, PLAINTIFF and CLASS
5 MEMBERS have been damaged in an amount according to proof at trial, and seek all wages
6 earned and due, interest, penalties, expenses, and costs of suit.

7 **SECOND CAUSE OF ACTION**

8 **Failure to Provide Required Rest Periods**

9 **[Cal. Labor Code §§ 226.7, 512; IWC Wage Order No. 8-2001, § 12]**

10 **(Against DEFENDANTS)**

11 19. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
12 allegations in the foregoing paragraphs.

13 20. At all times relevant herein, as part of DEFENDANTS' illegal payroll policies and
14 practices to deprive their non-exempt employees all wages earned and due, DEFENDANTS
15 failed to provide rest periods to PLAINTIFF and CLASS MEMBERS as required under
16 California Labor Code §§ 226.7 and 512, and IWC Wage Order No. 8-2001, § 12.

17 21. DEFENDANTS further violated California Labor Code § 226.7 and IWC Wage
18 Order No. 8-2001, § 12 by failing to pay PLAINTIFF and CLASS MEMBERS who were not
19 provided with a rest period, in accordance with the applicable wage order, one additional hour of
20 compensation at each employee's regular rate of pay for each workday that a rest period was not
21 provided.

22 22. As a proximate result of the aforementioned violations, PLAINTIFF and CLASS
23 MEMBERS have been damaged in an amount according to proof at trial, and seek all wages
24 earned and due, interest, penalties, expenses, and costs of suit.

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1 **THIRD CAUSE OF ACTION**

2 **Failure to Pay Overtime Wages**

3 **[Cal. Labor Code §§ 510, 1194, 1198; IWC Wage Order No. 8-2001, § 3]**

4 **(Against DEFENDANTS)**

5 23. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
6 allegations in the foregoing paragraphs.

7 24. Pursuant to California Labor Code §§ 510, 1194, and IWC Wage Order No. 8-
8 2001, § 3, DEFENDANTS are required to compensate PLAINTIFF and CLASS MEMBERS for
9 all overtime, which is calculated at one and one-half (1 ½) times the regular rate of pay for all
10 hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the
11 first eight (8) hours on the seventh consecutive workday, with double time for all hours worked in
12 excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours
13 on the seventh consecutive day of work in any workweek.

14 25. PLAINTIFF and CLASS MEMBERS are current and former non-exempt
15 employees entitled to the protections of California Labor Code §§ 510, 1194, and IWC Wage
16 Order No. 8-2001. During the CLASS PERIOD, DEFENDANTS failed to compensate
17 PLAINTIFF and CLASS MEMBERS for all overtime hours worked as required under the
18 foregoing provisions of the California Labor Code and IWC Wage Order by, among other things:
19 failing to pay overtime at one and one-half (1 ½) or double the regular rate of pay as provided by
20 California Labor Code §§ 510, 1194, and IWC Wage Order No. 8-2001, § 3; requiring, permitting
21 or suffering PLAINTIFF and CLASS MEMBERS to work off the clock; requiring, permitting or
22 suffering PLAINTIFF and CLASS MEMBERS to work through meal and rest breaks; illegally
23 and inaccurately recording time in which PLAINTIFF and CLASS MEMBERS worked; failing to
24 properly maintain PLAINTIFF's and CLASS MEMBERS' records; failing to provide accurate
25 itemized wage statements to PLAINTIFF for each pay period; and other methods to be
26 discovered.

27 26. In violation of California law, DEFENDANTS have knowingly and willfully
28 refused to perform their obligations to compensate PLAINTIFF and CLASS MEMBERS for all

1 wages earned and all hours worked. As a proximate result, PLAINTIFF and CLASS MEMBERS
2 have suffered, and continue to suffer, substantial losses related to the use and enjoyment of such
3 wages, lost interest on such wages, and expenses and attorneys' fees in seeking to compel
4 DEFENDANTS to fully perform their obligations under state law, all to their respective damages
5 in amounts according to proof at time of trial, and within the jurisdiction of this Court.

6 27. DEFENDANTS' conduct described herein violates California Labor Code §§ 510,
7 1194, 1198 and IWC Wage Order No. 8-2001, § 3. Therefore, pursuant to California Labor Code
8 §§ 200, 203, 226, 558, 1194, 1197.1, and other applicable provisions under the California Labor
9 Code and IWC Wage Orders, PLAINTIFF and CLASS MEMBERS are entitled to recover the
10 unpaid balance of wages owed to them by DEFENDANTS, plus interest, penalties, attorneys'
11 fees, expenses, and costs of suit.

12 **FOURTH CAUSE OF ACTION**

13 **Failure to Pay Minimum Wages**

14 **[Cal Labor Code §§ 1194, 1197; IWC Wage Order No. 8-2001, § 4]**

15 **(Against DEFENDANTS)**

16 28. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
17 allegations in the foregoing paragraphs.

18 29. Pursuant to California Labor Code §§ 1194, 1197, and IWC Wage Order No. 8-
19 2001, § 4, payment to an employee of less than the applicable minimum wage for all hours
20 worked in a payroll period is unlawful.

21 30. During the CLASS PERIOD, DEFENDANTS failed to pay PLAINTIFF and
22 CLASS MEMBERS minimum wages for all hours worked by, among other things: requiring,
23 permitting or suffering PLAINTIFF and CLASS MEMBERS to work off the clock; requiring,
24 permitting or suffering PLAINTIFF and CLASS MEMBERS to work through meal and rest
25 breaks; illegally and inaccurately recording time in which PLAINTIFF and CLASS MEMBERS
26 worked; failing to properly maintain PLAINTIFF's and CLASS MEMBERS' records; failing to
27 provide accurate itemized wage statements to PLAINTIFF and CLASS MEMBERS for each pay
28 period; and other methods to be discovered.

1 31. DEFENDANTS' conduct described herein violates California Labor Code §§
2 1194, 1197, and IWC Wage Order No. 8-2001, § 4. As a proximate result of the aforementioned
3 violations, PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to
4 proof at trial. Therefore, pursuant to California Labor Code §§ 200, 203, 226, 558, 1194, 1197.1,
5 and other applicable provisions under the Labor Code and IWC Wage Orders, PLAINTIFF and
6 CLASS MEMBERS are entitled to recover the unpaid balance of wages owed to them by
7 DEFENDANTS, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

8 **FIFTH CAUSE OF ACTION**

9 **Failure to Pay All Wages Due to Discharged and Quitting Employees**

10 **[Cal. Labor Code §§ 201, 202, 203]**

11 **(Against DEFENDANTS)**

12 32. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
13 allegations in the foregoing paragraphs.

14 33. Pursuant to California Labor Code § 201, 202, and 203, DEFENDANTS are
15 required to pay all earned and unpaid wages to an employee who is discharged. California Labor
16 Code § 201 mandates that if an employer discharges an employee, the employee's wages accrued
17 and unpaid at the time of discharge are due and payable immediately.

18 34. Furthermore, pursuant to California Labor Code § 202, DEFENDANTS are
19 required to pay all accrued wages due to an employee no later than 72 hours after the employee
20 quits his or her employment, unless the employee provided 72 hours previous notice of his or her
21 intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

22 35. California Labor Code § 203 provides that if an employer willfully fails to pay, in
23 accordance with California Labor Code §§ 201 and 202, any wages of an employee who is
24 discharged or who quits, the employer is liable for waiting time penalties in the form of continued
25 compensation to the employee at the same rate for up to 30 workdays.

26 36. During the CLASS PERIOD, DEFENDANTS have willfully failed to pay accrued
27 wages and other compensation to PLAINTIFF and CLASS MEMBERS in accordance with
28 California Labor Code §§ 201 and 202.

37. As a result, PLAINTIFF and CLASS MEMBERS are entitled to all available statutory penalties, including the waiting time penalties provided in California Labor Code § 203, together with interest thereon, as well as other available remedies.

38. As a proximate result of DEFENDANTS' unlawful actions and omissions, PLAINTIFF and CLASS MEMBERS have been deprived of compensation in an amount according to proof at the time of trial, but in excess of the jurisdiction of this Court, and are entitled to recovery of such amounts, plus interest thereon, and attorneys' fees and costs, pursuant to California Labor Code §§ 1194 and 2699.

SIXTH CAUSE OF ACTION

Failure to Furnish Accurate Itemized Wage Statements

[Cal. Labor Code §§ 226; IWC Wage Order No. 8-2001, § 7]

(Against DEFENDANTS)

39. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the allegations in the foregoing paragraphs.

40. During the CLASS PERIOD, DEFENDANTS routinely failed to provide PLAINTIFF and CLASS MEMBERS with timely, accurate, and itemized wage statements in writing showing each employee's gross wages earned, total hours worked, the number of piece-rate units earned and any applicable piece rate, all deductions made, net wages earned, the name and address of the legal entity or entities employing PLAINTIFF and CLASS MEMBERS, the inclusive dates of the period for which the employee is paid, only the last four digits of the employees social security number or an employee identification number other than a social security number, and all applicable hourly rates in effect during each pay period and the corresponding number of hours worked at each hourly rate, in violation of California Labor Code § 226 and IWC Wage Order No. 8-2001, § 7.

41. During the CLASS PERIOD, DEFENDANTS knowingly and intentionally failed to provide PLAINTIFF and CLASS MEMBERS with timely, accurate, and itemized wage statements in accordance with California Labor Code § 226(a).

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1 42. As a proximate result of DEFENDANTS' unlawful actions and omissions,
2 PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to proof at
3 trial, and seek all wages earned and due, plus interest thereon. Additionally, PLAINTIFF and
4 CLASS MEMBERS are entitled to all available statutory penalties, including but not limited to
5 civil penalties pursuant to California Labor Code §§ 226(e), 226.3, and 1174.5, and an award of
6 costs, expenses, and reasonable attorneys' fees, including but not limited to those provided in
7 California Labor Code § 226(e), as well as other available remedies.

8 **SEVENTH CAUSE OF ACTION**

9 **Failure to Maintain Required Records**

10 **[Cal. Labor Code §§ 226, 1174; IWC Wage Order No. 8-2001, § 7]**

11 **(Against DEFENDANTS)**

12 43. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
13 allegations in the foregoing paragraphs.

14 44. During the CLASS PERIOD, as part of DEFENDANTS' illegal payroll policies
15 and practices to deprive PLAINTIFF and CLASS MEMBERS of all wages earned and due,
16 DEFENDANTS knowingly and intentionally failed to maintain records as required under
17 California Labor Code §§ 226, 1174, and IWC Wage Order No. 8-2001, § 7, including but not
18 limited to the following records: total daily hours worked by each employee; applicable rates of
19 pay; all deductions; meal periods; time records showing when each employee begins and ends
20 each work period; and accurate itemized statements.

21 45. As a proximate result of DEFENDANTS' unlawful actions and omissions,
22 PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to proof at
23 trial, and are entitled to all wages earned and due, plus interest thereon. Additionally,
24 PLAINTIFF and CLASS MEMBERS are entitled to all available statutory penalties, including
25 but not limited to civil penalties pursuant to California Labor Code §§ 226(e), 226.3, and 1174.5,
26 and an award of costs, expenses, and reasonable attorneys' fees, including but not limited to those
27 provided in California Labor Code § 226(e), as well as other available remedies.

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1 **EIGHTH CAUSE OF ACTION**

2 **Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of**
3 **Duties**

4 **[Cal. Labor Code § 2802]**

5 **(Against DEFENDANTS)**

6 46. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
7 allegations in the foregoing paragraphs.

8 47. California Labor Code § 2802(a) requires an employer to indemnify an employee
9 for all necessary expenditures or losses incurred by the employee in direct consequence of the
10 discharge of his or her duties, or of his or her obedience to the directions of the employer.

11 48. During the CLASS PERIOD, DEFENDANTS knowingly and willfully failed to
12 indemnify PLAINTIFF and CLASS MEMBERS for all business expenses and/or losses incurred
13 in direct consequence of the discharge of their duties while working under the direction of
14 DEFENDANTS, including but not limited to expenses for tools, uniforms, safety equipment,
15 boots, and other employment-related expenses, in violation of California Labor Code § 2802.

16 49. As a proximate result of DEFENDANTS' unlawful actions and omissions,
17 PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to proof at
18 trial, and seek reimbursement of all necessary expenditures, plus interest thereon pursuant to
19 California Labor Code § 2802(b). Additionally, PLAINTIFF and CLASS MEMBERS are
20 entitled to all available statutory penalties and an award of costs, expenses, and reasonable
21 attorneys' fees, including those provided in California Labor Code § 2802(c), as well as other
22 available remedies.

23 **NINTH CAUSE OF ACTION**

24 **Unfair and Unlawful Business Practices**

25 **[Cal. Bus. & Prof. Code §§ 17200 et. seq.]**

26 **(Against DEFENDANTS)**

27 50. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
28 allegations in the foregoing paragraphs.

1 51. Each and every one of DEFENDANTS' acts and omissions in violation of the
2 California Labor Code and/or the applicable IWC Wage Order as alleged herein, including but
3 not limited to DEFENDANTS' failure and refusal to provide required meal periods,
4 DEFENDANTS' failure and refusal to provide required rest periods, DEFENDANTS' failure and
5 refusal to pay overtime compensation, DEFENDANTS' failure and refusal to pay minimum
6 wages, DEFENDANTS' failure and refusal to pay all wages due to discharged or quitting
7 employees, DEFENDANTS' failure and refusal to furnish accurate itemized wage statements;
8 DEFENDANTS' failure and refusal to maintain required records, DEFENDANTS' failure and
9 refusal to indemnify PLAINTIFF and CLASS MEMBERS for necessary expenditures and/or
10 losses incurring in discharging their duties, constitutes an unfair and unlawful business practice
11 under California Business and Professions Code § 17200 et seq.

12 52. DEFENDANTS' violations of California wage and hour laws constitute a business
13 practice because DEFENDANTS' aforementioned acts and omissions were done repeatedly over
14 a significant period of time, and in a systematic manner, to the detriment of PLAINTIFF and
15 CLASS MEMBERS.

16 53. DEFENDANTS have avoided payment of wages, overtime wages, meal periods,
17 rest periods, and other benefits as required by the California Labor Code, the California Code of
18 Regulations, and the applicable IWC Wage Order. Further, DEFENDANTS have failed to
19 record, report, and pay the correct sums of assessment to the state authorities under the California
20 Labor Code and other applicable regulations.

21 54. As a result of DEFENDANTS' unfair and unlawful business practices,
22 DEFENDANTS have reaped unfair and illegal profits during the CLASS PERIOD at the expense
23 of PLAINTIFF, CLASS MEMBERS, and members of the public. DEFENDANTS should be
24 made to disgorge their ill-gotten gains and to restore them to PLAINTIFF and CLASS
25 MEMBERS.

26 55. DEFENDANTS' unfair and unlawful business practices entitle PLAINTIFF and
27 CLASS MEMBERS to seek preliminary and permanent injunctive relief, including but not
28 limited to orders that DEFENDANTS account for, disgorge, and restore to PLAINTIFF and

1 CLASS MEMBERS the wages and other compensation unlawfully withheld from them.
2 PLAINTIFF and CLASS MEMBERS are entitled to restitution of all monies to be disgorged
3 from DEFENDANTS in an amount according to proof at the time of trial, but in excess of the
4 jurisdiction of this Court.

5 **TENTH CAUSE OF ACTION**

6 **Representative Action for Civil Penalties**

7 **[Cal. Labor Code §§ 2698–2699.5]**

8 **(Against DEFENDANTS)**

9 56. PLAINTIFF incorporates herein by specific reference as though fully set forth the
10 allegations in all preceding paragraphs, with exception of the allegations in paragraph 16 and the
11 subparagraphs thereto.

12 57. PLAINTIFF is an “aggrieved employee” within the meaning of California Labor
13 Code § 2699(c), and a proper representative to bring a civil action on behalf of himself and other
14 current and former employees of DEFENDANTS pursuant to the procedures specified in
15 California Labor Code § 2699.3, because PLAINTIFF was employed by DEFENDANTS and one
16 or more of the alleged violations of the California Labor Code was committed against
17 PLAINTIFF.

18 58. Pursuant to the California Private Attorneys General Act of 2004 (“PAGA”),
19 Labor Code §§ 2698–2699.5, PLAINTIFF seeks to recover civil penalties, including but not
20 limited to penalties under California Labor Code §§ 2699, 210, 226.3, 558, 1174.5, 1197.1, and
21 IWC Wage Order No. 8-2001, § 20, from DEFENDANTS in a representative action for the
22 violations set forth above committed against himself and other aggrieved employees of
23 DEFENDANTS, including but not limited to violations of California Labor Code §§ 201, 202,
24 203, 204, 226, 226.7, 510, 512, 1174, 1194, 1197, 1198, and 2802. PLAINTIFF is entitled to an
25 award of reasonable attorneys’ fees and costs pursuant to California Labor Code § 2699(g)(1).

26 59. Pursuant to California Labor Code §§ 2699.3, PLAINTIFF gave written notice on
27 June 30, 2023 by online filing to the California Labor and Workforce Development Agency
28 (“LWDA”) and by certified mail to DEFENDANTS of the specific provisions of the California

1 Labor Code and IWC Wage Orders alleged to have been violated, including the facts and theories
2 to support the alleged violations. More than sixty-five (65) days have passed and the LWDA has
3 not provided notice to PLAINTIFF that it intends to investigate the alleged violations.

4 60. Therefore, PLAINTIFF has complied with all of the requirements set forth in
5 California Labor Code § 2699.3 to commence a representative action under PAGA.

6 **PRAYER FOR RELIEF**

7 **WHEREFORE**, PLAINTIFF, individually and on behalf of all other persons similarly
8 situated, respectfully prays for relief against defendants CRYSTAL CREAMERY and DOES 1
9 through 50, inclusive, and each of them, as follows:

- 10 1. For compensatory damages in an amount to be ascertained at trial;
- 11 2. For restitution of all monies due to PLAINTIFF and CLASS MEMBERS, as well
12 as disgorged profits from DEFENDANTS unfair and unlawful business practices;
- 13 3. For meal and rest period compensation pursuant to California Labor Code § 226.7
14 and IWC Wage Order No. 8-2001;
- 15 4. For liquidated damages pursuant to California Labor Code §§ 1194.2 and 1197.1;
- 16 5. For preliminary and permanent injunctive relief enjoining DEFENDANTS from
17 violating the relevant provisions of the California Labor Code and the IWC Wage Orders, and
18 from engaging in the unlawful business practices complained of herein;
- 19 6. For waiting time penalties pursuant to California Labor Code § 203;
- 20 7. For statutory and civil penalties according to proof, including but not limited to all
21 penalties authorized by the California Labor Code §§ 226(e) and §§ 2698–2699.5;
- 22 8. For interest on the unpaid wages at 10% per annum pursuant to California Labor
23 Code §§ 218.6, 1194, 2802, California Civil Code §§ 3287, 3288, and/or any other applicable
24 provision providing for pre-judgment interest;
- 25 9. For reasonable attorneys’ fees and costs pursuant to California Labor Code
26 §§ 218.5, 1194, 2699, 2802, California Civil Code § 1021.5, and any other applicable provisions
27 providing for attorneys’ fees and costs;
- 28 10. For declaratory relief;

1 11. For an order requiring and certifying the First, Second, Third, Fourth, Fifth, Sixth,
2 Seventh, Eighth, and Ninth Causes of Action as a class action;

3 12. For an order appointing PLAINTIFF as class representative, and PLAINTIFF's
4 counsel as class counsel; and

5 13. For such further relief that the Court may deem just and proper.

6
7 DATED:

Respectfully submitted,

8 MATERN LAW GROUP, PC

9
10 By:

11 _____
12 MATTHEW J. MATERN
13 MATTHEW W. GORDON
14 MAX N. SLOVES
15 Attorneys for Plaintiff
16 ANTHONY GRAY, individually and on
17 behalf of all others similarly situated
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DATED:

MATERN LAW GROUP, PC

MATTHEW J. MATERN
MATTHEW W. GORDON
MAX N. SLOVES
Attorneys for Plaintiff
ANTHONY GRAY, individually and on
behalf of all others similarly situated

EXHIBIT B



MATERN LAW GROUP, PC

1230 Rosecrans Avenue, Suite 200
Manhattan Beach, California 90266
www.maternlawgroup.com
Tel: (310) 531-1900 | Fax: (310) 531-1901

June 30, 2023

Via Online Submission

California Labor & Workforce
Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

Via Certified U.S. Mail – Return

Receipt Requested

Crystal Creamery
529 Kansas Avenue
Modesto, CA 95351

Via Certified U.S. Mail – Return

Receipt Requested

Foster Dairy Farms dba Crystal Creamery
c/o Matthew E. Hoffman
5260 North Palm Ave., Suite 421
Fresno, CA 93704

Re: Notice Pursuant to California Labor Code § 2699.3

Employee: Ryan Giesbrecht

Employers: Foster Dairy Farms dba Crystal Creamery

To Whom It May Concern:

This office represents Ryan Giesbrecht (“Mr. Giesbrecht”), who was employed by Foster Dairy Farms dba Crystal Creamery (“Crystal Creamery”). Pursuant to the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor Code § 2698, *et seq.*, this letter sets forth the specific provisions of the Labor Code and Industrial Welfare Commission (“IWC”) Wage Order No. 8-2001, which Mr. Giesbrecht alleges Crystal Creamery has violated, including the facts and theories to support the alleged violations. Please be advised that this letter constitutes written notice required by Labor Code § 2699.3, subdivisions (a)(1)(A) and (c)(1)(A) and may lead to immediate action against Employers in a court of law and/or administrative proceedings, as well as the imposition of substantial penalties and other remedies against Employers. Enclosed please find a draft of Mr. Giesbrecht’s proposed complaint, which is incorporated by reference into this notice. Pursuant to Labor Code § 2699.3, subdivisions (a)(1)(B) and (c)(1)(B), our office is submitting a \$75.00 filing fee to the Accounting Unit of the Department of Industrial Relations.

This letter also serves as notice of Mr. Giesbrecht’s demand for preservation and non-spoliation of evidence, requesting that all relevant documents and data be saved and that all electronic files and hard-copy documents that are related to Mr. Giesbrecht’s employment and potential claims must be preserved, even without a court order.

Spoliation of evidence may result in legal claims for damages and monetary and evidentiary sanctions, including “adverse inference” jury instructions. Furthermore, intentional

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spoliation of evidence may carry criminal consequences pursuant to California Penal Code § 135.

We are investigating a potential class and representative action on behalf of Crystal Creamery's current and former non-exempt employees in the State of California regarding, among other things, the following violations: failure to provide meal and rest periods to employees in violation of Labor Code §§ 226.7 and 512 and Wage Order No. 8-2001, §§ 11-12; failure to pay one additional hour of compensation at the employee's regular rate of compensation for each workday that a meal or rest period is not provided in violation of Labor Code § 226.7 and Wage Order No. 8-2001, §§ 11(B) and 12(B); failure to pay employees minimum wages for all hours worked in violation of Labor Code §§ 1194, 1197 and 1197.1 and Wage Order No. 8-2001, § 4; failure to pay employees overtime wages in violation of Labor Code §§ 510 and 1194 and Wage Order No. 8-2001, § 3; failure to timely pay employees all wages earned in violation of Labor Code § 204; willful failure to pay all wages due to discharged and quitting employees in violation of Labor Code §§ 201-203; failure to furnish accurate itemized wage statements to employees in violation of Labor Code § 226; failure to maintain required records pursuant to Labor Code §§ 226, 1174 and 1174.5 and Wage Order No. 8-2001, § 7; and unlawful deductions and withholdings from employees' wages in violation of Labor Code §§ 221, 223 and 224.

The allegations made by Mr. Giesbrecht on behalf of themselves and all other similarly-situated current and former non-exempt employees of Crystal Creamery in the State of California during the four years preceding the date of this notice are based on the following facts and theories: meal periods were less than thirty minutes, late (first meal periods starting after the fifth hour of work and/or second meal periods starting after the tenth hour), not given at all (including second meal periods after ten hours of work), or interrupted; rest periods were less than ten minutes, not provided, interrupted, and/or late; employees were not provided one hour of pay at the regular rate of pay for each workday a meal period was not provided; employees were not provided one hour of pay at the regular rate of pay for each workday a rest break was not authorized and permitted; and employees were not paid proper minimum and overtime wages for all hours worked as required by California law.¹ Given the overtime, meal period and rest period violations and Crystal Creamery's failure to compensate its employees fully, as set forth above, employees' wage statements were inaccurate and failed to comply with California law. In short, Crystal Creamery's unlawful employment practices and policies have deprived their employees of earned wages and other compensation.

Failure to Provide Meal Periods

Pursuant to Labor Code §§ 226.7 and 512 and Wage Order No. 8-2001, § 11, an employer is required to provide meal periods to its employees. An employer must provide a meal period to any employee who works a shift of more than five (5) hours and a second meal period to any employee who works a shift of more than ten (10) hours. Furthermore, an employer must pay one extra hour of compensation for each workday a meal period is not provided.

¹ "[T]he statement that defendant has not provided its employees with proper rest periods states both the facts and the theory." *Gutierrez v. California Commerce Club, Inc.* (2010) 187 Cal.App.4th 969, 979 n.5.

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If an employee is not relieved of all duty during a meal period, the meal period shall be considered an “on duty” meal period and counted as time worked. A paid “on duty” meal period is permitted only when 1) the nature of the work prevents an employee from being relieved of all duty and 2) the parties have agreed in writing to on duty meal periods.

Mr. Giesbrecht and other aggrieved employees are non-exempt employees and are entitled to the protections of California Labor Code §§ 226.7 and 512 and Wage Order No. 8-2001, § 11. Crystal Creamery failed to provide their employees timely and uninterrupted thirty-minute meal breaks. In fact, Mr. Giesbrecht’s and other aggrieved employees’ meal periods were short (less than thirty minutes), late (first meal periods after the fifth hour of work and second meal periods after the tenth hour), interrupted and/or missed. Crystal Creamery consistently failed to provide Mr. Giesbrecht and other aggrieved employees meal breaks because Mr. Giesbrecht and other aggrieved employees were given too much work to perform to take meal breaks.

Crystal Creamery further violated Labor Code § 226.7 and Wage Order No. 8-2001 by failing to compensate Mr. Giesbrecht and other aggrieved employees who were not provided with meal periods in accordance with California law one additional hour of pay at each employee’s regular rate of compensation for each workday a meal period was not provided.

Failure to Authorize and Permit Rest Periods

Pursuant to Labor Code § 226.7 and Wage Order No. 8-2001, § 12, an employer is required to provide rest periods to its employees. An employer must provide a ten (10) minute rest period for every four (4) hours worked or major action thereof which insofar as practicable shall be in the middle of each work period. Furthermore, an employer must pay one extra hour of compensation for each workday a rest period is not authorized and permitted.

Mr. Giesbrecht and other aggrieved employees were and are non-exempt employees and are entitled to the protections of Labor Code § 226.7 and Wage Order No. 8-2001. Crystal Creamery failed to authorize and permit their employees to take required rest periods. Specifically, Crystal Creamery maintained a policy or practice of not authorizing and permitting Mr. Giesbrecht and other aggrieved employees to take one 10-minute rest break for shifts 3.5-6.0 hours, a second rest break for shifts greater than 6 hours and less than or equal to 10 hours, and a third rest break for shifts in excess of 10 hours. Crystal Creamery consistently failed to authorize and permit Mr. Giesbrecht and other similarly-situated individual to take rest breaks because Mr. Giesbrecht and other similarly-situated individuals were given too much work to perform to take rest breaks. When Mr. Giesbrecht and other aggrieved employees were able to take rest breaks, Crystal Creamery failed to authorize and permit Mr. Giesbrecht and other aggrieved employees to take their rest breaks in the middle of each work period insofar as practicable.

Crystal Creamery further violated Labor Code § 226.7 and Wage Order No. 8-2001, § 12 by failing to pay Mr. Giesbrecht and other aggrieved employees one additional hour of pay at each employee’s regular rate of compensation for each workday a rest period was not authorized and permitted.

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Failure to Pay Minimum Wages

Pursuant to Labor Code §§ 1194 and 1197 and Wage Order No. 8-2001, § 4, payment to an employee of less than the applicable minimum wage for all hours worked in a payroll period is unlawful.

Mr. Giesbrecht and other aggrieved employees are current and former non-exempt employees and are entitled to the protections of Labor Code §§ 1194 and 1197 and Wage Order No. 8-2001, § 4. Crystal Creamery failed to pay Mr. Giesbrecht and other aggrieved employees minimum wages for all hours worked by, among other things: requiring, suffering or permitting Mr. Giesbrecht and other similarly-situated individuals to work off-the-clock, including requiring Mr. Giesbrecht and other similarly-situated individuals to don their uniform before clocking in for their scheduled shifts; requiring, suffering or permitting Mr. Giesbrecht and other aggrieved employees to work through their meal breaks but not compensating them for this time; illegally and inaccurately recording time worked by Mr. Giesbrecht and other aggrieved employees; failing to properly maintain Mr. Giesbrecht's and other aggrieved employees' records; failing to provide accurate itemized wage statements to Mr. Giesbrecht and other aggrieved employees for each pay period; and other methods to be discovered.

Crystal Creamery's conduct violates Labor Code §§ 1194 and 1197 and Wage Order No. 8-2001, § 4.

Failure to Pay Overtime Wages

Pursuant to California Labor Code §§ 510 and 1194 and Wage Order No. 8-2001, § 3, an employer must compensate its employees for all overtime, which is calculated at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the first eight (8) hours on the seventh consecutive work day, with double time for all hours worked in excess of eight (8) hours on the seventh day of any workweek, or after twelve (12) hours in any workday.

Mr. Giesbrecht and other aggrieved employees are current and former non-exempt employees and are entitled to the protections of Labor Code §§ 510 and 1194 and Wage Order No. 8-2001. Crystal Creamery failed to compensate Mr. Giesbrecht and other aggrieved employees for all overtime hours worked as required under the foregoing provisions of the Labor Code and IWC Wage Order by, among other things: failing to pay overtime at one and one-half (1 ½) times or double the regular rate of pay as provided by Labor Code §§ 510 and 1194 and Wage Order No. 8-2001, § 3, including but not limited to failing to include all remuneration in the calculation of the regular rate of pay for overtime purposes; requiring, suffering or permitting Mr. Giesbrecht and other aggrieved employees to work off-the-clock, including requiring Mr. Giesbrecht and other similarly-situated individuals to don their uniform before clocking in for their scheduled shifts; requiring, suffering or permitting Mr. Giesbrecht and other aggrieved employees to work through meal periods but not compensating them for this time; illegally and inaccurately recording time worked by Mr. Giesbrecht and other aggrieved employees; failing to properly maintain Mr. Giesbrecht's and other aggrieved employees' records through falsifying hours worked; failing to

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provide accurate itemized statements to Mr. Giesbrecht and other aggrieved employees for each pay period; and other methods to be discovered.

In violation of California law, Crystal Creamery has refused to perform its obligations to compensate Mr. Giesbrecht and other aggrieved employees for all wages earned and all hours worked. Crystal Creamery's conduct violates Labor Code §§ 510 and 1194 and Wage Order No. 8-2001, § 3.

Failure to Timely Pay All Wages Earned

Pursuant to Labor Code § 204, an employer must pay its employees at least twice a month for all wages earned during the preceding pay period. Labor Code § 204 provides that labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. An employer using an alternate payday schedule must pay wages within seven calendar days of the end of the payroll period in which the wages were earned.

Crystal Creamery failed to pay Mr. Giesbrecht and other aggrieved employees on their regularly scheduled payday for all work performed during the preceding pay period. Specifically, Crystal Creamery required Mr. Giesbrecht and other aggrieved employees to work off-the-clock without compensation, including requiring Mr. Giesbrecht and other similarly-situated individuals to don their uniform before clocking in for their scheduled shifts, and required Mr. Giesbrecht and other aggrieved employees to work through required meal breaks without compensation. Additionally, Crystal Creamery failed to pay Mr. Giesbrecht and other aggrieved employees premium wages owed for each workday a meal period was not provided and each workday a rest period was not authorized and permitted.

Crystal Creamery also failed to pay Mr. Giesbrecht and other aggrieved employees for the overtime wages they earned in violation of Labor Code § 204. Labor Code § 204 requires an employer to pay overtime wages no later than the payday for the next regular payroll period following the payroll period in which the overtime wages were earned. Crystal Creamery knew it was required to pay overtime wages, yet on many occasions failed to pay Mr. Giesbrecht and other aggrieved employees overtime wages on any payday.

Failure to Pay All Wages Due Upon Separation

Pursuant to Labor Code § 201, 202 and 203, an employer is required to pay all earned and unpaid wages to an employee upon separation. Labor Code § 201 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid at the time of discharge are due and payable immediately. Pursuant to Labor Code § 202, an employer is required to pay all accrued wages due to an employee no later than 72 hours after the employee quits his or her employment, unless the employee provided 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.

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Labor Code § 203 provides that if an employer willfully fails to pay, in accordance with Labor Code §§ 201 and 202, any wages of an employee who is discharged or who quits, the employer is liable for waiting time penalties in the form of continued compensation to the employee at the same rate for up to thirty (30) days.

Crystal Creamery willfully failed to pay accrued wages and other compensation to Mr. Giesbrecht and other aggrieved employees in accordance with Labor Code §§ 201 and 202. Because Crystal Creamery required Mr. Giesbrecht and other aggrieved employees to work off-the-clock without compensation and through required meal breaks without compensation and failed to pay Mr. Giesbrecht and other aggrieved employees the proper premium wages for all meal periods which were not provided and all rest periods which were not authorized or permitted, Crystal Creamery failed and continues to fail to pay the full earned and unpaid wages due to Mr. Giesbrecht and other aggrieved employees upon separation.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226 requires every employer to furnish each of its employees an accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

Crystal Creamery failed to provide Mr. Giesbrecht and other aggrieved employees with timely and accurate itemized wage statements in writing showing each employee's gross wages earned, total hours worked, the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, all deductions made, net wages earned, the inclusive dates of the period for which the employee is paid, the name and address of the legal entity or entities employing Mr. Giesbrecht and other aggrieved employees, and all applicable hourly rates in effect during each pay period and the corresponding number of hours worked at each hourly rate, in violation of Labor Code § 226 and Wage Order No. 8-2001, § 7.

Specifically, Crystal Creamery had knowledge it was not providing employees with proper meal and rest breaks; nevertheless, Crystal Creamery knowingly failed to include in the wage statements the extra hour of compensation at the regular rate of pay owed for each workday a meal break was not provided and each workday a rest break was not authorized and permitted. As a result, Mr. Giesbrecht and other aggrieved employees lost wages. In addition, Crystal Creamery had knowledge it was requiring employees to work off-the-clock and were not properly compensating their employees for all hours worked, yet Crystal Creamery knowingly failed to include this time worked in the wage statements. As a result, Mr. Giesbrecht and other aggrieved employees lost wages. Crystal Creamery also did not properly calculate the regular rate of pay of

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Mr. Giesbrecht and other aggrieved employees. As a result, Mr. Giesbrecht's and other aggrieved employees' wage statements did not include all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate.

Failure to Maintain Required Records

Crystal Creamery failed to maintain records as required under Labor Code §§ 226 and 1174 and Wage Order No. 8-2001, § 7, including but not limited to the following records: total daily hours worked by each employee; applicable rates of pay; all deductions; meal periods; time records showing when each employee begins and ends each work period; and accurate itemized statements.

Specifically, Crystal Creamery had knowledge it was not providing employees with proper meal and rest breaks; nevertheless, Crystal Creamery knowingly failed to include in the wage statements the extra hour of compensation at the regular rate of pay owed for each workday a meal break was not provided and each workday a rest break was not authorized and permitted. In addition, Crystal Creamery had knowledge it was requiring employees to work off-the-clock and were not properly compensating their employees for all hours worked, yet Crystal Creamery knowingly failed to include this time worked in the regular rate of pay of aggrieved employees.

Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties

Labor Code § 2802(a) requires an employer to indemnify an employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of her his or her duties, or of his or her obedience to the directions of the employer. Crystal Creamery failed to indemnify Mr. Giesbrecht and other aggrieved employees for all business expenses and/or losses incurred in direct consequence of the discharge of their duties while working under the direction of Crystal Creamery, including but not limited to expenses for uniforms, tools, safety equipment, boots, and other employment-related expenses, in violation of Labor Code § 2802.

This notice is hereby given to Crystal Creamery and any and all related and/or alter ego companies, corporations, partnerships, and/or business entities, as well as against any and all officers, owners, directors, managers, managing agents, or entities who are or may be liable under California law for any of the violations alleged herein as to any locations or employees who worked at any time in the State of California.

This notice is made on behalf of all persons who are, were, or will be non-exempt employees of Crystal Creamery, or any related or alter-ego company, corporation, partnership, and/or business entity at any time on or after a date four years prior to the date of this letter in the State of California.

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This notice shall be construed as extending without limitation to any past, present, future, or continuing violation of the Labor Code, the applicable IWC Wage Order, or any applicable regulation which might be discovered as a result of a reasonable and diligent investigation made pursuant to this notice.

This notice shall further represent Mr. Giesbrecht's reasonable attempt to settle his dispute with Crystal Creamery prior to litigation. Pursuant to *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to apprise Crystal Creamery of Mr. Giesbrecht's aforementioned grievances and the proposed remedies as detailed below, while affording Crystal Creamery reasonable opportunity to meet Mr. Giesbrecht's demands.

Demand is hereby made that Crystal Creamery shall agree, in writing received at this office no later than 30 calendar days from the postmark date of this notice, as follows:

1. Crystal Creamery shall pay Mr. Giesbrecht and all other similarly-situated persons employed by Crystal Creamery at any time during the past 48 months back pay and compensation for the above-referenced violations.

2. Crystal Creamery shall comply with all California labor laws and ensure that its non-exempt employees are paid proper overtime compensation and given required meal and rest periods.

3. Crystal Creamery shall conduct a survey or interview all current and former non-exempt employees in California during the past 48 months to obtain information from them regarding the number of meal breaks which were not provided, the number of rest breaks which were not authorized and permitted, and the number of employees who were required to pay for uniforms, or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.

4. Crystal Creamery shall pay each employee one hour of pay for each workday he or she was not authorized and permitted one or more rest periods, as required by Labor Code § 226.7. Crystal Creamery also shall pay each employee one hour of pay for each workday he or she was not provided one or more and meal periods, as required by Labor Code § 226.7.

5. Crystal Creamery shall reimburse those employees who were forced to pay for any business expenses incurred for Crystal Creamery's benefit, including but not limited to uniforms, tools, safety equipment, and boots.

6. Crystal Creamery shall pay waiting time penalties, equal to thirty days of pay, to each former employee who was not paid all wages due as described herein.

7. Crystal Creamery shall pay accrued interest to all employees at the rate of ten percent per annum for said unpaid wages.

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8. Crystal Creamery shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code § 2698 *et seq.*, including but not limited to penalties under Labor Code §§ 206.5, 210, 225.5, 226.3, 558, 1174.5, 1182.12, 1197.1, 1198, 1199 and 2699 and Wage Order No. 8-2001, § 20.

If the Labor and Workforce Development Agency intends to investigate the allegations set forth herein, please notify this office of that decision by certified mail addressed to Matern Law Group, PC, 1230 Rosecrans Avenue, Suite 200, Manhattan Beach, California 90266. Additionally, please advise us if the LWDA or Crystal Creamery require additional information regarding Mr. Giesbrecht's allegations.

Thank you for your prompt attention to this matter.

Very truly yours,

MATERN LAW GROUP, PC

A handwritten signature in dark ink, appearing to read 'Max N. Sloves', with a long horizontal flourish extending to the right.

Max N. Sloves, Esq.

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Attorneys for Plaintiff
RYAN GIESBRECHT, individually and on
behalf of all others similarly situated

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

RYAN GIESBRECHT, an individual, on
behalf of himself and all others similarly
situated,

Plaintiff,

vs.

FOSTER DAIRY FARMS dba CRYSTAL
CREAMERY, a California corporation; and
DOES 1 through 50, inclusive,

Defendants.

CASE NO.:

CLASS ACTION

[DRAFT] COMPLAINT

1. Failure to Provide Required Meal Periods
2. Failure to Provide Required Rest Periods
3. Failure to Pay Overtime Wages
4. Failure to Pay Minimum Wages
5. Failure to Pay All Wages Due to Discharged and Quitting Employees
6. Failure to Furnish Accurate Itemized Wage Statements
7. Failure to Maintain Required Records
8. Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties
9. Unfair and Unlawful Business Practices

REPRESENTATIVE ACTION:

10. Penalties under the Labor Code Private Attorneys General Act, as Representative Action

DEMAND FOR JURY TRIAL

1 **INTRODUCTION**

2 Plaintiff RYAN GIESBRECHT (“PLAINTIFF”), an individual, demanding a jury trial, on
3 behalf of himself and all other persons similarly situated, hereby alleges as follows:

4 **JURISDICTION AND VENUE**

5 1. The Superior Court of the State of California has jurisdiction in this matter because
6 PLAINTIFF is a resident of the State of California, and defendants FOSTER DAIRY FARMS dba
7 CRYSTAL CREAMERY, a California Corporation (“CRYSTAL CREAMERY”) and DOES 1
8 through 50 inclusive (collectively “DEFENDANTS”), are qualified to do business in California
9 and regularly conduct business in California. Further, no federal question is at issue because the
10 claims are based solely on California law.

11 2. Venue is proper in this judicial district and the County of Stanislaus, California,
12 because PLAINTIFF, and other persons similarly situated, performed work for DEFENDANTS
13 in the County of Stanislaus, DEFENDANTS maintain offices and facilities and transact business
14 in the County of Stanislaus, and because DEFENDANTS’ illegal payroll policies and practices
15 which are the subject of this action were applied, at least in part, to PLAINTIFF, and other
16 persons similarly situated, in the County of Stanislaus.

17 **PARTIES**

18 3. PLAINTIFF is a resident and citizen of the State of California and a former
19 employee of DEFENDANTS during the relevant time period.

20 4. PLAINTIFF, on behalf of himself and other similarly situated current and former
21 non-exempt employees of DEFENDANTS in the State of California at any time during the four
22 years preceding the filing of this action, and continuing while this action is pending, brings this
23 class action to recover, among other things, wages and penalties from unpaid wages earned and
24 due, including but not limited to unpaid minimum wages, unpaid and illegally calculated overtime
25 compensation, illegal meal and rest period policies, failure to pay all wages due to discharged and
26 quitting employees, failure to indemnify employees for necessary expenditures and/or losses
27 incurred in discharging their duties, failure to provide accurate itemized wage statements, failure
28 to maintain required records, and interest, attorneys’ fees, costs, and expenses.

1 5. PLAINTIFF brings this action on behalf of himself and the following similarly
2 situated class of individual (“CLASS MEMBERS”): all current and former non-exempt
3 employees of DEFENDANTS in the State of California at any time within the period
4 beginning four (4) years prior to the filing of this action and ending at the time this action
5 settles or the class is certified (the “CLASS PERIOD”). PLAINTIFF reserves the right to
6 name additional class representatives.

7 6. PLAINTIFF is informed and believes, and thereon alleges, that defendant
8 CRYSTAL CREAMERY, is, and at all times relevant hereto was, a California corporation.
9 PLAINTIFF is further informed and believes, and thereon alleges, that defendant CRYSTAL
10 CREAMERY, is authorized to conduct business in the State of California, and does conduct
11 business in the State of California. Specifically, defendant CRYSTAL CREAMERY, maintains
12 offices and facilities and conducts business in, and engages in illegal payroll practices or policies
13 in, the County of Stanislaus, State of California.

14 7. The true names and capacities of DOES 1 through 50, inclusive, are unknown to
15 PLAINTIFF at this time, and PLAINTIFF therefore sues such DOE defendants under fictitious
16 names. PLAINTIFF is informed and believes, and thereon alleges, that each defendant
17 designated as a DOE is in some manner highly responsible for the occurrences alleged herein, and
18 that PLAINTIFF and CLASS MEMBERS’ injuries and damages, as alleged herein, were
19 proximately caused by the conduct of such DOE defendants. PLAINTIFF will seek leave of the
20 court to amend this Complaint to allege their true names and capacities of such DOE defendants
21 when ascertained.

22 8. At all relevant times herein, DEFENDANTS were the joint employers of
23 PLAINTIFF and CLASS MEMBERS. PLAINTIFF is informed and believes, and thereon alleges,
24 that at all times material to this complaint DEFENDANTS were the alter egos, divisions,
25 affiliates, integrated enterprises, joint employers, subsidiaries, parents, principals, related entities,
26 co-conspirators, authorized agents, partners, joint venturers, and/or guarantors, actual or
27 ostensible, of each other. Each defendant was completely dominated by his, her or its co-
28 defendant, and each was the alter ego of the other.

1 9. At all relevant times herein, PLAINTIFF and CLASS MEMBERS were employed
2 by DEFENDANTS under employment agreements that were partly written, partly oral, and partly
3 implied. In perpetrating the acts and omissions alleged herein, DEFENDANTS, and each of them,
4 acted pursuant to, and in furtherance of, their policies and practices of not paying PLAINTIFF
5 and CLASS MEMBERS all wages earned and due, through methods and schemes which include,
6 but are not limited to, failing to pay overtime premiums; failing to provide rest and meal periods;
7 failing to properly maintain records; failing to provide accurate itemized statements for each pay
8 period; failing to properly compensate PLAINTIFF and CLASS MEMBERS for necessary
9 expenditures; and requiring, permitting or suffering the employees to work off the clock, in
10 violation of the California Labor Code and the applicable Welfare Commission ("IWC") Orders.

11 10. PLAINTIFF is informed and believes, and thereon allege, that each and every one
12 of the acts and omissions alleged herein were performed by, and/or attributable to, all
13 DEFENDANTS, each acting as agents and/or employees, and/or under the direction and control
14 of, each of the other DEFENDANTS, and that said acts and failures to act were within the course
15 and scope of said agency, employment and/or direction and control.

16 11. Pursuant to California Labor Code § 558.1, DEFENDANTS and any person acting
17 on behalf of any of the DEFENDANTS, are liable for violating, or causing to violate, any
18 provision regulating minimum wages or hours and days of work in any order of the Industrial
19 Welfare Commission, or Labor Code §§ 203, 226, 226.7, 1193.6, 1194, or 2802.

20 12. As a direct and proximate result of the unlawful actions of DEFENDANTS,
21 PLAINTIFF and CLASS MEMBERS have suffered, and continue to suffer, from loss of earnings
22 in amounts as yet unascertained, but subject to proof at trial, and within the jurisdiction of this
23 Court.

24 **CLASS ACTION ALLEGATIONS**

25 13. This action is appropriately suited for a Class Action because:

26 a. The potential class is a significant number. Joinder of all current and
27 former employees individually would be impractical.
28

1 b. This action involves common questions of law and fact to the potential
2 class because the action focuses on DEFENDANTS' systematic course of illegal payroll practices
3 and policies, which was applied to all non-exempt employees in violation of the Labor Code, the
4 applicable IWC wage order, and the Business and Professions Code which prohibits unfair
5 business practices arising from such violations.

6 c. The claims of PLAINTIFF are typical of the class because DEFENDANTS
7 subjected all non-exempt employees to identical violations of the Labor Code, the applicable
8 IWC wage order, and the Business and Professions Code.

9 d. PLAINTIFF is able to fairly and adequately protect the interests of all
10 members of the class because it is in his best interests to prosecute the claims alleged herein to
11 obtain full compensation due to them for all services rendered and hours worked.

12 **FIRST CAUSE OF ACTION**

13 **Failure to Provide Required Meal Periods**

14 **[Cal. Labor Code §§ 226.7, 510, 512, 1194, 1197; IWC Wage Order No. 8-2001, § 11]**

15 **(Against DEFENDANTS)**

16 14. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
17 allegations in the foregoing paragraphs.

18 15. During the CLASS PERIOD, as part of DEFENDANTS' illegal payroll policies
19 and practices to deprive their non-exempt employees all wages earned and due, DEFENDANTS
20 required, permitted or otherwise suffered PLAINTIFF and CLASS MEMBERS to take less than
21 the 30-minute meal period, or to work through them, and have failed to otherwise provide the
22 required meal periods to PLAINTIFF and CLASS MEMBERS pursuant to California Labor Code
23 § 226.7, 512 and IWC Order No. 8-2001, § 11.

24 16. DEFENDANTS further violated California Labor Code §§ 226.7 and IWC Wage
25 Order No. 8-2001, § 11 by failing to compensate PLAINTIFF and CLASS MEMBERS who were
26 not provided with a meal period, in accordance with the applicable wage order, one additional
27 hour of compensation at each employee's regular rate of pay for each workday that a meal period
28 was not provided.

17. DEFENDANTS further violated California Labor Code §§ 226.7, 510, 1194, 1197, and IWC Wage Order No. 8-2001 by failing to compensate PLAINTIFF and CLASS MEMBERS for all hours worked during their meal periods.

18. As a proximate result of the aforementioned violations, PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to proof at trial, and seek all wages earned and due, interest, penalties, expenses, and costs of suit.

SECOND CAUSE OF ACTION

Failure to Provide Required Rest Periods

[Cal. Labor Code §§ 226.7, 512; IWC Wage Order No. 8-2001, § 12]

(Against DEFENDANTS)

19. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the allegations in the foregoing paragraphs.

20. At all times relevant herein, as part of DEFENDANTS' illegal payroll policies and practices to deprive their non-exempt employees all wages earned and due, DEFENDANTS failed to provide rest periods to PLAINTIFF and CLASS MEMBERS as required under California Labor Code §§ 226.7 and 512, and IWC Wage Order No. 8-2001, § 12.

21. DEFENDANTS further violated California Labor Code § 226.7 and IWC Wage Order No. 8-2001, § 12 by failing to pay PLAINTIFF and CLASS MEMBERS who were not provided with a rest period, in accordance with the applicable wage order, one additional hour of compensation at each employee's regular rate of pay for each workday that a rest period was not provided.

22. As a proximate result of the aforementioned violations, PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to proof at trial, and seek all wages earned and due, interest, penalties, expenses, and costs of suit.

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1 **THIRD CAUSE OF ACTION**

2 **Failure to Pay Overtime Wages**

3 **[Cal. Labor Code §§ 510, 1194, 1198; IWC Wage Order No. 8-2001, § 3]**

4 **(Against DEFENDANTS)**

5 23. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
6 allegations in the foregoing paragraphs.

7 24. Pursuant to California Labor Code §§ 510, 1194, and IWC Wage Order No. 8-
8 2001, § 3, DEFENDANTS are required to compensate PLAINTIFF and CLASS MEMBERS for
9 all overtime, which is calculated at one and one-half (1 ½) times the regular rate of pay for all
10 hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the
11 first eight (8) hours on the seventh consecutive workday, with double time for all hours worked in
12 excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours
13 on the seventh consecutive day of work in any workweek.

14 25. PLAINTIFF and CLASS MEMBERS are current and former non-exempt
15 employees entitled to the protections of California Labor Code §§ 510, 1194, and IWC Wage
16 Order No. 8-2001. During the CLASS PERIOD, DEFENDANTS failed to compensate
17 PLAINTIFF and CLASS MEMBERS for all overtime hours worked as required under the
18 foregoing provisions of the California Labor Code and IWC Wage Order by, among other things:
19 failing to pay overtime at one and one-half (1 ½) or double the regular rate of pay as provided by
20 California Labor Code §§ 510, 1194, and IWC Wage Order No. 8-2001, § 3; requiring, permitting
21 or suffering PLAINTIFF and CLASS MEMBERS to work off the clock; requiring, permitting or
22 suffering PLAINTIFF and CLASS MEMBERS to work through meal and rest breaks; illegally
23 and inaccurately recording time in which PLAINTIFF and CLASS MEMBERS worked; failing to
24 properly maintain PLAINTIFF's and CLASS MEMBERS' records; failing to provide accurate
25 itemized wage statements to PLAINTIFF for each pay period; and other methods to be
26 discovered.

27 26. In violation of California law, DEFENDANTS have knowingly and willfully
28 refused to perform their obligations to compensate PLAINTIFF and CLASS MEMBERS for all

1 wages earned and all hours worked. As a proximate result, PLAINTIFF and CLASS MEMBERS
2 have suffered, and continue to suffer, substantial losses related to the use and enjoyment of such
3 wages, lost interest on such wages, and expenses and attorneys' fees in seeking to compel
4 DEFENDANTS to fully perform their obligations under state law, all to their respective damages
5 in amounts according to proof at time of trial, and within the jurisdiction of this Court.

6 27. DEFENDANTS' conduct described herein violates California Labor Code §§ 510,
7 1194, 1198 and IWC Wage Order No. 8-2001, § 3. Therefore, pursuant to California Labor Code
8 §§ 200, 203, 226, 558, 1194, 1197.1, and other applicable provisions under the California Labor
9 Code and IWC Wage Orders, PLAINTIFF and CLASS MEMBERS are entitled to recover the
10 unpaid balance of wages owed to them by DEFENDANTS, plus interest, penalties, attorneys'
11 fees, expenses, and costs of suit.

12 **FOURTH CAUSE OF ACTION**

13 **Failure to Pay Minimum Wages**

14 **[Cal Labor Code §§ 1194, 1197; IWC Wage Order No. 8-2001, § 4]**

15 **(Against DEFENDANTS)**

16 28. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
17 allegations in the foregoing paragraphs.

18 29. Pursuant to California Labor Code §§ 1194, 1197, and IWC Wage Order No. 8-
19 2001, § 4, payment to an employee of less than the applicable minimum wage for all hours
20 worked in a payroll period is unlawful.

21 30. During the CLASS PERIOD, DEFENDANTS failed to pay PLAINTIFF and
22 CLASS MEMBERS minimum wages for all hours worked by, among other things: requiring,
23 permitting or suffering PLAINTIFF and CLASS MEMBERS to work off the clock; requiring,
24 permitting or suffering PLAINTIFF and CLASS MEMBERS to work through meal and rest
25 breaks; illegally and inaccurately recording time in which PLAINTIFF and CLASS MEMBERS
26 worked; failing to properly maintain PLAINTIFF's and CLASS MEMBERS' records; failing to
27 provide accurate itemized wage statements to PLAINTIFF and CLASS MEMBERS for each pay
28 period; and other methods to be discovered.

1 31. DEFENDANTS' conduct described herein violates California Labor Code §§
2 1194, 1197, and IWC Wage Order No. 8-2001, § 4. As a proximate result of the aforementioned
3 violations, PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to
4 proof at trial. Therefore, pursuant to California Labor Code §§ 200, 203, 226, 558, 1194, 1197.1,
5 and other applicable provisions under the Labor Code and IWC Wage Orders, PLAINTIFF and
6 CLASS MEMBERS are entitled to recover the unpaid balance of wages owed to them by
7 DEFENDANTS, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

8 **FIFTH CAUSE OF ACTION**

9 **Failure to Pay All Wages Due to Discharged and Quitting Employees**

10 **[Cal. Labor Code §§ 201, 202, 203]**

11 **(Against DEFENDANTS)**

12 32. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
13 allegations in the foregoing paragraphs.

14 33. Pursuant to California Labor Code § 201, 202, and 203, DEFENDANTS are
15 required to pay all earned and unpaid wages to an employee who is discharged. California Labor
16 Code § 201 mandates that if an employer discharges an employee, the employee's wages accrued
17 and unpaid at the time of discharge are due and payable immediately.

18 34. Furthermore, pursuant to California Labor Code § 202, DEFENDANTS are
19 required to pay all accrued wages due to an employee no later than 72 hours after the employee
20 quits his or her employment, unless the employee provided 72 hours previous notice of his or her
21 intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

22 35. California Labor Code § 203 provides that if an employer willfully fails to pay, in
23 accordance with California Labor Code §§ 201 and 202, any wages of an employee who is
24 discharged or who quits, the employer is liable for waiting time penalties in the form of continued
25 compensation to the employee at the same rate for up to 30 workdays.

26 36. During the CLASS PERIOD, DEFENDANTS have willfully failed to pay accrued
27 wages and other compensation to PLAINTIFF and CLASS MEMBERS in accordance with
28 California Labor Code §§ 201 and 202.

37. As a result, PLAINTIFF and CLASS MEMBERS are entitled to all available statutory penalties, including the waiting time penalties provided in California Labor Code § 203, together with interest thereon, as well as other available remedies.

38. As a proximate result of DEFENDANTS' unlawful actions and omissions, PLAINTIFF and CLASS MEMBERS have been deprived of compensation in an amount according to proof at the time of trial, but in excess of the jurisdiction of this Court, and are entitled to recovery of such amounts, plus interest thereon, and attorneys' fees and costs, pursuant to California Labor Code §§ 1194 and 2699.

SIXTH CAUSE OF ACTION

Failure to Furnish Accurate Itemized Wage Statements

[Cal. Labor Code §§ 226; IWC Wage Order No. 8-2001, § 7]

(Against DEFENDANTS)

39. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the allegations in the foregoing paragraphs.

40. During the CLASS PERIOD, DEFENDANTS routinely failed to provide PLAINTIFF and CLASS MEMBERS with timely, accurate, and itemized wage statements in writing showing each employee's gross wages earned, total hours worked, the number of piece-rate units earned and any applicable piece rate, all deductions made, net wages earned, the name and address of the legal entity or entities employing PLAINTIFF and CLASS MEMBERS, the inclusive dates of the period for which the employee is paid, only the last four digits of the employees social security number or an employee identification number other than a social security number, and all applicable hourly rates in effect during each pay period and the corresponding number of hours worked at each hourly rate, in violation of California Labor Code § 226 and IWC Wage Order No. 8-2001, § 7.

41. During the CLASS PERIOD, DEFENDANTS knowingly and intentionally failed to provide PLAINTIFF and CLASS MEMBERS with timely, accurate, and itemized wage statements in accordance with California Labor Code § 226(a).

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1 42. As a proximate result of DEFENDANTS' unlawful actions and omissions,
2 PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to proof at
3 trial, and seek all wages earned and due, plus interest thereon. Additionally, PLAINTIFF and
4 CLASS MEMBERS are entitled to all available statutory penalties, including but not limited to
5 civil penalties pursuant to California Labor Code §§ 226(e), 226.3, and 1174.5, and an award of
6 costs, expenses, and reasonable attorneys' fees, including but not limited to those provided in
7 California Labor Code § 226(e), as well as other available remedies.

8 **SEVENTH CAUSE OF ACTION**

9 **Failure to Maintain Required Records**

10 **[Cal. Labor Code §§ 226, 1174; IWC Wage Order No. 8-2001, § 7]**

11 **(Against DEFENDANTS)**

12 43. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
13 allegations in the foregoing paragraphs.

14 44. During the CLASS PERIOD, as part of DEFENDANTS' illegal payroll policies
15 and practices to deprive PLAINTIFF and CLASS MEMBERS of all wages earned and due,
16 DEFENDANTS knowingly and intentionally failed to maintain records as required under
17 California Labor Code §§ 226, 1174, and IWC Wage Order No. 8-2001, § 7, including but not
18 limited to the following records: total daily hours worked by each employee; applicable rates of
19 pay; all deductions; meal periods; time records showing when each employee begins and ends
20 each work period; and accurate itemized statements.

21 45. As a proximate result of DEFENDANTS' unlawful actions and omissions,
22 PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to proof at
23 trial, and are entitled to all wages earned and due, plus interest thereon. Additionally,
24 PLAINTIFF and CLASS MEMBERS are entitled to all available statutory penalties, including
25 but not limited to civil penalties pursuant to California Labor Code §§ 226(e), 226.3, and 1174.5,
26 and an award of costs, expenses, and reasonable attorneys' fees, including but not limited to those
27 provided in California Labor Code § 226(e), as well as other available remedies.

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1 **EIGHTH CAUSE OF ACTION**

2 **Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of**
3 **Duties**

4 **[Cal. Labor Code § 2802]**

5 **(Against DEFENDANTS)**

6 46. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
7 allegations in the foregoing paragraphs.

8 47. California Labor Code § 2802(a) requires an employer to indemnify an employee
9 for all necessary expenditures or losses incurred by the employee in direct consequence of the
10 discharge of his or her duties, or of his or her obedience to the directions of the employer.

11 48. During the CLASS PERIOD, DEFENDANTS knowingly and willfully failed to
12 indemnify PLAINTIFF and CLASS MEMBERS for all business expenses and/or losses incurred
13 in direct consequence of the discharge of their duties while working under the direction of
14 DEFENDANTS, including but not limited to expenses for tools, uniforms, safety equipment,
15 boots, and other employment-related expenses, in violation of California Labor Code § 2802.

16 49. As a proximate result of DEFENDANTS' unlawful actions and omissions,
17 PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to proof at
18 trial, and seek reimbursement of all necessary expenditures, plus interest thereon pursuant to
19 California Labor Code § 2802(b). Additionally, PLAINTIFF and CLASS MEMBERS are
20 entitled to all available statutory penalties and an award of costs, expenses, and reasonable
21 attorneys' fees, including those provided in California Labor Code § 2802(c), as well as other
22 available remedies.

23 **NINTH CAUSE OF ACTION**

24 **Unfair and Unlawful Business Practices**

25 **[Cal. Bus. & Prof. Code §§ 17200 et. seq.]**

26 **(Against DEFENDANTS)**

27 50. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
28 allegations in the foregoing paragraphs.

1 51. Each and every one of DEFENDANTS' acts and omissions in violation of the
2 California Labor Code and/or the applicable IWC Wage Order as alleged herein, including but
3 not limited to DEFENDANTS' failure and refusal to provide required meal periods,
4 DEFENDANTS' failure and refusal to provide required rest periods, DEFENDANTS' failure and
5 refusal to pay overtime compensation, DEFENDANTS' failure and refusal to pay minimum
6 wages, DEFENDANTS' failure and refusal to pay all wages due to discharged or quitting
7 employees, DEFENDANTS' failure and refusal to furnish accurate itemized wage statements;
8 DEFENDANTS' failure and refusal to maintain required records, DEFENDANTS' failure and
9 refusal to indemnify PLAINTIFF and CLASS MEMBERS for necessary expenditures and/or
10 losses incurring in discharging their duties, constitutes an unfair and unlawful business practice
11 under California Business and Professions Code § 17200 et seq.

12 52. DEFENDANTS' violations of California wage and hour laws constitute a business
13 practice because DEFENDANTS' aforementioned acts and omissions were done repeatedly over
14 a significant period of time, and in a systematic manner, to the detriment of PLAINTIFF and
15 CLASS MEMBERS.

16 53. DEFENDANTS have avoided payment of wages, overtime wages, meal periods,
17 rest periods, and other benefits as required by the California Labor Code, the California Code of
18 Regulations, and the applicable IWC Wage Order. Further, DEFENDANTS have failed to
19 record, report, and pay the correct sums of assessment to the state authorities under the California
20 Labor Code and other applicable regulations.

21 54. As a result of DEFENDANTS' unfair and unlawful business practices,
22 DEFENDANTS have reaped unfair and illegal profits during the CLASS PERIOD at the expense
23 of PLAINTIFF, CLASS MEMBERS, and members of the public. DEFENDANTS should be
24 made to disgorge their ill-gotten gains and to restore them to PLAINTIFF and CLASS
25 MEMBERS.

26 55. DEFENDANTS' unfair and unlawful business practices entitle PLAINTIFF and
27 CLASS MEMBERS to seek preliminary and permanent injunctive relief, including but not
28 limited to orders that DEFENDANTS account for, disgorge, and restore to PLAINTIFF and

1 CLASS MEMBERS the wages and other compensation unlawfully withheld from them.
2 PLAINTIFF and CLASS MEMBERS are entitled to restitution of all monies to be disgorged
3 from DEFENDANTS in an amount according to proof at the time of trial, but in excess of the
4 jurisdiction of this Court.

5 **TENTH CAUSE OF ACTION**

6 **Representative Action for Civil Penalties**

7 **[Cal. Labor Code §§ 2698–2699.5]**

8 **(Against DEFENDANTS)**

9 56. PLAINTIFF incorporates herein by specific reference as though fully set forth the
10 allegations in all preceding paragraphs, with exception of the allegations in paragraph 16 and the
11 subparagraphs thereto.

12 57. PLAINTIFF is an “aggrieved employee” within the meaning of California Labor
13 Code § 2699(c), and a proper representative to bring a civil action on behalf of himself and other
14 current and former employees of DEFENDANTS pursuant to the procedures specified in
15 California Labor Code § 2699.3, because PLAINTIFF was employed by DEFENDANTS and one
16 or more of the alleged violations of the California Labor Code was committed against
17 PLAINTIFF.

18 58. Pursuant to the California Private Attorneys General Act of 2004 (“PAGA”),
19 Labor Code §§ 2698–2699.5, PLAINTIFF seeks to recover civil penalties, including but not
20 limited to penalties under California Labor Code §§ 2699, 210, 226.3, 558, 1174.5, 1197.1, and
21 IWC Wage Order No. 8-2001, § 20, from DEFENDANTS in a representative action for the
22 violations set forth above committed against himself and other aggrieved employees of
23 DEFENDANTS, including but not limited to violations of California Labor Code §§ 201, 202,
24 203, 204, 226, 226.7, 510, 512, 1174, 1194, 1197, 1198, and 2802. PLAINTIFF is entitled to an
25 award of reasonable attorneys’ fees and costs pursuant to California Labor Code § 2699(g)(1).

26 59. Pursuant to California Labor Code §§ 2699.3, PLAINTIFF gave written notice on
27 June 30, 2023 by online filing to the California Labor and Workforce Development Agency
28 (“LWDA”) and by certified mail to DEFENDANTS of the specific provisions of the California

1 Labor Code and IWC Wage Orders alleged to have been violated, including the facts and theories
2 to support the alleged violations. More than sixty-five (65) days have passed and the LWDA has
3 not provided notice to PLAINTIFF that it intends to investigate the alleged violations.

4 60. Therefore, PLAINTIFF has complied with all of the requirements set forth in
5 California Labor Code § 2699.3 to commence a representative action under PAGA.

6 **PRAYER FOR RELIEF**

7 **WHEREFORE**, PLAINTIFF, individually and on behalf of all other persons similarly
8 situated, respectfully prays for relief against defendants CRYSTAL CREAMERY and DOES 1
9 through 50, inclusive, and each of them, as follows:

- 10 1. For compensatory damages in an amount to be ascertained at trial;
- 11 2. For restitution of all monies due to PLAINTIFF and CLASS MEMBERS, as well
12 as disgorged profits from DEFENDANTS unfair and unlawful business practices;
- 13 3. For meal and rest period compensation pursuant to California Labor Code § 226.7
14 and IWC Wage Order No. 8-2001;
- 15 4. For liquidated damages pursuant to California Labor Code §§ 1194.2 and 1197.1;
- 16 5. For preliminary and permanent injunctive relief enjoining DEFENDANTS from
17 violating the relevant provisions of the California Labor Code and the IWC Wage Orders, and
18 from engaging in the unlawful business practices complained of herein;
- 19 6. For waiting time penalties pursuant to California Labor Code § 203;
- 20 7. For statutory and civil penalties according to proof, including but not limited to all
21 penalties authorized by the California Labor Code §§ 226(e) and §§ 2698–2699.5;
- 22 8. For interest on the unpaid wages at 10% per annum pursuant to California Labor
23 Code §§ 218.6, 1194, 2802, California Civil Code §§ 3287, 3288, and/or any other applicable
24 provision providing for pre-judgment interest;
- 25 9. For reasonable attorneys’ fees and costs pursuant to California Labor Code
26 §§ 218.5, 1194, 2699, 2802, California Civil Code § 1021.5, and any other applicable provisions
27 providing for attorneys’ fees and costs;
- 28 10. For declaratory relief;

1 11. For an order requiring and certifying the First, Second, Third, Fourth, Fifth, Sixth,
2 Seventh, Eighth, and Ninth Causes of Action as a class action;

3 12. For an order appointing PLAINTIFF as class representative, and PLAINTIFF's
4 counsel as class counsel; and

5 13. For such further relief that the Court may deem just and proper.

6
7 DATED:

Respectfully submitted,

8 MATERN LAW GROUP, PC

9
10 By:

11 _____
12 MATTHEW J. MATERN
13 MATTHEW W. GORDON
14 MAX N. SLOVES
15 Attorneys for Plaintiff
16 RYAN GIESBRECHT, individually and on
17 behalf of all others similarly situated
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DATED:

MATERN LAW GROUP, PC

MATTHEW J. MATERN
MATTHEW W. GORDON
MAX N. SLOVES
Attorneys for Plaintiff
RYAN GIESBRECHT, individually and on
behalf of all others similarly situated

EXHIBIT C

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiffs Adan Cardenas, Anthony Gray, and Ryan Giesbrecht (“Plaintiffs”) and defendant Crystal Creamery, Inc. (“Defendant”). The Agreement refers to Plaintiffs and Defendant collectively as the “Parties,” or individually as “Party.”

1. DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

- 1.1. “Action” means the Plaintiffs’ lawsuit alleging wage and hour violations against Defendant captioned *Adan v. Crystal Creamery et al.*, Case No. CV-23-003591, initiated on June 6, 2023 and pending in Superior Court of the State of California, County of Stanislaus.
- 1.2. “Administrator” means Apex Class Action Administration, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval.
- 1.4. “Aggrieved Employees” means all individuals who are or previously were employed by Defendant Crystal Creamery, Inc. in California who were classified as a non-exempt in the State of California at any time during the PAGA Period.
- 1.5. “Class” means all individuals who are or previously were employed by Defendant Crystal Creamery, Inc. in California who were classified as a non-exempt in the State of California at any time during the Class Period.
- 1.6. “Class Counsel” means Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik, Christine T. LeVu, Andrew G. Ronan and Adolfo Sanchez Contreras of Blumenthal Nordrehaug Bhowmik De Blouw LLP and Matthew J. Matern, Joshua D. Box, and Julieta Hernandez of Matern Law Group, PC.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts to be paid to Class Counsel for fees and expenses, respectively, as approved by the Court, to compensate Class Counsel for their legal work in connection with the Action, including their pre-filing investigation, their filing of the

Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses billed in connection with the Action.

- 1.8. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, email address (if known and available to Defendant), and number of Workweeks and PAGA Pay Periods.
- 1.9. “Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members by use of available email addresses, phone numbers, social security numbers, credit reports, LinkedIn and Facebook.
- 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English with a Spanish translation, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12. “Class Notice Packet” means the Class Notice to be provided to the Class Members by the Administrator in the form set forth as Exhibit A to this Agreement (other than formatting changes to facilitate printing by the Administrator).
- 1.13. “Class Period” means the period of time from June 29, 2019 through April 6, 2025.
- 1.14. “Class Representative” means the named Plaintiffs in the Operative Complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.15. “Class Representative Service Payment” means the service payment made to the Plaintiffs as Class Representatives in order to compensate for initiating the Action, performing work in support of the Action, undertaking the risk of liability for Defendant’s expenses, and for the general release of all claims by the Plaintiffs.
- 1.16. “Court” means the Superior Court of California, County of Stanislaus.
- 1.17. “Defendant” means Crystal Creamery, Inc.
- 1.18. “Defense Counsel means Larry Kazanjian and Dayra Juarez of Palmer Kazanjian

Wohl Hodson LLP.

- 1.19. “Effective Date” means the date by when both of the following have occurred the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.20. “Final Approval” means the Court’s order granting final approval of the Settlement substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.
- 1.21. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.
- 1.22. “Gross Settlement Amount” means One Million Eight Hundred Dollars (\$1,800,000) which is the total amount to be paid by Defendant as provided by this Agreement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment and the Administration Expenses Payment. This Gross Settlement Amount is an all-in amount without any reversion to Defendant, and excludes any employer payroll taxes, if any, due on the portion of the Individual Class Payments allocated to wages which shall not be paid from the Gross Settlement and shall be the separate additional obligation of Defendant.
- 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period.
- 1.25. “Judgment” means the judgment entered by the Court based upon Final Approval substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.
- 1.26. “LWDA” means the California Labor and Workforce Development Agency, the

agency entitled, under Labor Code section 2699, subd. (i).

- 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The Net Settlement Amount is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. “Non-Participating Class Member” means a Class Member who opts out of the Class Settlement by submitting a valid and timely Request for Exclusion to the Administrator.
- 1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.31. “PAGA Period” means the period of time from April 18, 2022 through April 5, 2025.
- 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.33. “PAGA Notice” means the Plaintiff Adan Cardenas’s February 2, 2023 letter to Defendant and the LWDA and Plaintiffs Gray’s June 30, 2023 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.34. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$10,000) and the 75% to LWDA (\$30,000) in settlement of PAGA claims.
- 1.35. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion.
- 1.36. “Plaintiffs” mean Adan Cardenas, Anthony Gray and Ryan Giesbrecht, the named plaintiffs in the Action.
- 1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement, substantially in the form attached hereto as Exhibit B to this Agreement and incorporated by this reference herein.
- 1.38. “Released Class Claims” means all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint which occurred

during the Class Period during employment in a non-exempt position in California. Except as expressly set forth in this Agreement, Participating Class Members do not release any other claims including claims for vested benefits, wrongful termination, and violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation or California class claims outside of the Class Period.

1.39. "Released PAGA Claims" means all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notices, which occurred during the PAGA Period during employment in a non-exempt position in California. The Released PAGA Claims do not release any other claims including claims for vested benefits, wrongful termination, and violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, and worker's compensation, and PAGA claims outside of the PAGA Period.

1.40. "Released Parties" means: Defendant and each of its former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns and subsidiaries.

1.41. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.42. "Response Deadline" means sixty (60) calendar days after the Administrator mails Class Notice Packet to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) submit Requests for Exclusion from the Settlement, or (b) submit his or her Objection to the Settlement. Class Members to whom Class Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

1.43. "Settlement" means the disposition of the Action and all related claims effectuated by this Agreement and the Judgment.

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

2. RECITALS

2.1. On June 29, 2023, Plaintiff Adan Cardenas commenced this Action by filing a Complaint against Defendant in the Superior Court of the State of California, County of Stanislaus. Plaintiff's Complaint asserted claims that Defendant:

- (a) Violated California Business and Professions Code § 17200 et seq.;
- (b) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197 & 1197.1;
- (c) Failed to pay overtime wages in violation of California Labor Code § 510, et seq.;
- (d) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- (e) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- (f) Failed to provide accurate itemized wage statements in violation of California Labor Code § 226;
- (g) Failed to reimburse employees for required expenses in violation of California Labor Code § 2802; and,
- (h) Failed to pay sick pay in violation of California Labor Code §§ 201-204, 233 and 246.

2.2. On August 29, 2023, Plaintiff Adan Cardenas filed a Representative Action Complaint alleging a single cause of action against Defendant for recovery of civil penalties for violation of Private Attorney General Act, Cal. Labor Code §§ 2698, et seq. (“PAGA”) in the Superior Court of the State of California, County of Stanislaus (“Cardenas PAGA Action”).

2.3. On October 20, 2023, Plaintiffs Anthony Gray and Ryan Giesbrecht commenced a Class Action by filing a Complaint against Defendant in the Superior Court of the State of California, County of Stanislaus (“Gray Class Action”). Plaintiffs Anthony Gray and Ryan Giesbrecht’s Complaint asserted claims that Defendant:

- (a) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- (b) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- (c) Failed to pay overtime wages in violation of California Labor Code § 510, et seq.;
- (d) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197 & 1197.1;
- (e) Failed to provide wages when due in violation of California Labor Code §§ 201, 202 and 203;
- (f) Failed to provide accurate itemized wage statements in violation of California Labor Code § 226;
- (g) Failed to reimburse employees for required expenses in violation of California Labor Code § 2802; and,
- (h) Violated California Business and Professions Code § 17200 et seq.

2.4. On October 20, 2023_, Plaintiffs Anthony Gray and Ryan Giesbrecht filed a Representative Action Complaint alleging a single cause of action against Defendant for recovery of civil penalties for violation of Private Attorney General Act, Cal.

Labor Code §§ 2698, et seq. (“PAGA”) in the Superior Court of the State of California, County of Stanislaus (“Gray PAGA Action”).

- 2.5. On July 18, 2025, Plaintiffs filed a Consolidated Class and Representative Action Complaint in this Action adding Plaintiffs Anthony Gray and Ryan Giesbrecht as named plaintiffs and asserting two additional cause of action: (1) failure to provide wages when due in violation of California Labor Code §§ 201, 202 and 203; and (2) recovery of civil penalties for violation of PAGA to this Action.
- 2.6. The Consolidated Class and Representative Action Complaint is the operative complaint in the Action (the “Operative Complaint”).
- 2.7. Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.
- 2.8. On February 5, 2025, the Parties participated in an all-day mediation presided over by Hon. Carl J. West (ret.), a respected mediator of wage and hour representative and class actions. Following the mediation, each side, represented by its respective counsel, were able to agree to settle the Action based upon a mediator’s proposal which was memorialized in the form of a Memorandum of Understanding. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties.
- 2.9. Prior to mediation, Plaintiffs obtained sufficient documents and information to sufficiently investigate the claims such that Plaintiffs’ investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).
- 2.10. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims in the Action of Plaintiffs or the Class have merit or that Defendant bears any liability to Plaintiffs or the Class on those claims or any other claims, or as an admission by Plaintiffs that Defendant’s defenses in the Action have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendant reserves the right to contest certification of any class for any reason and reserves all available defenses to the claims in the Action.
- 2.11. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay \$1,800,000 and no more as the Gross Settlement Amount. This amount is all-inclusive of all payments contemplated in this resolution, excluding any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages which shall be separately paid by Defendant to the Administrator. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 3.2. Payments from the Gross Settlement Amount. Subject to the terms and conditions of this Agreement, the Administrator will make the following payments out of the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval.
- (a) To Plaintiffs: Class Representative Service Payments to the Class Representatives of not more than \$15,000 each (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representatives are entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiffs' request for a Class Representative Service Payments that do not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payment.
- (b) To Class Counsel: A Class Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be \$600,000, and a Class Counsel Litigation Expenses Payment of not more than \$65,000. Defendant will not oppose requests for these payments provided that do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiffs' Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms.

The payment of the Class Counsel Fees Payment shall be allocated as follows: 90% to Blumenthal Nordrehaug Bhowmik De Blouw LLP and 10% Matern Law Group, PC. The Class Counsel Litigation Expenses Payment shall be allocated between firms based upon the expenses actually incurred by each firm as set forth in the declarations by Class Counsel. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these payments.

- (c) To the Administrator: An Administration Expenses Payment not to exceed \$16,000 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses Payment is less or the Court approves payment less than \$16,000, the Administrator will retain the remainder in the Net Settlement Amount for distribution to Participating Class Members.
- (d) To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$40,000 to be paid from the Gross Settlement Amount, with 75% (\$30,000) allocated to the LWDA PAGA Payment and 25% (\$10,000) allocated to the Individual PAGA Payments.
 - i. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$10,000) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.
 - ii. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.
- (e) To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.
 - i. Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for non-wages, expense reimbursement, interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on

IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

- ii. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.
- (f) The settlement payments made to Plaintiffs and Class Members under this settlement, and any other payments made pursuant to this Agreement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to, profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. The Parties' intention that this settlement will not affect any rights, contributions, or amounts to which Plaintiffs and Class Members may be entitled under any benefit plans. The payment under this Agreement shall not obligate Defendant to confer any additional benefits or make any additional payments to Class Members beyond those specified in this Agreement.

4. SETTLEMENT FUNDING

- 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on its records, Defendant has represented that the Class consists of 1,029 Class Members who collectively worked a total of 90,000 Workweeks, and 800 Aggrieved Employees who worked a total of 21,000 PAGA Pay Periods. This is a material representation for Plaintiffs to enter into this Agreement.
- 4.2. Class Data. Not later than 21 days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted Class Member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 4.3. Funding of the Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share

of payroll taxes by transmitting the funds to the Administrator no later than 14 days after the Effective Date.

5. PAYMENTS FROM THE GROSS SETTLEMENT AMOUNT

- 5.1. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment.
- 5.2. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the “void date”, which is 180 days after the date of mailing, when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Class Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Administrator must update the recipients’ mailing addresses using the National Change of Address Database. If a Participating Class Member’s or Aggrieved Employee’s check is not cashed within 120 days after its last mailing to the affected individual, the Administrator will also send the individual a notice informing him or her that unless the check is cashed by the void date, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed.
- 5.3. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 5.4. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to Legal Aid at Work (“Cy Pres Recipient”), a Court-approved nonprofit organization or foundation consistent with Code of Civil Procedure Section 384(b). The Parties, Class Counsel and Defense Counsel

represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

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

6. RELEASE OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs, Participating Class Members, Aggrieved Employees and the LWDA will release claims against all Released Parties as follows:

6.1. Plaintiffs' Release. Plaintiffs and his or her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiffs' PAGA Notice ("Plaintiffs' Release"). Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, or workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now knows or believes to be true but agrees, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them.

(a) Plaintiffs' Waiver of Rights Under Civil Code Section 1542. For purposes of Plaintiffs' Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

6.2. Release by Participating Class Members. All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from the Released Class Claims.

6.3. Release of PAGA Claims. All Aggrieved Employees and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from the Released PAGA Claims.

7. **MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s procedures and instructions.

7.1. Defendant’s Responsibilities. Within 14 days of the full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed Declaration disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator and the Cy Pres Recipient. In the Declaration, Defendant shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement. In this Declaration, Defendant shall also aver as to the number of Class Members and the number of Workweeks for the Class during the Class Period.

7.2. Plaintiffs’ Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members and/or the proposed Cy Pres Recipient; and the nature and extent of any financial relationship with Plaintiffs, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator and/or the proposed Cy Pres Recipient; (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vi) a redlined version of the parties’ Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient, if any. In their Declarations, Plaintiffs and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement

7.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

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

8. SETTLEMENT ADMINISTRATION

8.1. Selection of Administrator. The Parties have jointly selected Apex Class Action Administration to serve as the Administrator and verified that, as a condition of appointment, Apex Class Action Administration agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Administrator's duties will include preparing, printing, and mailing the Class Notice Packet to all Class Members; conducting a National Change of Address search to update Class Member addresses before mailing the Class Notice Packets; re-mailing Class Notice Packets that are returned to the Class Member's new address; setting up a toll-free telephone number and email and a fax number to receive communications from Class Members; receiving and reviewing for validity completed Requests for Exclusion; providing the Parties with weekly status reports about the delivery of Class Notice Packets and receipt of Requests for Exclusion, objections and disputes; calculating Individual Class Payments and Individual PAGA Payments; issuing the checks to effectuate the payments due under the Settlement; issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

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

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

8.4. Notice to Class Members.

- (a) No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
- (b) Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice with Spanish translation, substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- (c) Not later than 7 days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- (d) The deadlines for Class Members’ written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the Response Deadline provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- (e) If the Administrator, the Parties, Defense Counsel or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

8.5. Requests for Exclusion (Opt-Outs).

- (a) Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than the Response Deadline (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
- (b) The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.
- (c) Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraph 6.2 of the Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- (d) Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.3 of this Agreement and are eligible for an Individual PAGA Payment. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted and the objection will be void.

8.6. Challenges to Calculation of Workweeks. Each Class Member shall have until the Response Deadline (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is

entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination as to the challenges

8.7. Objections to Settlement.

- (a) Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.
- (b) Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, or in addition to a written objection, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than the Response Deadline (plus an additional 14 days for Class Members whose Class Notice was re-mailed).
- (c) Non-Participating Class Members have no right to object to any of the class action components of the Settlement. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted and the objection will be void.

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

- (a) Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.
- (b) Request for Exclusion (Opt-Outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 7 days after the expiration of the deadline for submitting Requests for

Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

- (c) Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- (d) Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- (e) Administrator’s Declaration. Not later than 7 days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- (f) Final Report by Administrator. Within 10 days after the Administrator disburses all funds of the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 7 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court. If a second declaration attesting to the distribution of uncashed checks is required, the

Administrator shall provide this second declaration at least 7 days before any deadline for a second declaration and Class Counsel shall be responsible for filing the second declaration with the Court.

- 9. CLASS SIZE MODIFICATION AND ESCALATOR CLAUSE.** Based on its records, Defendant provided figures as to the Class size as set forth in paragraph 4.1 above. In regard hereto, Defendant is providing a declaration as set forth in paragraph 7.1 above. Should the actual number of Workweeks during the Class Period increase beyond 99,000, Defendant shall have the option of (a) increasing the Gross Settlement Amount by the percentage increase in the number of Workweeks worked by the Class Members or (b) rolling back the end date of the Class Period such that there are no more than 90,000 Workweeks in the Class Period.
- 10. DEFENDANT’S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5% of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Administration Expenses incurred as of the date Defendant makes this election to withdraw. Defendant must notify Class Counsel and the Court of its election to withdraw not later than 7 days after the Administrator sends the final Exclusion List to Defense Counsel. Invalid Requests for Exclusion will have no effect on this threshold for an election.
- 11. MOTION FOR FINAL APPROVAL.** Unless otherwise ordered by the Court, not later than 16 court days before the calendared Final Approval Hearing, Plaintiffs will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699(l), a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiffs shall provide drafts of these documents to Defense Counsel not later than 7 days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer and in good faith, to resolve any disagreements concerning the Motion for Final Approval.
- 11.1. Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 11.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final Approval. The Court’s decision to award less than the amounts requested for a Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel

Litigation Expenses Payment and/or Administration Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

11.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement under C.C.P. section 664.6 solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

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

11.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on an equal basis, any additional Administration Expenses reasonably incurred at the time of remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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

13. ADDITIONAL PROVISIONS

13.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit

or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or Judgment pursuant to this Agreement, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiffs reserve the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

- 13.2. Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 13.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees have not and will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 13.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 13.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendant, respectively, to take all

appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

- 13.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 13.7. Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 13.8. Tax Advice. Neither Plaintiffs, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 13.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 13.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 13.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 13.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 13.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 13.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or

in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs shall destroy, all paper and electronic versions of Class Data received from Defendant.

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

13.16. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

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

To Plaintiffs and the Class:

Norman B. Blumenthal
Kyle R. Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
2255 Calle Clara
La Jolla, CA 92037
Tel.: (858) 551-1223
Fax: (858) 551-1232
E-Mail: norm@bamlawca.com
kyle@bamlawca.com

To Defendant:

Larry Kazanjian
Dayra Juarez
Palmer Kazanjian Wohl Hodson LLP
2277 Fair Oaks Blvd. Ste. 455
Sacramento, CA 95825
Telephone: (916) 442-3552
Facsimile: (916) 640-1521
E-Mail: LKazanjian@pkwhlaw.com
djuarez@pkwhlaw.com

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

13.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 a period of not less than one (1) year starting from the date of the signing of this agreement by all parties until the entry of the final approval order and judgment or if not entered the date this agreement shall no longer be of any force or effect.

13.20. Fair Settlement. The Parties, Class Counsel and Defense Counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, both current and potential.

14. EXECUTION BY PARTIES AND COUNSEL

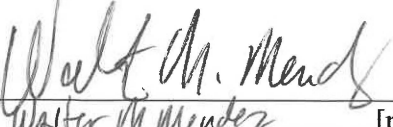
The Parties and their counsel hereby execute this Agreement.

Dated: _____
Plaintiff Adan Cardenas

Dated: 30/09/2025

Anthony Gray (sep 30, 2025 09:05:17 PDT)
Plaintiff Anthony Gray

Dated: _____
Plaintiff Ryan Giesbrecht

Dated: 9/10/2025

Walter M. Mendez [name]
For Defendant Crystal Creamery, Inc.

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

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14. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: _____
Plaintiff Adan Cardenas

Dated: _____
Plaintiff Anthony Gray

Dated: 15/09/2025
Ryan Giesbrecht
Ryan Giesbrecht (Sen.15_2025.1224.00 P01)
Plaintiff Ryan Giesbrecht

Dated: 9/10/2025
Walter M. Mendez
Walter M. Mendez [name]
For Defendant Crystal Creamery, Inc.

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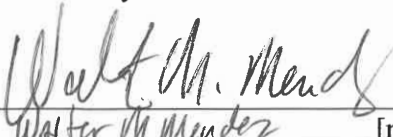
14. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: _____
Plaintiff Adan Cardenas

Dated: _____
Plaintiff Anthony Gray

Dated: _____
Plaintiff Ryan Giesbrecht

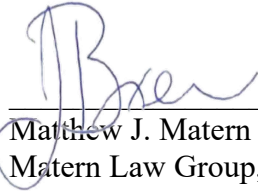
Dated: 9/10/2025


[name]
For Defendant Crystal Creamery, Inc.

Dated: _____

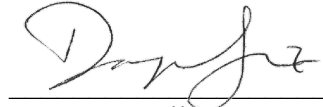
Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiffs

Dated: 9/16/2025



Matthew J. Matern
Matern Law Group, PC
Attorney for Plaintiffs

Dated: 9/10/2025



Larry Kazanjian
Dayra Juarez
Palmer Kazanjian Wohl Hodson LLP
Attorney for Defendant Crystal Creamery, Inc.

EXHIBIT A

[NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION AND HEARING DATE FOR
FINAL COURT APPROVAL]

EXHIBIT B

[ORDER GRANTING PRELIMINARY APPROVAL]

EXHIBIT C

[FINAL APPROVAL ORDER AND JUDGMENT]