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individually and on behalf of similarly situated employees

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN

TARA TROTTER, individually and on behalf
of all other similarly situated employees,

Plaintiff,

vs.

SEC TRANSPORTATION, INC., a California
Corporation; STOCKTON EDUCATIONAL
CENTER, INC., an unknown association; and
DOES 1 to 100, inclusive,

Defendants.

Case No. STK-CV-UOE-2023-0003641

*Assigned for All Purposes to Hon. Jayne Lee,
Department 10C*

CLASS ACTION

**PLAINTIFF'S NOTICE OF MOTION AND
MOTION FOR FINAL APPROVAL OF
CLASS ACTION AND PAGA SETTLEMENT**

Date: July 25, 2024

Time: 9:00 a.m.

Dept. 10C

Judge: Hon. Jayne Lee

Filed: April 11, 2023

FAC Filed: July 7, 2023

Trial Date: None Set

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that on July 25, 2024, at 9:00 a.m., or as soon thereafter as the matter
3 may be heard in Department 10C of the above-entitled Court, Plaintiff Tara Trotter, individually and on
4 behalf of all other similarly situated individuals, will move, and hereby does move, for entry of an Order
5 for the following:

- 6 1. Certifying the proposed class herein for purposes of settlement;
- 7 2. Appointing Plaintiff Tara Trotter as Class Representative for purposes of settlement;
- 8 3. Appointing Shimoda & Rodriguez Law, PC, as Class Counsel for purposes of settlement;
- 9 4. Approving the proposed class action and Private Attorneys General Act settlement, in the
10 amount of \$200,000, which is incorporated herein by reference;
- 11 5. Approving the application for payment to Class Counsel of attorneys' fees in the amount of
12 \$70,000;
- 13 6. Approving the application for payment to Class Counsel of reasonable costs in the amount of
14 \$10,209.20;
- 15 7. Approving the Class Representative Enhancement Payment of \$5,000 to Plaintiff Tara
16 Trotter;
- 17 8. Approving the appointment of ILYM Group, Inc. as the Settlement Administrator and for
18 payment to ILYM Group, Inc. for administering said class action settlement in the amount of
19 \$6,550;
- 20 9. Approving the settlement of claims under the Private Attorneys General Act for the total
21 amount of \$10,000, 75% of which will be paid to the Labor and Workforce Development
22 Agency and 25% of which will be paid to Aggrieved Employees;
- 23 10. Determining that the class notification procedures and process complied with Class
24 Members' due process rights;
- 25 11. Directing that any amount from settlement checks that were not cashed by the check cashing
26 deadline be donated equally, *i.e.* 50/50, to Capital Pro Bono, Inc., and the Center for Workers
27 Rights under the doctrine of *cy pres*;
- 28

12. Approving and adopting the Proposed Order and its implementation schedule, which is filed herewith and incorporated by reference.

This motion is being made pursuant to Code of Civil Procedure section 382, Labor Code section 2699(l), and California Rules of Court 3.769 and 3.764, on the grounds that the preliminarily approved class action and Private Attorneys General Act settlement is fair, reasonable, and adequate as to all Class Members and should be approved by the Court. This motion will be based on the notice of motion, memorandum of points and authorities, the Declaration of Justin P. Rodriguez, the Declaration of Tara Trotter, the Declaration of Lesly Rubalcava, exhibits, the record and files of this case, and any further oral or documentary evidence introduced at the hearing of this motion.

Tentative rulings for Law and Motion will be posted electronically by 1:30 p.m. the day before the hearing. Any party wishing to contest or argue the tentative ruling must email the court at civilcourtclerks@sjcourts.org that they intend to appear remotely no later than 4:00 PM on the day before the scheduled hearing. The Department and Case Number must be in the header of the email. The email must include the Department, Case number, Case Name, Motion, party's name and email, date and time of the hearing, issues they plan to argue, and that they have informed the opposing party. The party must also notify affected counsel, or unrepresented parties, that they intend to appear, no later than 4:00 PM on the day before the scheduled hearing. Unless the Court and opposing counsel have been notified, the tentative ruling shall become the ruling of the Court without oral argument.

Dated: June 28, 2024

Shimoda & Rodriguez Law, PC

By: 
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Justin P. Rodriguez
Renald Konini
Attorneys for Plaintiff

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CLASS ACTION

**MEMORANDUM OF POINTS &
AUTHORITIES IN SUPPORT OF
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APPROVAL OF CLASS ACTION AND PAGA
SETTLEMENT**

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TABLE OF CONTENTS

I. INTRODUCTION AND OPENING SUMMARY OF ARGUMENT.....	1
II. PROCEDURAL AND LITIGATION HISTORY	2
III. INVESTIGATION AND DISCOVERY CONDUCTED	2
IV. NEGOTIATION AND PROPOSED SETTLEMENT	3
a. Plaintiff and Defendant Engaged in Extensive Arm’s Length Negotiations	3
b. The Terms of the Agreement	3
c. Allocation of Settlement Funds	6
V. PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT AND THE SUBSEQUENT CLASS ACTION ADMINISTRATION	6
VI. THE AGREEMENT WARRANTS FINAL APPROVAL AS IT IS FAIR, REASONABLE, AND ADEQUATE AS TO ALL CLASS MEMBERS BASED ON THE FACTS OF THIS CASE	8
a. The Terms of The Settlement Are Fair and Within the Range of Reasonableness	9
i. The Agreement is a Result of Extensive, Non-Collusive Arm’s Length Negotiations Between the Parties	10
ii. The Extent of Investigation and Discovery Completed Provided Ample Information to Enter Into an Informed and Reasonable Settlement	10
iii. Plaintiff’s Counsel are Experienced in Similar Litigation.....	10
iv. No Class Members Objected and Only One Class Member Has Opted Out.....	11
v. The Settlement is Fair, Reasonable, and Adequate Based on the Strength of Plaintiff’s Case and the Risks and Costs of Further Litigation.....	11
vi. The Proposed Settlement is a Reasonable Compromise of Claims	12
vii. The Enhancement Payment to the Named Plaintiff for Plaintiff’s Services to the Putative Class Is Reasonable and Routinely Awarded by Court.....	13
viii. Awarding Attorneys’ Fees as a Percentage of the Common Funds Is Reasonable and Customarily Approved by Courts	14
b. Certification of the Class is Appropriate	17
i. The Proposed Settlement Class is Ascertainable and Sufficiently Numerous.....	17
ii. The Commonality, Predominance, and Typicality Requirements are Met	18
iii. The Adequacy Requirement is Met	19
VII. CONCLUSION.....	20

1 **TABLE OF AUTHORITIES**

2 **CALIFORNIA CASES**

3 *Bell v. Farmers Ins. Exchange*, 115 Cal.App.4th 715 (2004) 15

4 *Cellphone Termination Fee Cases*, 180 Cal.App.4th 1110 (2009)..... 9

5 *City of San Jose v. Superior Court*, 12 Cal.3d 447 (1974) 18

6 *Classen v. Weller*, 145 Cal.App.3d 27 (1983) 18

7 *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794 (1996) 9, 14, 17

8 *Green v. Obledo*, 29 Cal.3d 126 (1981) 8

9 *Hebbard v. Calgrove*, 28 Cal.App.3d 1017 (1972) 18

10 *In re Microsoft I-V Cases*, 135 Cal.App.4th 706 (2006) 6, 9

11 *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116 (2008) 9, 12

12 *Laffitte v. Robert Half Internat., Inc.*, 1 Cal.5th 480 (2016) 14

13 *Lee v. Dynamex, Inc.*, 166 Cal.App.4th 1325 (2008) 18

14 *McGhee v. Bank of America*, 60 Cal.App.3d 442 (1976) 19

15 *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles*, 186 Cal.App.4th 399 (2010) 12

16 *Neary v. Regents of Univ. of Cal.*, 3 Cal.4th 273 (1992) 9

17 *Noel v. Thrifty Payless, Inc.*, 7 Cal.5th 955 (2019) 8, 17

18 *Nordstrom Com. Cases*, 186 Cal.App.4th 576 (2010)..... 4, 9

19 *North County Contr. 's Assn., Inc. v. Touchstone Ins. Svcs.*, 27 Cal.App.4th 1085 (1994) 9

20 *Rebney v. Wells Fargo Bank*, 220 Cal.App.3d 1117 (1990) 11

21 *Richmond v. Dart Ind., Inc.*, 29 Cal.3d 462 (1981) 18

22 *Rose v. City of Hayward*, 126 Cal.App.3d 926, 932 (1981) 18

23 *Sanders v. City of Los Angeles*, 3 Cal.3d 252 (1970) 15

24 *Serrano v. Priest*, 20 Cal.3d 25 (1977) 14

25 *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224 (2001) 8, 9, 11, 15

26 **CALIFORNIA STATUTES AND OTHER AUTHORITIES**

27 Cal. Labor Code section 2699..... 8

28 Cal. Labor Code section 2699.3..... 2

1	Cal. Rules of Court, Rule 3.769.....	7, 8
2	FEDERAL CASES	
3	<i>Abrams v. Lightolier, Inc.</i> , 50 F.3d 1204 (3d Cir. 1995)	16
4	<i>Amchem Products v. Windsor</i> , 521 U.S. 591 (1997)	18
5	<i>Avila v. Cold Spring Granite Co.</i> , 2017 U.S. Dist. LEXIS 130878 (E.D. Cal. 2017)	11
6	<i>Bellinghausen v. Tractor Supply Co.</i> , 306 F.R.D. 245 (N.D. Cal 2015)	12
7	<i>Benitez et al. v. Wilbur</i> , USDC Eastern District, Case No. 1:08-cv-01122	15
8	<i>Boeing Co. v. Van Gemert</i> , 444 U.S. 472 (1980)	14
9	<i>Boyd v. Bechtel Corp.</i> , 485 F.Supp. 610 (N.D. Cal. 1979)	10
10	<i>Bratcher v. Bray-Doyle Indep. Sch. Dist. No. 42</i> , 8 F.3d 722 (10th Cir. 1993).....	17
11	<i>Bravo v. Gale Triangle, Inc.</i> , 2017 U.S. Dist. LEXIS 77714 (C.D. Cal. 2017)	11
12	<i>Briseno v. ConAgra Foods, Inc.</i> , 844 F.3d 1121 (9th Cir. 2017)	7, 8
13	<i>Chavez et al. v. Petrissans et al.</i> , USDC Eastern District, Case No. 1:08-cv-00122	15
14	<i>Chu v. Wells Fargo Investments, LLC</i> , 2011 WL 672645 (N.D. Cal. 2011)	5
15	<i>Davis v. Cox Commc'ns California, LLC</i> , 2017 U.S. Dist. LEXIS 63514 (S.D. Cal. 2017).....	4
16	<i>Dirienzo v. Dunbar Armored, Inc.</i> , USDC Southern District, Case No. 3:09-cv-02745.....	15
17	<i>Franco v. Ruiz Food Prod., Inc.</i> , 2012 WL 5941801 (E.D. Cal. 2012).....	5
18	<i>Garcia v. City of King City</i> , 2017 WL 363257 (N.D. Cal. 2017)	17
19	<i>Garcia v. Gordon Trucking, Inc.</i> , 2012 U.S. Dist. LEXIS 160052 (E.D. Cal. 2012).....	5
20	<i>Gardner v. GC Servs., LP</i> , 2012 U.S. Dist. LEXIS 47043 (S.D. Cal. 2012)	12, 16
21	<i>Gay v. Waiters' & Dairy Lunchmen's Union</i> , 489 F.Supp. 282 (N.D. Cal. 1980),	
22	<i>aff'd</i> 694 F.2d 531 (9th Cir. 1982)	18
23	<i>Green, et al. v. Penske Logistics, L.L.C., et al.</i> , USDC Southern District,	
24	Case No. 3:09-cv-00069	15
25	<i>Hanlon v. Chrysler Corp.</i> , 150 F.3d 1011 (9th Cir. 1998)	18, 19
26	<i>Harris v. Marhoefer</i> , 24 F.3d 16 (9th Cir. 1994).....	16
27	<i>Hopson v. Hanesbrands Inc.</i> , 2009 U.S. Dist. LEXIS 33900 (N.D. Cal.2009).....	5
28	<i>Ingram v. The Coca Cola Co.</i> , 200 F.R.D. 685 (N.D. Ga. 2001)	13

1	<i>In re Activision Sec. Litigation</i> , 723 F. Supp. 1373 (N.D. Cal. 1989)	15
2	<i>In re Heritage Bond Litig.</i> , 2005 U.S. Dist. LEXIS 13555 (C.D. Cal. 2005)	9, 11, 16, 17
3	<i>In re Ikon Office Solutions, Inc. Secur. Litig.</i> , 194 F.R.D. 166 (E.D. Pa. 2000)	16
4	<i>In re Omnivision Technologies, Inc.</i> , 559 F.Supp.2d 1036 (2007)	11, 13
5	<i>Jack v. Hartford Fire Ins. Co.</i> , 2011 U.S. Dist. LEXIS 118764 (S.D. Cal. 2011)	4
6	<i>Jennings v. Open Door Marketing, LLC</i> , 2018 WL 4773057 (N.D. Cal. 2018)	4
7	<i>Junkersfeld v. Med. Staffing Sols., Inc.</i> , 2022 WL 2318173 (E.D. Cal. 2022)	4
8	<i>Martin v. Ameripride Servs.</i> , 2011 U.S. Dist. LEXIS 61796 (S.D. Cal. 2011)	15
9	<i>Messineo v. Ocwen Loan Servicing, LLC</i> , 2018 WL 733219 (N.D. Cal. 2017)	17
10	<i>Mills v. Electric Auto-Lite Co.</i> , 396 U.S. 375 (1970)	14
11	<i>Moore v. Fitness Int'l, LLC</i> , 2014 U.S. Dist. LEXIS 8358 (S.D. Cal. 2014)	4
12	<i>Nat'l Rural Telecommunications Coop. v. DIRECTH, Inc.</i> ,	
13	221 F.R.D. 523 (C.D. Cal. 2004)	11
14	<i>Officers for Justice v. Civil Serv. Comm'n</i> , 688 F.2d 615 (9th Cir. 1982)	11
15	<i>Paul, Johnson, Alston & Hunt v. Graulity</i> , 886 F.2d 268 (9th Cir. 1989)	14
16	<i>Patel v. Nike Retail Services, Inc.</i> , 2019 WL 2029061 (N.D. Cal. 2019)	17
17	<i>Rannis v. Recchia</i> , 380 F. App'x 646 (9th Cir. 2010)	8
18	<i>Reed v. 1-800 Contacts, Inc.</i> , 2014 U.S. Dist. LEXIS 255 (S.D. Cal. 2014)	13
19	<i>Romero v. Producers Dairy Foods, Inc.</i> , 2007 U.S. Dist. LEXIS 86270, 2007	
20	WL 3492841 (E.D. Cal. 2007)	15
21	<i>Ruch v. AM Retail Grp., Inc.</i> , 2016 WL 5462451 (N.D. Cal. 2016)	4
22	<i>Schiller v. David's Bridal, Inc.</i> , 2012 U.S. Dist. LEXIS 80776 (E.D. Cal. 2012)	12, 16
23	<i>Silber v. Mabon</i> , 18 F.3d 1449 (9th Cir. 1994).....	7, 8
24	<i>Singer v. Becton Dickenson and Co.</i> , 2010 U.S. Dist. LEXIS 53416, 2010 WL 2196104	
25	(S.D. Cal. 2010)	5, 15
26	<i>Staton v. Boeing Co.</i> , 327 F.3d 938 (9th Cir. 2003)	15
27	<i>Syed v. M-I, L.L.C.</i> , 2017 U.S. Dist. LEXIS 24880 (E.D. Cal. 2017)	5
28	<i>Van Vranken v. Atlantic Richfield Co.</i> , 901 F. Supp. 294 (N.D. Cal. 1995)	13

1	<i>Vasquez v. Coast Valley Roofing, Inc.</i> , 266 F.R.D. 482 (E.D. Cal. 2010)	15
2	<i>Vincent v. Hughes Air West, Inc.</i> , 557 F.2d 759 (9th Cir. 1977)	14
3	<i>Walsh v. CorePower Yoga LLC</i> , 2017 U.S. Dist. LEXIS 163991 (N.D. Cal. 2017).....	7
4	<i>Waters v. Intern. Precious Metals Corp.</i> , 190 F.3d 1291 (11th Cir. 1999)	14
5	<i>Watson v. Raytheon Company</i> , USDC Southern District, Case No. 3:10-cv-00634.....	15
6	<i>Williams v. MGM-Pathe Communications Co.</i> , 129 F.3d 1026 (9th Cir. 1977)	14
7	<i>Willis et al. v. Cal-Western Transport</i> , USDC Eastern District, Case No. 1:00-cv-05695	15
8	<i>Wright v. Linkus Enters.</i> , 259 F.R.D. 468 (E.D. Cal. 2009)	7
9	FEDERAL STATUTES AND OTHER AUTHORITIES	
10	Fed. R. Civ. Proc., Rule 23(e).....	8
11	Newberg on Class Actions, (3rd Ed.), 1992, § 14.03	15

1 **I. INTRODUCTION AND OPENING SUMMARY OF ARGUMENT**

2 Plaintiff Tara Trotter (“Plaintiff”) seeks final approval of a wage and hour class action and Private
3 Attorneys General Act (“PAGA”) settlement in the gross amount of \$200,000. *See generally* Exhibit A
4 (Joint Stipulation Regarding Class Action and PAGA Settlement and Release [“Agreement”]). Plaintiff
5 brought several wage and hour claims as class and representative basis on behalf of similarly situated
6 employees who worked for Defendants SEC Transportation, Inc., and Stockton Educational Center, Inc.,
7 (“Defendants”) (Plaintiff and Defendants sometimes collectively referred to as the “Parties”). *See*
8 *generally* Exhibit B (Plaintiff’s Operative Complaint). There are approximately 126 Class Members.

9 Plaintiff’s class claims allege that Defendants 1) failed to pay overtime wages, 2) failed to pay
10 minimum wages, 3) failed to provide meal periods or pay premiums in lieu thereof, 4) failed to provide
11 rest periods or pay premiums in lieu thereof, 5) failed to provide accurate wage statements, 6) failed to
12 timely pay all final wages, 7) unlawfully inquired into criminal history, and 8) engaged in unfair
13 competition. *See generally* Exhibit B; *see also* Declaration of Justin P. Rodriguez (“Decl.
14 Rodriguez”), ¶¶ 2. Plaintiff has also alleged Defendants are liable for civil penalties under the PAGA
15 based on these violations. *See* Decl. Rodriguez, ¶¶ 2-3; Exhibit C (Plaintiff’s Ltr. to the Labor and
16 Workforce Development Agency [“LWDA”] Regarding PAGA Claims). Defendants have denied all of
17 Plaintiff’s allegations in their entirety and any liability or wrongdoing of any kind. *See* Decl.
18 Rodriguez, ¶ 5. Defendants have also denied that this case is appropriate for class certification other
19 than for purposes of settlement. *See id.* However, subject to Court approval, the Parties have been able
20 to compromise and settle all asserted claims as a result of extensive investigations, document and data
21 exchanges, and extended negotiations. *See* Exhibit A. Plaintiff and Plaintiff’s counsel believe the
22 proposed Agreement is fair, reasonable, and adequate based on the investigations, discovery, employee
23 data exchanges, negotiations, and a detailed knowledge of the issues in this case. *See* Decl. Rodriguez,
24 ¶¶ 6-10. The prospect of potential class certification issues and the uncertainty of class certification,
25 difficulties of complex litigation, the lengthy process of establishing specific damages and various
26 possible delays and appeals were carefully considered by Plaintiff and Plaintiff’s counsel in agreeing to
27 the proposed settlement. *See id.*

1 The reaction of Class Members to the preliminarily approved Agreement to date has been
2 overwhelmingly positive and gives substantial support to the Agreement and all terms and allocations
3 therein being fair, reasonable, and adequate. Only one Class Member has opted out of the settlement
4 and there have been zero objections to the Agreement. See Declaration of Lesly Rubalcava (“Decl.
5 Rubalcava”) ¶¶ 11-12. It is well within the discretion of this Court to grant final approval of the
6 proposed settlement as it satisfied all applicable criteria under California law. Accordingly, Plaintiff
7 requests that the Court: (1) certify the settlement class; (2) grant final approval of the Agreement; (3)
8 find that the procedures used to notify Class Members complied with due process; (4) grant Plaintiff’s
9 request for attorney’s fees and costs, the Enhancement Payment to the Class Representative and Claims
10 Administrator Costs; and (5) approve and adopt the proposed order granting final approval, which is
11 filed concurrently herewith.

12 II. PROCEDURAL AND LITIGATION HISTORY

13 Plaintiff filed a class action complaint on approximately April 11, 2023, in San Joaquin County
14 Superior Court against Defendants. Plaintiff exhausted administrative remedies under the PAGA by
15 providing notice of the claims and violations to the LWDA. See Exhibit C; Cal. Lab. Code § 2699.3(a),
16 (c); Decl. Rodriguez, ¶ 3. Then, Plaintiff filed a First Amended Class Action Complaint on
17 approximately July 7, 2023, to include a PAGA claim. See *id.*; Exhibit B. There is no date set for a
18 motion for certification or trial in this matter. See Decl. Rodriguez, ¶ 4.

19 III. INVESTIGATION AND DISCOVERY CONDUCTED

20 Plaintiff thoroughly investigated issues affecting certification, the merits of the class claims, and
21 potential damages for such claims. See *id.* at ¶¶ 3, 6-10; Declaration of Tara Trotter (“Decl. Trotter”)
22 ¶¶ 5-7, 10. Plaintiff worked during the time all of Defendants’ policies and practices at issue in the
23 Complaint were in effect and provided information regarding these policies and practices, enabling pre-
24 filing investigations to take place. See Decl. Trotter, ¶¶ 2-3, 5-7. The Parties engaged in informal
25 discovery and exchange of documents, including a representative sampling of employee data, such as
26 timecards, paystubs, payroll data, and relevant policies for the entirety of the statute of limitations
27 applicable to the asserted claims. The discovery covered all aspects of the asserted claims, including
28 certification issues, merits issues, damages, the scope and configuration of Class Members, the content

1 and implementation of the wage and hour policies at issue, issues relating to manageability concerns at
2 trial, among other relevant areas. *See* Decl. Rodriguez, ¶¶ 6-7. The information allowed Plaintiff to
3 determine the extent and frequency of any violations in accordance with Plaintiff's contentions and
4 create an accurate damages model to assess the reasonableness of any settlement. *See id.*

5 **IV. NEGOTIATION AND PROPOSED SETTLEMENT**

6 **a. Plaintiff and Defendants Engaged in Extensive Arm's Length Negotiations**

7 The final settlement occurred only after extended, arm's length negotiations. Over the course of
8 approximately thirteen (13) months, Plaintiff has been investigating the claims and discussing with
9 Defendants' counsel the merits of the claims and issues present in this case. *See id.* at ¶¶ 6-10. The
10 Parties exchanged substantial amounts of information and legal analysis in connection with these
11 discussions. *See id.* It was only after these extended discussions, which included a full day mediation
12 with Brandon McKelvey, Esq., that the Parties were able resolve all claims and enter into the
13 Agreement. *See id.* at ¶ 8.

14 **b. The Terms of the Agreement**

15 1. The following groups of individuals are covered by the Agreement: (a) Class Members,
16 which include all nonexempt employees who have worked, or continue to work, for Defendants in
17 California at any time between April 11, 2019, through September 3, 2022; and (b) Aggrieved
18 Employees, which include all nonexempt employees who have worked, or continue to work, for
19 Defendants in California at any time between April 10, 2022, though September 3, 2022. *See* Exhibit
20 A, ¶¶ 1.2, 1.5, 1.6, 1.24, 10.1; Decl. Rodriguez, ¶ 11; Decl. Rubalcava, ¶¶ 5-7. Because there were
21 more workweeks during the originally stated Class Period and PAGA Claim Period than expected, this
22 triggered the terms of the escalator provision in ¶ 10.1 of the Agreement. Pursuant to Paragraph 10.1,
23 Defendants elected to shorten the end date of these periods, which, in turn, reduced the number of
24 workweeks, Class Members, and Aggrieved Employees under the Agreement. *See id.* The average
25 value of the settlement per Class Member was also increased as a result of the shortened periods.

26 2. Defendants will pay the Gross Settlement Amount of \$200,000, which is exclusive of
27 the employer's share of payroll taxes. *See id.* at ¶ 5.1. No portion of the Gross Settlement Amount will
28 revert to Defendants. *See id.* at ¶ 5.6. Aggrieved Employees will still be paid their share of the PAGA

1 Payment regardless of whether they opt out of being Class Members. *See id.* at ¶¶ 7.5.1, 7.8.3.

2 3. The parties agree that up to \$5,000 will be paid to Plaintiff as an Enhancement Payment.
3 This amount will be in addition to any amount Plaintiff may be entitled to under the terms of the
4 Agreement. *See id.* at ¶ 5.4.

5 4. The parties agree that the cost of administering this class action settlement shall be paid
6 from the settlement proceeds. Subject to Final Court approval, the Parties have selected ILYM Group,
7 Inc. to act as the Settlement Administrator, whose final costs are \$6,550. *See* Exhibit A, ¶ 1.34; Decl.
8 Rubalcava, ¶ 16; Decl. Rodriguez, ¶ 21.

9 5. The Parties agree that \$10,000 of the Gross Settlement Amount shall be allocated to
10 resolving claims under the PAGA. Seventy-Five percent (75%) of the PAGA Payment will be paid to
11 the LWDA and Twenty-Five percent (25%) will be paid to Aggrieved Employees. *See* Exhibit A, ¶
12 5.5. Given the risk to proving the claims on the merits, the derivative nature of the penalties, the efforts
13 by Defendants to maintain compliant policies and take corrective action, the presence of what may
14 likely be deemed good faith disputes, and the Court's discretion to reduce any penalty award, Plaintiff
15 believes the \$10,000 PAGA Payment allocation represents a meaningful settlement aimed at deterring
16 non-compliance given the facts of this case. *See* Decl. Rodriguez, ¶¶ 5-10; *see also Nordstrom Com.*
17 *Cases*, 186 Cal.App.4th 576, 589 (2010) (approving \$0 allocation to the resolution of PAGA claims
18 based on their being disputed and being part of a class settlement which was evaluated based on the
19 terms of the agreement overall); *Junkersfeld v. Med. Staffing Sols., Inc.*, 2022 WL 2318173, at *8 n.2
20 (E.D. Cal. 2022) (collecting cases with PAGA settlement values ranging from .037%-1%); *Jennings v.*
21 *Open Door Marketing, LLC*, 2018 WL 4773057, *9 (N.D. Cal. 2018) (approving settlement of PAGA
22 claims at 0.6% of total estimated value due to risk of no recovery); *Ruch v. AM Retail Grp., Inc.*, 2016
23 WL 5462451, *7 (N.D. Cal. 2016) (approving \$10,00 PAGA settlement allocation where total PAGA
24 penalty exposure was approximately \$5.2 million, or 0.2% of total estimated value); *Davis v. Cox*
25 *Commc 'ns California, LLC*, 2017 U.S. Dist. LEXIS 63514, *1 (S.D. Cal. 2017) (preliminarily
26 approving \$4,000 PAGA allocation in \$275,000 settlement); *Moore v. Fitness Int'l, LLC*, 2014 U.S.
27 Dist. LEXIS 8358, *5 (S.D. Cal. 2014) (approving \$2,500 PAGA allocation when attorneys' fees award
28 alone amounted to \$200,000); *Jack v. Hartford Fire Ins. Co.*, 2011 U.S. Dist. LEXIS 118764, *6 (S.D.

1 Cal. 2011) (approving \$3,000 PAGA allocation in \$1,200,000 settlement); *Singer v. Becton Dickinson*
2 & Co., 2010 U.S. Dist. LEXIS 53416, *2 (S.D. Cal. 2010) (approving \$3,000 PAGA allocation in
3 \$1,000,000 settlement); *Hopson v. Hanesbrands Inc.*, 2009 U.S. Dist. LEXIS 33900, *9 (N.D. Cal.
4 2009) (approving \$1,500 PAGA allocation in \$1,026,000 settlement); *Syed v. M-I, L.L.C.*, 2017 U.S.
5 Dist. LEXIS 24880, *34-35 (E.D. Cal. 2017) (approving \$100,000 PAGA allocation in a \$3,950,000
6 settlement even though PAGA exposure was calculated at \$53,600,000, or 0.2% of total estimated
7 value); *Garcia v. Gordon Trucking, Inc.*, 2012 U.S. Dist. LEXIS 160052, at *7 (E.D. Cal. 2012)
8 (approving \$10,000 PAGA allocation in a \$3,700,000 settlement); *Franco v. Ruiz Food Prod., Inc.*,
9 2012 WL 5941801, at *14 (E.D. Cal. 2012) (\$10,000 in PAGA payment from \$2,500,000 settlement
10 fund); *Chu v. Wells Fargo Investments, LLC*, 2011 WL 672645, at *1 (N.D. Cal. 2011) (approving
11 PAGA settlement payment of \$7,500 to the LWDA out of \$6.9 million common-fund settlement).

12 6. The Parties agree that up to thirty-five (35%) of the Gross Settlement Amount (\$70,000)
13 will be paid for Plaintiff's attorneys' fees incurred in the litigation of this case. Defendants will not
14 oppose any application for attorneys' fees so long as it is within this threshold. *See id.* at ¶ 5.2.
15 Additionally, the Parties agree that Plaintiff will also be entitled to the actual litigation costs, which are
16 \$10,209.20. *See id.*; *See Exhibit D (Plaintiff's Itemized Costs)*.

17 7. Any allocated amounts under the Agreement for Settlement Administrator Costs, Class
18 Representative Enhancement Payment, and attorney's fees and costs that are not ultimately awarded by
19 the Court will remain part of the Net Settlement Amount and be paid out to Participating Class
20 Members on a pro rata basis as set forth in the Agreement. *See Exhibit A, ¶¶ 5.1-5.5, 5.8.* These
21 amounts will be paid out from the Gross Settlement Amount, not in addition to the Gross Settlement
22 Amount. *See Exhibit A, ¶¶ 5.1-5.5, 5.11.*

23 8. Class Members who fail to timely opt-out of this settlement will waive all Released
24 Class Claims as set forth in the Agreement. *See Exhibit A, ¶¶ 1.5, 1.14, 1.26, 1.30, 1.32, 6.1, 7.5.1.*
25 Aggrieved Employees will waive all Released PAGA Claims as set forth in the Agreement regardless
26 of whether they opt out of being a Class Member. *See id.* at ¶¶ 1.2, 1.14, 1.31-1.32, 6.2, 7.5.1.

27 9. For any portion of the Net Settlement Amount or PAGA Payment allocated to
28 Participating Class Members and/or Aggrieved Employees that is not claimed by them by cashing their

1 respective settlement checks within 180 calendar days of issuance, that remaining amount shall be
2 donated equally, *i.e.*, 50/50 to Capital Pro Bono, Inc., and the Center for Workers' Rights under the
3 doctrine of *cy pres*. See Exhibit A, at ¶ 5.6. Because the Agreement provides for all funds such that
4 there is no residue, the provisions of California Civil Procedure Code section 384 are inapplicable. See
5 *In re Microsoft I-V Cases*, 135 Cal.App.4th 706, 718, 720 (2006). The designated beneficiaries clearly
6 promote the law consistent with the objectives and purposes underlying the lawsuit as they are non-
7 profits aimed at assisting employees with wage and hour claims who cannot afford legal representation,
8 including providing representation for employees in wage claims before the California Labor
9 Commissioner. See *id.* at 722-724; see also Decl. Rodriguez, ¶¶ 24-32.

10 **c. Allocation of Settlement Funds**

11 Payment to Participating Class Members and Aggrieved Employees will not require the
12 submission of a claim form. A Net Settlement Amount will be determined by subtracting from the
13 Gross Settlement Amount any attorneys' fees and costs, Enhancement Payment to the Class
14 Representative, Settlement Administrator Costs, PAGA Payment that are approved and/or awarded by
15 the Court. Each Class Member's share will be determined by dividing their total weeks worked within
16 the Class Period by the total weeks worked by all Class Members within the Class Period. That
17 fraction will then be multiplied by the Net Settlement Amount to arrive at the Class Member's
18 individual share of the Net Settlement Amount. Each Aggrieved Employee's share of the 25% portion
19 of the PAGA Payment will be determined by dividing their total weeks worked within the PAGA
20 Claim Period by the total weeks worked by all Aggrieved Employees within the PAGA Claim Period.
21 That fraction will then be multiplied by the 25% portion of the PAGA Payment to arrive at the
22 Aggrieved Employee's individual share. See Exhibit A, at ¶¶ 1.17, 5.5, 5.8.

23 **V. PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT AND THE**
24 **SUBSEQUENT CLASS ACITON ADMINISTRATION**

25 Plaintiff's motion for preliminary approval of the class action settlement was approved by the
26 Court on March 12, 2024. To comply with Class Members' due process rights, the parties enlisted an
27 exhaustive method to ensure the best practical means possible was used to provide notice to the class.
28 The parties provided the Settlement Administrator the names, last known address, and social security

1 numbers for the class. The escalator provision of Paragraph 10.1 was triggered, and Defendants
2 ultimately elected to shorten the end dates of the Class Period and the PAGA Claim Period, reducing
3 the number of individuals, and workweeks covered by the Agreement. *See* Exhibit A, ¶¶ 1.2, 1.5, 1.6,
4 1.24, 10.1; Decl. Rodriguez, ¶ 11; Decl. Rubalcava, ¶¶ 5-7. Then, prior to mailing, the Settlement
5 Administrator updated the contact information for those within the new claim periods by doing an
6 address trace for each individual using this information. *See* Decl. Rubalcava, ¶¶ 5-7. If the notices
7 were returned as undeliverable, further investigation was performed and they were re-mailed using
8 updated information. *See id.* at ¶ 8. To date, only 8 of the 126 Notice Packets mailed were
9 undeliverable after use of these methods. *See id.* The Notice included information regarding the
10 requested attorneys' fees, costs, payment to the LWDA, administration costs, and tax allocations. *See*
11 Exh. A to Decl. Rubalcava, ¶ 7. The average distribution to participating class members is
12 approximately \$799.53 and the maximum distribution is approximately \$1,663.57. *See id.* at ¶ 15. To
13 date, no objections to the preliminarily approved settlement have been made and only one Class
14 Member has opted out. *See* Decl. Rubalcava, ¶¶ 11-12.

15 The impact and effect of triggering the escalator clause in Paragraph 10.1 delayed the expected
16 mailing date for the Notice of Settlement. It took an extended period of time to work through the data
17 issues to confirm the escalator was triggered. Additionally, it had to be confirmed what the new claim
18 period end dates or the new Gross Settlement Amount would be, which depended on which option
19 Defendants chose under the Agreement. However, the Parties met and conferred to resolve this issue
20 and avoid burdening the Court with law and motion proceedings. Plaintiff will file a supplemental
21 declaration for the Settlement Administrator prior to the hearing to update the Court on any changes (or
22 lack thereof) regarding Class Member responses to the settlement. *See* Decl. Rodriguez, ¶ 11.

23 The notice procedures used in the administration of the preliminarily approved settlement have
24 complied with Class Member's due process rights. It is not required that Class Members be given
25 actual notice of a class settlement; instead, the best practicable notice under the circumstances is all that
26 is required. *See Silber v. Mabon*, 18 F.3d 1449, 1453 (9th Cir. 1994); *Briseno v. ConAgra Foods, Inc.*,
27 844 F.3d 1121, 1129 (9th Cir. 2017); *Walsh v. CorePower Yoga LLC*, 2017 U.S. Dist. LEXIS 163991,
28 at *12-14 (N.D. Cal. 2017); *Wright v. Linkus Enters.*, 259 F.R.D. 468, 474-75 (E.D. Cal. 2009). In

1 *Silber v. Mabon*, 18 F.3d 1449 (9th Cir. 1994), the Court rejected a class member’s argument that he
2 had not received due process because he did not receive notice until after the opt out period, finding
3 that, so long as the notice process utilized is the best practicable under the circumstances, due process is
4 satisfied even if there is no actual receipt of the notice. *See Silber*, 18 F.3d at 1453-1454. A similar
5 finding was made in *Briseno v. ConAgra Foods, Inc.*, 844 F.3d 1121 (9th Cir. 2017). With regard to
6 any potential for undeliverable notice mailings, the Court in *Rannis v. Recchia*, 380 F. App’x 646 (9th
7 Cir. 2010) found that class members who did not receive actual notice due to their mailings being
8 deemed undeliverable were still properly held to be part of the class settlement because they received
9 the best notice practicable under the circumstances. *See Rannis v. Recchia*, 380 F. App’x at 650-651.
10 In *Noel v. Thrifty Payless, Inc.*, 7 Cal.5th 955, 980-984 (2019), the California Supreme Court noted that
11 California has adopted a similar approach regarding providing notice to class members.

12 The notice method in *Rannis* is similar to that used in the present case. For example, the Notice
13 contains all information necessary for a Class Member to assess the litigation, the settlement, and
14 whether they wanted to participate, object, or opt-out. *See* Exh. A to Decl. Rubalcava. The Settlement
15 Administrator utilized a national change of address database, forwarding notices, and skip tracing in an
16 effort to ensure that all reasonable means were exhausted in attempting to provide Class Members
17 notice of this settlement. *See* Decl. Rubalcava, ¶¶ 5-7. Additionally, the entire motion for preliminary
18 approval, the Notice, and all filings in this matter were available, free of charge, on a web page
19 accessible to all Class Members. *See id.* The content of the notice provided and the manner in which it
20 was provided to Class Members was the best practicable notice to satisfy due process.

21 **VI. THE AGREEMENT WARRANTS FINAL APPROVAL AS IT IS FAIR, REASONABLE,**
22 **AND ADEQUATE AS TO ALL CLASS MEMBERS BASED ON THE FACTS OF THIS**
23 **CASE**

24 A class action may not be dismissed, compromised, or settled without Court approval and the
25 decision to approve or reject a settlement is committed to the Court’s sound discretion. *See* Cal. Rules
26 of Court, Rule 3.769; Fed. R. Civ. Proc., Rule 23(e)¹; *Wershba v. Apple Computer, Inc.*, 91 Cal. App.
27 4th 224, 234-35 (2001); *see also* Cal. Lab. Code §§ 2699(l)(2). However, “[d]ue regard should be given

28 ¹The California Supreme Court has authorized California’s trial courts to rely on these federal resources to decide class certification issues. *See Green v. Obledo*, 29 Cal.3d 126, 145-46 (1981).

1 to what is otherwise a private consensual agreement between the parties. The inquiry ‘must be limited to
2 the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or
3 overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole,
4 is fair, reasonable and adequate to all concerned.’” *See Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794,
5 1801 (1996); *see also Cellphone Termination Fee Cases*, 180 Cal. App. 4th 1110, 1118 (2009); *In re*
6 *Microsoft I-V Cases*, 135 Cal. App. 4th 706, 723 (2006); *Nordstrom Com. Cases*, 186 Cal. App. 4th 576,
7 581 (2010). The law favors settlement of lawsuits, particularly class actions and other complex cases
8 where substantial resources can be conserved by avoiding the time, expense, and rigors of formal
9 litigation. *See Cellphone Termination Fee Cases*, 180 Cal. App. 4th 1110, 1117-1118 (2009); *In re*
10 *Microsoft I-V Cases*, 135 Cal. App. 4th 706, 723 n.14 (2006); *Nordstrom Com. Cases*, 186 Cal. App. 4th
11 576, 581 (2010); *see also Neary v. Regents of Univ. of Cal.*, 3 Cal. 4th 273, 277-81 (1992).

12 **a. The Terms of The Settlement Are Fair and Within the Range of Reasonableness**

13 The purpose of the Court’s final evaluation of a proposed class action settlement is to determine
14 only whether it is within the range of reasonableness. *See Wershba*, 91 Cal. App. 4th at 234-35. If the
15 Court finds a proposed settlement falls within “the range of reasonableness,” it should grant final
16 approval of the class action settlement. *See, e.g., North County Contr.’s Assn., Inc. v. Touchstone Ins.*
17 *Svcs.*, 27 Cal. App. 4th 1085, 1089-90 (1994); *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th
18 116, 133 (2008). Factors to consider in determining whether the settlement is fair, reasonable, and
19 adequate include the strength of the Plaintiff’s case, the risk, expense, complexity and likely duration of
20 further litigation, the risk of maintaining class action status through trial, the amount offered in
21 settlement, the extent of discovery completed and the stage of the proceedings, the experience and
22 views of counsel, the presence of a governmental participant, and the reaction of the class members to
23 the proposed settlement. *See Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1801 (1996). However,
24 this Court should begin its analysis with a presumption that the proposed settlement is fair. “A
25 presumption of fairness exists where: (1) the settlement is reached through arm’s length bargaining; (2)
26 investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel
27 is experienced in similar litigation; and (4) the percentage of objectors is small.” *Id.* at 1802; *see also*
28 *In re Heritage Bond Litig.*, 2005 WL 1594403, at *10 (C.D. Cal. June 10, 2005) (“It is established that

the absence of a large number of objectors to a proposed class action settlement raises a strong presumption that the terms of a proposed class settlement action are favorable to the class members”).

i. The Agreement is a Result of Extensive, Non-Collusive Arm’s Length Negotiations Between the Parties

Settlement of this case was reached only after substantial litigation and extensive arm’s length negotiations lasting nearly thirteen (13) months, which included a full day mediation. *See Decl. Rodriguez*, ¶¶ 3, 6-10. At all times, the negotiations were adversarial, although still professional in nature. *See id.* Further, while Plaintiff contends she would ultimately prevail on the claims and the issue of certification, this is not a certainty and there is substantial risk in proceeding to further litigation. *See id.* The ability to secure a guaranteed settlement now and ensure Class Members receive some compensation, rather than proceed to further litigation and potentially recover nothing, was a motivating factor in reaching this settlement. *See id.*

ii. The Extent of Investigation and Discovery Completed Provided Ample Information to Enter Into an Informed and Reasonable Settlement

The Parties were in possession of all necessary information during the negotiations. The Parties engaged in substantial informal discovery, which included all necessary components for evaluating the class claims and creating an accurate damages model. *See id.* at ¶¶ 6-10. Plaintiff was in possession of this information prior to calculating any damages in this case. *See id.* As a result, Plaintiff was able to make a reasonable estimation of Defendants’ potential liability. *See id.* For these reasons, the settlement now before the Court was reached at a stage where “the parties certainly have a clear view of the strengths and weaknesses of their cases” sufficient to support the settlement. *See Boyd v. Bechtel Corp.*, 485 F.Supp. 610, 617 (N.D. Cal. 1979).

iii. Plaintiff’s Counsel are Experienced in Similar Litigation

Plaintiff’s counsel have considerable experience in complex litigation such as class and PAGA actions. *See Decl. Rodriguez*, ¶¶ 12-18. Thus, Plaintiff’s counsel are qualified to evaluate the class claims, the value of settlement versus moving forward with litigation, and viability of possible affirmative defenses. Plaintiff’s counsel believe that the Agreement is fair, reasonable, and adequate in light of the risks associated with the claims, the uncertainties of complex litigation, and the secured benefit to Class Members. *See id.*

1 **iv. No Class Members Objected and Only One Class Member Has Opted Out**

2 The reaction by Class Members to the Agreement and all the terms and allocations stated
3 therein is overwhelmingly positive. To date, zero Class Members have objected to any aspect of the
4 Agreement and only one has opted out. See Decl. Rubalcava ¶¶ 11-12. This provides strong evidence
5 that the settlement is fair, reasonable, and adequate. *In re Heritage Bond Litig.*, 2005 WL 1594403, at
6 *10 (“It is established that the absence of a large number of objectors to a proposed class action
7 settlement raises a strong presumption that the terms of a proposed class settlement action are favorable
8 to the class members”); *Nat’l Rural Telecommunications Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 529
9 (C.D. Cal. 2004) (“That unanimous, positive reaction to the Proposed Settlement is compelling
10 evidence that the Proposed Settlement is fair, just, reasonable, and adequate”).

11 **v. The Settlement is Fair, Reasonable, and Adequate Based on the Strength of**
12 **Plaintiff’s Case and the Risks and Costs of Further Litigation**

13 Plaintiff’s claims and the ability to obtain and maintain certification all the way through trial
14 were heavily disputed by Defendants. See Decl. Rodriguez, ¶ 5. A review of the Agreement’s terms
15 does not give rise to any doubts about its fairness. Based on the records and facts of this case, Plaintiff
16 has secured a gross recovery of approximately 10% and a net recovery of approximately 5% of the
17 claims’ maximum value. See *id.* at ¶¶ 9-10. Additionally, the average net award per class member is
18 approximately \$799.53. See *id.* This settlement is a reasonable compromise of the class and PAGA
19 claims, and is within the percentile ranges of the total available damages that have been approved in
20 other class settlements. See *Wershba*, 91 Cal. App. 4th at 246, 250; *Rebney v. Wells Fargo Bank*, 220
21 Cal.App.3d 1117, 1139 (1990); *Officers for Justice v. Civil Serv. Comm’n*, 688 F.2d 615, 628 (9th Cir.
22 1982); see also *In re Omnivision Technologies, Inc.*, 559 F.Supp.2d 1036, 1042 (2007) (noting that
23 certainty of recovery in settlement of 6% of maximum potential recovery after reduction for attorney’s
24 fees was higher than median percentage for recoveries in shareholder class action settlements,
25 averaging 2.2%-3% from 2000 through 2002); *Bravo v. Gale Triangle, Inc.*, 2017 U.S. Dist. LEXIS
26 77714 (C.D. Cal. 2017) (approving a settlement where the net recovery to class members was
27 approximately 7.5% of the projected maximum recovery amount); *Avila v. Cold Spring Granite Co.*,
28 2017 U.S. Dist. LEXIS 130878 (E.D. Cal. 2017) (approving a settlement with a gross recovery of 11%

1 of the projected maximum damages available and a net recovery of approximately 6.7% of the
2 projected maximum recovery); *Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245 (N.D. Cal 2015)
3 (approving a settlement where the gross recovery was approximately 8.5% of the projected maximum
4 recovery). *Schiller v. David's Bridal, Inc.*, 2012 U.S. Dist. LEXIS 80776 at *48 (E.D. Cal. 2012)
5 (“Class Members will receive an average of approximately \$198.70, with the highest payment to a
6 Class Member being \$695.78 . . . Overall, the Court finds that the results achieved are good, which is
7 highlighted by the fact that there was no objection to the settlement amount or the attorneys’ fees
8 requested.”); *Gardner v. GC Servs., LP*, 2012 U.S. Dist. LEXIS 47043, 18 (S.D. Cal. 2012) (“the
9 results achieved in this case were very favorable. Class members are provided with immediate
10 monetary relief, with an average award of around several hundred dollars and a minimum award of
11 \$50”).

12 **vi. The Proposed Settlement is a Reasonable Compromise of Claims**

13 The case of *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116 (2008) requires additional
14 information be presented to the Court, acting as a fiduciary for the absent class members “to ensure that
15 the recovery represents a reasonable compromise, given the magnitude and apparent merit of the claims
16 being released, discounted by the risks and expenses of attempting to establish and collect on those
17 claims by pursuing the litigation” *Id.* at 129. *Munoz v. BCI Coca-Cola Bottling Co. of Los*
18 *Angeles*, 186 Cal. App. 4th 399 (2010), clarified that a *Kullar* showing does not require the parties to
19 submit an illusory prediction of the outer reaches of exposure without taking into account the actual
20 risks of certification, decertification, dispositive motions, and trial. *Kullar* also does not require an
21 explicit statement of the maximum amount the plaintiff class could recover if it prevailed on all its
22 claims provided there is a record that allows “an understanding of the amount that is in controversy and
23 the realistic range of outcomes of the litigation.” *Id.* at 409. The *Munoz* Court found that the record
24 before the trial court was sufficient, having included the number of class members, payroll data,
25 declarations describing hours and overtime worked, as well as variances in duties and rest and meal
26 period experience, and a companion action alleging less than \$5,000,000 in damages. This information
27 constituted “an adequate basis from which to garner a reasonably adequate understanding of the amount
28 that is in controversy within the meaning of *Kullar*.” *Id.*

1 Plaintiff similarly relied upon payroll data and Class Members' data to determine the realistic
2 potential damages suffered by the class as a whole. *See* Decl. Rodriguez, ¶¶ 6-10. This analysis
3 allowed Plaintiff to determine the extent and frequency of potential violations on all claims as to all
4 Class Members. *See id.* Ultimately, Plaintiff secured a percentage of the total demand for the putative
5 class that is within the range of what has been found to be sufficient in several other cases. *See, supra*,
6 Section VI.a.iv; *see also, e.g., In re Omnivision Technologies, Inc.*, 559 F.Supp.2d at 1042; *Reed v. 1-*
7 *800 Contacts, Inc.*, 2014 U.S. Dist. LEXIS 255 (S.D. Cal. 2014) (approving a settlement of \$11.7
8 million where the maximum range of damages was \$5,000 for each of the alleged 300,000 instances of
9 unlawful recording violations (\$1.5 billion), equaling approximately .78% of the total demand and
10 approximately \$800 per class member). This settlement represents a reasonable compromise given the
11 percentage of the total demand that was secured, the average recovery per class member, the Court's
12 ability and discretion to cut PAGA penalties, and the uncertainty of class certification. *See* Decl.
13 Rodriguez, ¶¶ 9-10.

14 **vii. The Enhancement Payment to the Named Plaintiff for Plaintiff's Services to the**
15 **Putative Class Is Reasonable and Routinely Awarded by Courts**

16 The Enhancement Payment to the named Plaintiff is intended to recognize the time and effort
17 expended on behalf of the class. Indeed, Courts routinely approve enhancement payments to
18 compensate named plaintiffs for the services they provide and the risks they incurred during the course
19 of the class action litigation. *See Ingram v. The Coca Cola Co.*, 200 F.R.D. 685, 694 (N.D. Ga. 2001).
20 In *Ingram*, the Court approved enhancement payments of \$300,000.00 to each named plaintiff in
21 recognition of the services they provided to the class by responding to discovery, participating in the
22 mediation process, and taking the risk of stepping forward on behalf of the class. *See Id.* at 694; *see*
23 *also Van Vranken v. Atlantic Richfield Co.*, 901 F.Supp. 294 (N.D. Cal. 1995) (approving a \$50,000.00
24 enhancement payment).

25 In this case, Plaintiff provided and explained documents, being available at all times to discuss
26 the class claims with Plaintiff's counsel. *See* Decl. Rodriguez, ¶ 7; Decl. Trotter, ¶¶ 2, 5-7. Plaintiff
27 spent a significant amount of time pursuing wage and hour claims for the benefit of all Class Members.
28 *See id.* Plaintiff brought this action knowing there would be a delay in any payment as the litigation

1 progressed, rather than proceeding only with individual claims in front of the California Labor
2 Commissioner. *See id.* Payment of \$5,000.00 to Plaintiff is appropriate given the risk, assistance, time
3 required in bringing this case and resolution of this case.

4 **viii. Awarding Attorneys’ Fees as a Percentage of the Common Fund Is Reasonable**
5 **and Customarily Approved by Courts**

6 California state and federal courts have recognized that when a litigant’s efforts create or
7 preserve a fund from which others derive benefits, the Court may spread litigation costs proportionally
8 among all the beneficiaries to compensate those who created the fund. *See Boeing Co. v. Van Gemert*,
9 444 U.S. 472, 477-478 (1980) (“A lawyer who recovers a common fund for the benefit of persons other
10 than . . . her client is entitled to a reasonable attorney’s fee from the fund as a whole.”); *Vincent v.*
11 *Hughes Air West, Inc.*, 557 F.2d 759, 769 (9th Cir. 1977); *Mills v. Electric Auto-Lite Co.*, 396 U.S. 375
12 (1970); *Waters v. Intern. Precious Metals Corp.*, 190 F.3d 1291 (11th Cir. 1999); *see also Serrano v.*
13 *Priest*, 20 Cal.3d 25, 34-35 (1977); *Laffitte v. Robert Half Internat., Inc.*, 1 Cal.5th 480, 506 (2016).
14 The purpose of this equitable doctrine is to avoid unjust enrichment of counsel and to “spread litigation
15 costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire
16 burden alone.” *Vincent*, 557 F.2d at 769; *Williams v. MGM-Pathe Communications Co.*, 129 F.3d 1026,
17 1027 (9th Cir. 1977). California state courts have approved use of a percentage of the fund to calculate
18 reasonable attorney fee awards where the amount of the settlement is certain or is an easily calculable
19 sum of money. *See Dunk*, 48 Cal. App. 4th at 1808.

20 The Ninth Circuit has also held that the common fund doctrine applies when: (1) the class of
21 beneficiaries is sufficiently identifiable; (2) the benefits can be accurately traced; and (3) the fee can be
22 shifted with some exactitude to those benefitting. *See Paul, Johnson, Alston & Hunt v. Gaulty*, 886
23 F.2d 268, 271 (9th Cir. 1989). These criteria are “easily met” when “each member of a certified class
24 has an undisputed and mathematically ascertainable claim to part of a lump-sum settlement recovered
25 on her behalf.” *Id.* at 271 (citations omitted). Under the three (3) factors set forth in *Paul, Johnson,*
26 *Alston & Hunt*, the common fund doctrine applies in this case because there is a sufficiently identifiable
27 class of beneficiaries (*e.g.* the settlement class), the benefits can be accurately traced to the settlement
28 Plaintiff and Plaintiff’s counsel were able to negotiate on behalf of the class, and the fee can be shifted

1 with exactitude to those benefiting as the fee request is a specific, lump-sum percentage of the common
2 fund. As set forth in the fee award examples provided below for the Court's reference, it is an accepted
3 practice in wage and hour class action settlements to award attorneys' fees based on a percentage of the
4 common fund. *See, e.g., Staton v. Boeing Co.*, 327 F.3d 938, 967-972 (9th Cir. 2003); *Sanders v. City*
5 *of Los Angeles*, 3 Cal.3d 252, 261, 263 (1970); *Wershba*, 91 Cal. App. 4th at 254; *Bell v. Farmers Ins.*
6 *Exchange*, 115 Cal. App. 4th 715, 726, 765 (2004).

7 Historically, attorneys' fee awards in common fund cases in general range from 20% to 50% of
8 the fund, depending on the circumstances of the case. *See Newberg on Class Actions*, (3rd Ed.), 1992,
9 §14.03 (finding 50% to be the upper limit). Awards ranging between 30% and 40% of the fund are
10 generally approved as reasonable in wage and hour settlements below \$10 million:

11 More particularly, courts may award attorneys fees in the 30-40% range in wage and hour
12 class actions that result in recovery of a common fund under \$10 million. *See Vasquez v.*
13 *Coast Valley Roofing, Inc.*, 266 F.R.D. 482, 491-492 (E.D. Ca. 2010) (citing to five
14 recent wage and hour class actions where federal district courts approved attorney fee
15 awards ranging from 30 to 33%); *Singer v. Becton Dickinson and Co.*, 2010 U.S. Dist.
16 LEXIS 53416, 2010 WL 2196104, *8 (S.D. Ca. June 1, 2010) (approving attorney fee
award of 33.33% of the common fund and holding that award was similar to awards in
three other wage and hour class action cases where fees ranged from 33% to 40%);
Romero v. Producers Dairy Foods, Inc., 2007 U.S. Dist. LEXIS 86270, 2007 WL
3492841 (E.D. Ca. Nov. 14, 2007).

17 *See Martin v. Ameripride Servs.*, 2011 U.S. Dist. LEXIS 61796 at *22-23 (S.D. Cal. 2011). Plaintiff's
18 request of thirty-five percent (35%) of the settlement sum for attorneys' fees is within established rates
19 for fee awards in class settlements pursuant to the common fund doctrine, especially in light of the
20 excellent results achieved in this case. *See In re Activision Sec. Litigation*, 723 F.Supp. 1373, 1379
21 (N.D. Cal. 1989); *Watson v. Raytheon Company*, USDC Southern District, Case No. 3:10-cv-00634;
22 *Dirienzo v. Dunbar Armored, Inc.*, USDC Southern District, Case No. 3:09-cv-02745; *Green, et al. v.*
23 *Penske Logistics, L.L.C., et al.*, USDC Southern District, Case No. 3:09-cv-00069; *Benitez et al. v.*
24 *Wilbur*, USDC Eastern District, Case No. 1:08-cv-01122; *Chavez et al. v. Petrissans et al.*, USDC
25 Eastern District, Case No. 1:08-cv-00122; *Willis et al. v. Cal-Western Transport*, USDC Eastern
26 District, Case No. 1:00-cv-05695. To determine whether a percentage is reasonable, a court should
27 consider: (1) the percentage that would likely be negotiated between parties in a similar case; (2) the
28 percentage applied in other class actions; (3) the quality of class counsel; (4) the size of the award; and

(5) whether there are any objections by class members. *See In re Ikon Office Solutions, Inc. Secur. Litig.*, 194 F.R.D. 166, 193 (E.D. Pa. 2000); *In re Heritage Bond Litig.*, 2005 WL 1594403, at *21 (C.D. Cal. June 10, 2005) (“the absence of objections or disapproval by class members to class counsel’s fee request further supports finding the fee request reasonable”).

These factors support Plaintiff’s request for reasonable attorneys’ fees. The typical percentage negotiated between parties ranges from thirty-five to forty percent (35% to 40%) in individual litigation depending on the complexity of the case. In class action litigation, the typical percentage negotiated between parties ranges from thirty to forty percent (30% to 40%) based on the same factors. Plaintiff’s request of 35% (\$70,000) falls within these typical fee arrangements. *See Decl. Rodriguez*, ¶ 20. The quality of counsel and the average net size of settlement payments to Class Members (\$799.53) also supports the fee request when compared to other settlements courts have considered as good results. *See Schiller v. David’s Bridal, Inc.*, 2012 U.S. Dist. LEXIS 80776 at *48 (E.D. Cal. 2012) (“Class Members will receive an average of approximately \$198.70, with the highest payment to a Class Member being \$695.78 . . . Overall, the Court finds that the results achieved are good, which is highlighted by the fact that there was no objection to the settlement amount or the attorneys’ fees requested.”); *Gardner v. GC Servs., LP*, 2012 U.S. Dist. LEXIS 47043, 18 (S.D. Cal. 2012) (“the results achieved in this case were very favorable. Class members are provided with immediate monetary relief, with an average award of around several hundred dollars and a minimum award of \$50”).

Plaintiff’s counsel also seeks reimbursement of approximately \$10,209.20 for the expenses they have and will continue to incur while prosecuting this litigation through any compliance hearing(s). This is less than the \$15,000 provided for in the Agreement. An itemization for these costs is being filed with this motion as Exhibit E. All expenses were necessarily incurred to properly litigate this case. *See id.* The appropriate analysis in determining whether particular costs are compensable is whether they are of the type typically billed by attorneys to paying clients in the marketplace. *Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994) (“Harris may recover as part of the award of attorney’s fees those out-of pocket expenses that ‘would normally be charged to a fee paying client.’”); *Abrams v. Lightolier, Inc.*, 50 F.3d 1204, 1225 (3d Cir. 1995) (expenses recoverable if customary to bill clients for

1 them); *Bratcher v. Bray-Doyle Indep. Sch. Dist. No. 42*, 8 F.3d 722, 725-26 (10th Cir. 1993) (expenses
2 reimbursable if normally billed to client). The categories of expenses for which Plaintiff’s counsel seek
3 reimbursement here are categories normally charged to hourly clients and, therefore, should be
4 reimbursed out of the common fund. *See* Decl. Rodriguez, ¶ 20. The \$6,550 in Settlement
5 Administrator Costs is also within ranges approved by Courts and should be approved in this case. *See*
6 *Patel*, 2019 WL 2029061, *2 (\$5,261 for settlement administrator’s fees was not excessive where
7 PAGA group consisted of 40 employees); Decl. Rubalcava, ¶ 16. This is less than the \$15,000
8 provided for in the Agreement. Exhibit A, ¶ 5.3. As noted above, there have been no objections raised
9 to the Agreement or any term or allocation therein whatsoever. *See* Decl. Rubalcava, ¶ 12; *See In re*
10 *Heritage Bond Litig.*, 2005 WL 1594403, *21 (“The absence of objections or disapproval by class
11 members to Class Counsel’s fee request further supports finding the fee request reasonable”). Thus, the
12 amounts requested for attorney’s fees and costs, an Enhancement Payment, and Settlement
13 Administrator Costs should be approved.

14 **b. Certification of the Class is Appropriate**

15 Class certification is appropriate when (1) the class is ascertainable and (2) there is “a well-
16 defined community of interest in the questions of law and fact involved affecting the parties to be
17 represented.” *Dunk*, 48 Cal. App. 4th at 1806. The “community of interest” element “embodies three
18 factors: (1) common questions of law or fact predominate; (2) class representatives with claims or
19 defenses typical of the class; and (3) class representatives who can adequately represent the class.” *Id.*
20 Here, the Court conditionally certified the settlement class on January 22, 2024, and nothing has
21 happened in the interim that would warrant changing that decision. *See Garcia v. City of King City*,
22 2017 WL 363257, *4 (N.D. Cal. 2017); *Messineo v. Ocwen Loan Servicing, LLC*, 2017 WL 733219, *4
23 (N.D. Cal. 2017). Here, the Parties agree that, for the purposes of settlement, these prerequisites are
24 met. *See* Exhibit A.

25 **i. The Proposed Settlement Class is Ascertainable and Sufficiently Numerous**

26 The proposed settlement class is ascertainable because all putative Class Members can be
27 readily identified through employee personnel and payroll files. *See Noel v. Thrifty Payless, Inc.*, 7
28 Cal.5th 955, 980 (2019); *Rose v. City of Hayward*, 126 Cal.App.3d 926, 932 (1981); *Lee v. Dynamex*,

1 *Inc.*, 166 Cal. App. 4th 1325, 1334 (2008). The numerosity requirement is met because there are 126
2 individuals who fall within the definition of Class Member, which makes joinder of all members
3 impracticable. *See Gay v. Waiters' & Dairy Lunchmen's Union*, 489 F.Supp. 282 (N.D. Cal. 1980),
4 *aff'd* 694 F.2d 531 (9th Cir. 1982); *Hebbard v. Calgrove*, 28 Cal. App. 3d 1017, 1030 (1972) (noting no
5 set minimum to meet the numerosity prerequisite, but a class as few as twenty-eight (28) members is
6 acceptable). Thus, these requirements are satisfied.

7 **ii. The Commonality, Predominance, and Typicality Requirements are Met**

8 The commonality requirement is met when there are questions of law or fact regarding the class
9 as a whole. *See Hanlon*, 150 F.3d at 1019. Commonality requires only that some common legal or
10 factual questions exist; Plaintiff need not show that all issues in the litigation are identical. *See*
11 *Richmond v. Dart Ind., Inc.*, 29 Cal.3d 462, 473 (1981); *City of San Jose v. Superior Court*, 12 Cal.3d
12 447, 460 (1974). Common questions of law or fact must also predominate over individual questions
13 and class-wide treatment of a dispute must be superior to individual litigation.² *See Richmond*, 29
14 Cal.3d at 469. Predominance requires a putative class be sufficiently cohesive to warrant adjudication
15 by representation. *See Hanlon*, 150 F.3d at 1022. The typicality requirement is met when claims of the
16 named representative are typical of those of the class, though "they need not be substantially identical."
17 *Id.* at 1020; *Classen v. Weller*, 145 Cal. App. 3d 27, 46-47 (1983).

18 The common questions of law and fact in this case stem from Plaintiff's contention that
19 Defendants violated California law by 1) failing to pay Plaintiff and Class Members' split shift
20 premiums, 2) failing to pay Plaintiff and Class Members for all hours worked due to Defendants'
21 failure to pay Plaintiff and Class Members for the time spent waiting for clients to be released from
22 schools, 3) failing to provide Plaintiff and Class Members with off-duty meal and rest periods, 4)
23 failing to pay Plaintiff and Class Members meal period and rest period premiums for missed meal and
24 rest periods and for the on-duty meal and rest periods, 5) failing to pay for all hours worked stated in
25 Plaintiff's and Class Members' timecards, and 6) engaging in unlawful inquiry into the criminal
26 history of Class Members. *See Exhibit B*. The waiting time penalties, unfair competition, and PAGA
27

28 ²When assessing predominance and superiority, a court may consider that the class will be certified for settlement purposes only and that manageability of trial is therefore irrelevant. *See Amchem Products v. Windsor*, 521 U.S. 591 (1997).

claims are derivative of these violations. *See id.* Plaintiff and the Class Members seek the same wage and hour remedies under state law. Under these specific circumstances, the commonality and predominance requirements are satisfied. Regarding the typicality requirement, Plaintiff contends she suffered from the same unlawful wage and hour policies, treatment, and circumstances as Class Members did, will request the same remedies, and will rely on the same methods of proof to establish liability and damages. *See id.* Thus, the typicality requirement is also satisfied for settlement purposes.

iii. The Adequacy Requirement is Met

The adequacy of representation requirement is met if the named representative and counsel have no interests adverse to those of the putative class members and are committed to vigorously prosecuting the case on behalf of the class. *See Hanlon*, 150 F.3d at 1020; *McGhee v. Bank of America*, 60 Cal.App.3d 442, 450-51 (1976). Those standards are met here. Under the proposed Agreement, Plaintiff and the putative Class Members will receive a pro rata share of the settlement based on the number of workweeks they worked for Defendants. *See Exhibit A.* Finally, any settlement class member who wished to opt-out of the settlement was able to do so, and he or she was also able to dispute the number of workweeks stated in the Notice of Settlement.

There is no conflict of interest between Plaintiff and Class Members. Plaintiff and Plaintiff's counsel have pursued the wage and hour claims made in the operative Complaint vigorously on behalf of the class. Although Plaintiff also brought individual claims in this action, the settlement of those claims is not contingent on the outcome of the class claims or approval of the class settlement in any way. *See Decl. Rodriguez*, ¶ 33; *Decl. Trotter*, ¶ 9. Furthermore, the discount to the value of Plaintiff's individual claims is similar to the discount made to the value of the class claims, showing there was no improper preferential treatment given to Plaintiff's individual claims when resolving this litigation. *See id.* Plaintiff's counsel, with Plaintiff's assistance, thoroughly investigated the claims made in this case by speaking with Plaintiff and reviewing substantial amounts of documents. Plaintiff's counsel thereafter engaged Defendants' counsel in settlement discussions over the course of approximately thirteen (13) months. Moreover, Plaintiff's counsel has experience defending and bringing wage and hour claims. Because Plaintiff's counsel has vigorously pursued Plaintiff's and the Class Members' claims, the adequacy requirement is met. *See generally Decl. Rodriguez.*

1 **VII. CONCLUSION**

2 For all of the foregoing reasons, Plaintiff respectfully requests that this Court certify the class
3 for settlement purposes; grant final approval of the proposed settlement; including the Plaintiff's Class
4 Representative Enhancement Payment, the Settlement Administrative Costs, the payment to the LWDA
5 under PAGA, and Class Counsel's application for reasonable attorneys' fees and costs; find that the
6 Notice of Settlement and the administration process satisfied Class Members' due process rights; and
7 approve proposed order submitted concurrently herewith.

8
9 **Shimoda & Rodriguez Law, PC**

10
11 Dated: June 28, 2024

12 By: 
13 Galen T. Shimoda
14 Justin P. Rodriguez
15 Renald Konini
16 Attorneys for Plaintiff
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Attorneys for Plaintiff TARA TROTTER
individually and on behalf of similarly situated employees

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN

TARA TROTTER, individually and on behalf
of all other similarly situated employees,

Plaintiff,

vs.

SEC TRANSPORTATION, INC., a California
Corporation; STOCKTON EDUCATIONAL
CENTER, INC., an unknown association; and
DOES 1 to 100, inclusive,
Defendants.

Case No. STK-CV-UOE-2023-0003641

*Assigned for All Purposes to Hon. Jayne Lee,
Department 10C*

CLASS ACTION

**DECLARATION OF JUSTIN P.
RODRIGUEZ IN SUPPORT OF
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND PAGA
SETTLEMENT**

Date: July 25, 2024

Time: 9:00 a.m.

Dept.: 10C

Judge: Hon. Jayne Lee

Filed: April 11, 2023

FAC Filed: July 7, 2023

Trial Date: None Set

1 I, Justin P. Rodriguez, declare:

2 1. I am an attorney at law duly admitted to practice before all the courts of the State of
3 California and an attorney of record for Plaintiff Tara Trotter (“Plaintiff”) herein. I am making this
4 declaration on behalf of the named Plaintiff, the putative class members, and in support of Plaintiff’s
5 Motion for Final Approval of Class Action and PAGA Settlement (“Motion”). A true and correct copy
6 of the Joint Stipulation Regarding Class Action and PAGA Settlement and Release (“Agreement”) in
7 this matter is filed with this Motion as Exhibit A.

8 2. The wage and hour claims were brought as a class action based on Plaintiff’s contention
9 that Defendants SEC Transportation, Inc., and Stockton Educational Center, Inc., (“Defendants”)
10 violated California law by 1) failing to pay overtime wages, 2) failing to pay minimum wages, 3)
11 failing to provide meal periods or pay premiums in lieu thereof, 4) failing to provide rest periods or pay
12 premiums in lieu thereof, 5) failing to provide accurate wage statements, 6) failing to timely pay all
13 final wages, 8) unlawfully inquiring into criminal history, and 8) engaging in unfair competition.
14 Plaintiff also alleged liability for civil penalties under the Private Attorneys General Act (“PAGA”).
15 These claims were based on allegations that Defendants violated California law by 1) failing to pay
16 Plaintiff and Class Members’ split shift premiums, 2) failing to pay Plaintiff and Class Members for all
17 hours worked due to Defendants’ failure to pay Plaintiff and Class Members for the time spent waiting
18 for clients to be released from schools, 3) failing to provide Plaintiff and Class Members with off-duty
19 meal and rest periods, 4) failing to pay Plaintiff and Class Members meal period and rest period
20 premiums for missed meal and rest periods and for the on-duty meal and rest periods, 5) failing to pay
21 for all hours worked stated in Plaintiff’s and Class Members’ timecards, and 6) engaging in the
22 unlawful inquiry into the criminal history of Class Members. The PAGA, waiting time penalty, wage
23 statement violation, and unfair competition claims also derive from these violations.

24 3. Plaintiff is the only named representative in this matter. From our initial investigations
25 of Plaintiff’s claims and documents, we believed these wage and hour claims had merit and could be
26 maintained as a class action. We filed the action on or about April 11, 2023. Plaintiff exhausted
27 administrative remedies through the Labor and Workforce Development Agency (“LWDA”) prior to
28 amending the Complaint to add a PAGA claim. Plaintiff filed a notice with the LWDA on April 10,

2023, setting forth the facts and theories of liability. A true and correct copy of the notice filed with the LWDA is being filed with this Motion as Exhibit C. A copy of the notice was also sent to Defendants via certified mail and the \$75.00 filing fee was remitted to the LWDA at that time. There was no response by the LWDA regarding its intent to investigate the claims alleged in Plaintiff's notice for more than 65 days. As such, Plaintiff became authorized to commence a civil action under the PAGA and filed a First Amended Complaint on July 7, 2023. A true and correct copy of Plaintiff's operative Complaint is filed with this Motion as Exhibit B. A copy of the Complaint was uploaded to the LWDA on July 13, 2023, after we received an endorsed copy back from Court.

4. Currently, there is no date set for a motion to certify the class and there is no trial date.

5. Defendants are represented in this matter by Jamie M. Bossuat and Kelsea A. Carbajal of Kroloff, Belcher, Smart, Perry & Christopherson. From the beginning, Defendants have contested the merits of the wage and hour claims, the suitability of the case for class action or representative treatment, the manageability of the case at trial, and Plaintiff's ability to prove a violation in each pay period for each employee among other defenses and contentions they made challenging the propriety of this action. Defendants further contended, even assuming there was a finding supporting the imposition of PAGA penalties, that the Court would likely exercise its discretion to substantially reduce any such penalties owed based on evidence of good faith attempts to comply with California Labor Code obligations by Defendants. Notwithstanding its agreement to settle this matter, Defendants believe the practices Plaintiff is contending are unlawful either do not exist or, to the extent they do exist, fully comply with all state and federal employment laws with respect to Plaintiff and Class Members. Also, Defendants have contended that this matter is not appropriate for class certification outside of this proposed class settlement.

6. Based on the expected testimony from Plaintiff and Class Members, a review of Defendants' policies and procedures and other documents relating to the alleged class claims, information on the number of Class Members, Class Members' dates of employment, and a representative sample of Class Members' time and payroll data, the scope of the potential damages to Plaintiff and Class Members in light of the claims alleged, the uncertainty in the law with regard to certification, and the negotiations that have taken place, I am convinced that the proposed settlement is

1 in the best interest of the class. The length and risks of trial and other normal perils of litigation that
2 impact the value of the claims were also considered and weighed in reaching the Agreement. In
3 addition, I carefully considered the prospect of potential class certification issues as well as the
4 uncertainty of class certification, the difficulties of complex litigation, and the lengthy process of
5 establishing specific damages and various possible delays and appeals in agreeing to the proposed
6 settlement. I further considered the fact that penalties under the PAGA could be substantially cut at the
7 discretion of the Court even if Plaintiff was successful on proving those claims and there was risk that a
8 Court could find no willfulness in the failure to pay wages at separation, which would eliminate the
9 value of the waiting time penalty claim entirely. Overall, I believe it is more beneficial to secure a
10 guaranteed benefit to the class now rather than to proceed with litigation and potentially obtain zero
11 funds to the class due to legal or factual issues in the case.

12 7. My office, including my partner, Galen T. Shimoda, my associate, Renald Konini, our
13 paralegal, and myself, along with Plaintiff's assistance, thoroughly investigated the merits of the wage
14 and hour claims and potential damages for such claims. The parties engaged in informal discovery and
15 exchange of documents, including a representative 15% sampling of employee data, such as time
16 records, paystubs, payroll data and relevant handbooks, bulletins, and memoranda containing
17 Defendants' policies for the entirety of the statute of limitations applicable to the alleged claims. As part
18 of the claims' investigation, Plaintiff's counsel obtained from Defendants Plaintiff's personnel file
19 which included payroll records and relevant policies regarding the claims. Plaintiff also provided
20 Plaintiff's counsel with copies of policies, paystubs, timecards, and emails related to the claims. The
21 discovery covered all aspects of the asserted wage and hour claims, including certification issues, merits
22 issues, damages, the scope and configuration of Class Members, the content and implementation of the
23 wage and hour policies at issue, issues relating to manageability concerns at trial, among other relevant
24 areas. From this production we were able to determine information critical to a reliable damages
25 analysis such as the average hourly rate, average daily hours worked, shifts, eligible for meal and rest
26 periods and the number of potential shifts that may correspond to liability under our theories of liability,
27 the average number of workweeks and pay periods that had potential violations based on the asserted
28 claims, the frequency with which violations occurred in a given week and/or pay period, and the number

1 of former employees. This information allowed my office to assess both liability and damages and
2 create an accurate damages model. Plaintiff assisted in all aspects of this litigation including providing
3 factual information relating to Plaintiff's and Class Members' employment conditions, providing a
4 substantial number of documents, and answering questions regarding Defendants' factual contentions in
5 this matter. This was important because it directly related to our ability to maintain this case as a class
6 action and our ability to obtain a favorable settlement for the class.

7 8. Throughout this litigation our office had numerous communications with Defendants'
8 Counsel discussing our respective positions. The parties engaged in mediation on September 18, 2023,
9 using an experienced mediator, Brandon McKelvey. The parties accepted a mediator's proposal on
10 September 18, 2023, covering the essential terms of the settlement. The parties thereafter continued to
11 negotiate the details of the long form Agreement, covering additional terms relating to the
12 administration and notice provisions of the settlement. Ultimately on January 19, 2024, the Parties were
13 able to finalize and fully execute the Agreement after months of extensive, arm's length negotiations.
14 The negotiations were at all times contentious and adversarial, though still professional in nature.

15 9. The parties reviewed and analyzed substantial amounts of data regarding the class
16 claims. Based on our analysis and review of all relevant documents, Class Member workweek, payroll,
17 and sample data, and the information and argument presented by Defendants in this matter, I have
18 determined that the maximum damages for the asserted class and PAGA claims is approximately
19 \$2,841,432.60. The maximum exposure for PAGA penalties is approximately \$935,168.00 based on
20 the counts alleged to the LWDA and the class data. Based on our research, we did not find any prior
21 Labor Commissioner or court decisions that stated Defendants' practices and/or policies were
22 improper. As such, a "subsequent violation" may not be found for penalty calculation purposes and the
23 exposure analysis here is based on an "initial violation" valuation being adopted by any fact finder if
24 this matter went to trial.

25 10. However, I believe the PAGA penalties in this case may be reduced due to the fact that
26 the penalties would be in addition to amounts owed for substantive violations and much of the penalties
27 are based on violations due to technical non-compliance with the Labor Code. Furthermore,
28 Defendants produced a substantial number of documents and arguments that a Court may find

1 demonstrates a good faith attempt at compliance that merits the reduction of civil penalties. Courts
2 regularly cut civil penalties on PAGA claims where statutory penalties for the same violations are
3 assessed as well. Courts are statutorily authorized to use discretion to reduce penalties and the range of
4 discretion used varies substantially. *See Thurman v. Bayshore Transit Mgmt., Inc.*, 203 Cal.App.4th
5 1112, 1135 (2012) (30% reduction); *Fleming v. Covidien, Inc.*, 2011 U.S. DIST. LEXIS 154590, *9
6 (C.D. Cal. 2011) (82% reduction). Thus, civil penalties may be cut to approximately \$168,330.24
7 (82% reduction) or lower given the derivative recovery. Taking this into account, the more likely
8 maximum recovery if Plaintiff was successful at trial on proving 100% of the substantive class
9 damages plus civil penalties after an anticipated discretionary Court reduction of the PAGA penalties
10 would be approximately \$2,074,594.84. Taking this into account, Plaintiff's \$200,000 gross recovery
11 under the Agreement represents approximately 10% of the maximum likely value in this matter. After
12 deducting from the Gross Settlement Amount the proposed allocations for attorneys' fees and costs,
13 any Enhancement Payment to the Class Representatives, Settlement Administrator Costs, and the 75%
14 portion of the PAGA Payment to the LWDA, the net recovery under the Agreement represents
15 approximately 5% of the maximum likely value in this matter. It is important to note that this does not
16 account for any risk in obtaining certification, proving liability, or proving damages. For example, if
17 the Court were to find a good faith dispute as to liability under either California Labor Code § 1194.2
18 or for waiting time penalties, this would eliminate those categories of damages entirely. *See Diaz v.*
19 *Grill Concepts Servs., Inc.*, 23 Cal.App.5th 859, 868 (2018). Such a finding would cause the maximum
20 likely damages to drop from \$2,074,594.84 to \$1,268,035.24. Such risk and variability in the range of
21 possible outcomes demonstrates the value of the settlement as a reasonable compromise. Additionally,
22 the average net award is approximately \$799.53. I believe the Agreement represents a reasonable
23 compromise of claims based on the legal and factual disputes in this case. The ability to secure a
24 guaranteed settlement now and ensure Class Members receive some compensation, rather than proceed
25 to further litigation and potentially recover nothing, was a motivating factor in reaching this
26 Agreement.

27 11. After preliminary approval, data for Class Members was turned over to the Settlement
28 Administrator pursuant to the Agreement. The number of workweeks for Class Members during the

1 Class Period as originally defined, exceeded the threshold needed to trigger the escalator provision in
2 Paragraph 10.1 of the Agreement. Pursuant to the terms of the Agreement, Defendant elected to
3 shorten the Class Period and PAGA Claim Period end dates to September 3, 2022, such that the number
4 of workweeks did not exceed 10,778. This reduction also resulted in lowering the number of Class
5 Members to 126 because the remaining individuals only worked past the September 3, 2022, date.
6 Thus, notice of the settlement only went out to those individuals affected and within the newly
7 shortened Class Period and PAGA Claim Period dates. It took an extended period of time to resolve
8 the escalator issue. It had to be confirmed what the new claim period end dates or the new Gross
9 Settlement Amount would be depending on which option Defendants chose under the Agreement.
10 However, the Parties met and conferred to resolve this issue and avoid burdening the Court with law
11 and motion proceedings. However, the delay caused the filing deadline for the final approval motion to
12 occur before the end of the notice period. Thus, we are filing this Motion with information regarding
13 the response of Class Members to date and will file a supplemental declaration for the Settlement
14 Administrator after the Notice Period has ended. This will still be completed before the hearing date.

15 12. In agreeing to represent Plaintiff and take on the case for all Class Members, our office
16 agreed to take this case on a contingency basis, meaning that we would take a percentage of any
17 settlement or judgment should we recover a monetary amount. We took a risk that we would not
18 recover any money in this matter if we were unsuccessful at trial. We also took on the risk that the case
19 may be subject to an unfavorable summary judgment ruling. However, we believe it is important to
20 make sure employees are able to find affordable representation in order to ensure that employers are
21 complying with all their legal obligations towards employees and paying employees all their hard-
22 earned wages. We rely on attorneys' fee awards in order to continue working to ensure California
23 wage and hour protections are enforced. Otherwise, we could not continue to represent employees who
24 are denied wages, but whose cases may be time-consuming and difficult to prove. There have been
25 many class cases we have litigated where ultimately we get zero for our time because we are unable to
26 meet certification requirements or the company becomes financially insolvent.

27 13. I am a shareholder at Shimoda & Rodriguez Law, PC. My law firm is a boutique law
28 practice that focuses primarily on employment litigation, emphasizing wage and hour litigation. I

attended and graduated college from U.C. Davis, receiving a Bachelor of Arts in Philosophy and the Departmental Citation for Academic Achievement in the Philosophy program. I was one of only two recipients of this award out of the entire Philosophy Department. After U.C. Davis, I attended the University of the Pacific, McGeorge School of Law, graduating in 2011 and receiving a Juris Doctorate. I graduated in the top 20% of my class and was a member of the Traynor Honor Society at McGeorge. Other academic achievements of mine include receiving a Witkin Award (top grade) in my legal research and writing course, a Witkin Award in complex civil litigation, being a member of the Dean's List from 2008 to 2011, being a Legislative Staff Writer for the *McGeorge Law Review* from 2009–2010, being an Associate Comment Editor for the *Pacific McGeorge Global Business & Development Law Journal* from 2010–2011, and being selected as a Sacramento County Bar Association Diversity Fellow in 2009. I was also a member of the Employment and Labor Law Society and an officer for the Latino Law Students Association from 2009 to 2010.

14. I have been practicing law since 2011. From 2011 to 2016, I worked with the Shimoda Law Corp. as an Associate. I became a Shareholder/Partner in the firm in 2017. Shimoda Law Corp. became Shimoda & Rodriguez Law, PC, in 2022. Since 2017, I have received an AV Preeminent rating from Martindale-Hubbell for my legal ability and ethical standards. From 2018 to present, I have been recognized as a Super Lawyer (Rising Star). I have been a panel speaker and presented a number of seminars covering issues in wage and hour litigation in general and complex class and PAGA litigation in particular. These engagements include the following: (1) *Epic Systems*, PAGA, and the Future of Employment Arbitration in California (Sacramento County Bar Assoc., Sept. 2018); (2) Class Actions and PAGA Claims (Assoc. of Defense Counsel of Northern California & Nevada, Jul. 2020); (3) Mediation: The Experienced Trial Lawyers Perspective (Sacramento County Bar Assoc., Sept. 2020); (4) How to Become a Pivotal Part of Any Wage and Hour Practice Group (Sacramento County Bar Assoc., Mar. 2021); (5) Emerging Trends and Issues Relating to Arbitration and PAGA Claims in a Post-*Viking River Cruises* World (Sacramento County Bar Assoc., Nov. 2022). I was elected to the Sacramento County Bar Association Labor and Employment Law Section's executive committee in 2019 and was the Chair of the executive committee for 2022. I have also been a member of the Presiding Judge Civil Law Advisory Committee for Sacramento County Superior Court since August

2020. My practice focuses on complex civil litigation, including wage and hour class actions, PAGA claims, and Fair Labor Standards Act (“FLSA”) claims. I am actively involved in most all of the complex litigation handled by our firm. Class and/or PAGA actions I have litigated or am currently litigating, including the instant case, includes, but is not limited to, the following:

- *Aanerud v. Neumann Ltd., et al.*, Case No. 34-2014-00169324 (Sac. Sup. Ct.);
- *Adams-Angway v. Placer Title Company, et al.*, Case No. SCV0040845 (Placer Sup. Ct.);
- *Adewumi v. GHS Interactive Security, LLC*, Case No. 34-2017-00210768 (Sac. Sup. Ct.);
- *Arrington v. Capital Express Lines, Inc., et al.*, Case No. 34-2012-00134195 (Sac. Sup. Ct.);
- *Aslam v. American Custom Private Security, Inc.*, Case No. STK-CV-UOE-2018-0012080 (San Joaquin Sup. Ct.);
- *Aslam v. Cypress Security, LLC*, Case No. 34-2017-00220143 (Sac. Sup. Ct.);
- *Aslam v. Surveillance, Security, Inc.*, Case No. 34-2017-00220142 (Sac. Sup. Ct.);
- *Azzolino v. Brake Masters of Sacramento, LLC, et al.*, Case No. 34-2017-00218293 (Sac. Sup. Ct.);
- *Barkhausen v. Bank of Stockton*, Case No. STK-CV-UOE-2019-17145 (San Joaquin Sup. Ct.);
- *Benak v. MDStat Urgent Care, Inc.*, Case No. 34-2015-00188181 (Sac. Sup. Ct.);
- *Bigornia v. Quest Diagnostics Clinical Laboratories, Inc., et al.*, Case No. 34-2019-00271174 (Sac. Sup. Ct.);
- *Blig v. Medical Management International, Inc.*, Case No. 34-2017-00213906 (Sac. Sup. Ct.);
- *Caguioa, et al. v. Fortune Senior Enterprises, et al.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac. Sup. Ct.);
- *Castorena v. Flowmaster, Inc.*, Case No. CV18-2191 (Yolo Sup. Ct.);
- *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup. Ct.);

- *Carr, et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-00209613 (Sac. Sup. Ct.);
- *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
- *Cress, et al. v. Mitsubishi Chemical Carbon Fiber and Composites, Inc.*, Case No. 34-2017-00222101 (Sac. Sup. Ct.);
- *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.);
- *Ferreyra v. Point Digital Finance, Inc., et al.*, Case No. 20CV373776 (Santa Clara Sup. Ct.);
- *Foye v. The Golden 1 Credit Union*, Case No. 34-2018-00235003 (Sac. Sup. Ct.);
- *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- *Garcia v. Royal Plywood Company, LLC, et al.*, Case No. 34-2017-00221627 (Sac. Sup. Ct.);
- *Gomes v. Progressive Casualty Insurance Company*, Case No. 34-2018-00241979 (Sac. Sup. Ct.);
- *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
- *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);
- *Gonzalez v. Northcentral Pizza, LLC, et al.*, Case No. 34-2019-00252018 (Sac Sup. Ct.);
- *Gordon, et al. v. Hospice Source, LLC, et al.*, Case No. 34-2019-00250022 (Sac. Sup. Ct.);
- *Gotts v. John L. Sullivan Chevrolet, Inc.*, Case No. 34-2018-00231576 (Sac Sup. Ct.);
- *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
- *Hellum v. A1 Protective Services, LLC, et al.*, Case No. 34-2018-00234449 (Sac. Sup. Ct.);
- *Hercules v. Maximus Services, LLC, et al.*, Case No. 34-2019-00268385 (Sac Sup. Ct.);
- *Hernandez v. Snyir, Inc.*, Case No. 34-2017-00207641 (Sac. Sup. Ct.);
- *Heinz v. Wright Tree Services*, Case No. 34-2012-00131949 (Sac. Sup. Ct.);
- *Hoover v. Mom365*, Case No. 2:17-cv-01328-TLN-CKD (E.D. Cal.);
- *Insixiengmay v. Hyatt Corporation, et al.*, Case No. 2:18-cv-02993-TLN-DB (E.D. Cal.);
- *Josol v. Dial Medical Corp.*, Case No. 34-2008-00010040 (Sac. Sup. Ct.);
- *McMahon v. Airco Mechanical, Inc.*, Case No. 34-2019-00259269 (Sac. Sup. Ct.);
- *Muhieddine v. KBA Docusys, Inc.*, Case No. 34-2014-00164720 (Sac. Sup. Ct.);

- *Nguyen v. Cardinal Health Pharmacy Services, LLC, et al.*, Case No. 2:19-cv-01939-KJM-EFB (E.D. Cal.);
- *Prasad v. D. G. Smith Enterprises, Inc.*, Case No. 34-2017-00215046 (Sac. Sup. Ct.);
- *Ralston v. JMJ Incorporated, Inc. et al.*, Case No. 34-2017-00217047 (Sac. Sup. Ct.);
- *Roberts v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- *Robinson v. West of Chicago Restaurants, Inc., dba Chicago Fire*, Case No. 34-2010-00082201 (Sac Sup. Ct.);
- *Salas, et al. v. Joint Ventures, LLC, et al.*, Case No. 34-2018-00227493 (Sac. Sup. Ct.);
- *Salmon v. Ovation Fanfare, L.P., et al.*, Case No. 34-2018-00244749 (Sac. Sup. Ct.);
- *Scarano v. J.R. Putman, Inc.*, Case No. 34-2018-00244753 (Sac. Sup. Ct.);
- *Smith v. Greyhound Lines, Inc.*, Case No. 34-2017-00219188 (Sac. Sup. Ct.);
- *Sullivan v. National Response Corporation*, Case No. 34-2018-00244757 (Sac. Sup. Ct.);
- *Talent v. Leslie's Poolmart, Inc.*, Case No. 34-2012-00128539 (Sac. Sup. Ct.);
- *Thornton v. McConnell Jones Lanier & Murphy LLP*, Case No. No. 34-2017-00211553 (Sac. Sup. Ct.);
- *Watson v. Quarter At A Time, LLC*, Case No. 34-2017-00217570 (Sac. Sup. Ct.); and
- *Willis v. Premier Pools, Incorporated*, Case No. 34-2017-00211710 (Sac. Sup. Ct.).

15. The preceding list does not include those cases where, for various reasons, the case was filed as a class action and/or PAGA action, but did not maintain that status through the end of the case.

16. My partner, Galen T. Shimoda, Esq., worked with me on this matter and was critical in assisting with all aspects of the litigation of this case. Mr. Shimoda and I are some of only a handful of plaintiff attorneys located in Sacramento who handle wage and hour class actions. Mr. Shimoda attended and graduated from the University of Utah in 2000 with a B.S. in Business Management and a B.A. in Asian Studies, with a minor in Japanese language. He then attended and graduated from the University of the Pacific, McGeorge School of Law and received his J.D. degree in 2003. He graduated from McGeorge in the top 5% of his class and was a member of the Order of the Coif and Traynor Honor Society. Since graduating from McGeorge, Mr. Shimoda has authored a number of employment law articles for journals and our firm regularly publishes articles on our firm's website.

1 Mr. Shimoda has been a regular panel speaker for the CEB (Continuing Education of the Bar)
2 Employment Review seminars from 2014 to the present. His speaking engagements include the
3 following: 1) Lorman Military Leave Law Speaker; 2) Restaurant Association Speaker at Annual
4 Seminar (Los Angeles); 3) Federal Bar Association, Sacramento Chapter: 2015 Amendments to the
5 Federal Rules of Civil Procedure (Mar. 30, 2016); 4) CEB – Employment Law Practice: 2016 Year in
6 Review (Jan. 20, 2017); 5) CEB – Employment Law Practice: 2015 Year in Review (Jan. 22, 2016); 6)
7 CEB – Employment Law Practice: Year in Review (2014) (Jan. 9, 2015); 7) CEB - Employment Law
8 Practice: Year in Review (2013) (Jan. 10, 2014); 8) Sacramento County Bar Association - Class
9 Actions from the Trenches: Real World Experiences from the Plaintiff and Defense Bar (Feb. 21,
10 2012); 9) Sacramento Employer Advisory Council – Wage and Hour Workshop: Going Beyond the
11 Exemption Discussion (Apr. 7, 2016); 10) Sacramento Employer Advisory Council - Wage & Hour
12 Panel and AB 1825 Training: Updates on California’s New Wage Laws and Manager Compliance
13 Training (Apr. 25, 2017); 11) Sacramento County Bar Association, Labor and Employment Section –
14 PAGA Representative Litigation: Emerging Trends and Issues (May 17, 2016); 12) Sacramento
15 Business Journal Panel – Overtime Rules (Jun. 23, 2016); 13) Association of Defense Counsel of
16 Norther California & Nevada - Employment Law Update – Do the Math: Calculation Exposure and
17 Damages in Wage and Hour Cases (Aug. 12, 2016); 14) California Employment Lawyers Association -
18 PAGA Today and PAGA Tomorrow: Moderate-Advanced Issues In PAGA Litigation (Oct. 20, 2017);
19 15) California Employment Lawyers Association Advanced Wage and Hour Seminar – Better Know a
20 Venue Roundup (May 17, 2019). Mr. Shimoda has been AV rated by Martindale Hubbell since 2013,
21 was recognized as a Super Lawyer (Rising Star) from approximately 2009 to 2013 and was recognized
22 as a Super Lawyer from 2014 to present.

23 17. Mr. Shimoda has practiced law in California since being admitted to the State Bar in
24 2003, litigating wage and hour class actions and individual wage and hour litigation among other cases.
25 Mr. Shimoda began practicing class action law on the defense side at the firm of Orrick, Herrington &
26 Sutcliffe LLP. He then switched to plaintiff class action work in 2005. His class action experience is
27 in wage and hour law. Mr. Shimoda has litigated several class action cases in California State and
28 Federal Courts, including up to certification, settlement, preliminary and final approval, and

disbursement of monies, and has been found to be satisfy the adequacy requirements for class counsel. Some of the class action and/or PAGA cases he is litigating and/or has litigated as lead or co-counsel include the following:

- *Aanerud v. Neumann Ltd., et al.*, Case No. 34-2014-00169324 (Sac. Sup. Ct.);
- *Acosta v. Acosta Sales, LLC, et al.*, Case No. 2:11-CV-01796 (C.D. Cal.);
- *Atchley v. Blaggs Food Service, LLC*, 34-2017-0215930 (Sac. Sup. Ct.);
- *Adewumi v. GHS Interactive Security, LLC*, Case No. 34-2017-00210768 (Sac. Sup. Ct.);
- *Arnall v. North American Merchandising Service Inc.*, Case No. 06AS01439 (Sac. Sup. Ct.);
- *Arrington v. Capital Express Lines, Inc., et al.*, Case No. 34-2012-00134195 (Sac. Sup. Ct.);
- *Aslam v. Cypress Security, LLC*, Case No. 34-2017-00220143 (Sac. Sup. Ct.);
- *Aslam v. Surveillance, Security, Inc.*, Case No. 34-2017-00220142 (Sac. Sup. Ct.);
- *Azzolino v. Brake Masters of Sacramento, LLC, et al.*, Case No. 34-2017-00218293 (Sac. Sup. Ct.);
- *Benak v. MDStat Urgent Care, Inc.*, No. 34-2015-00188181 (Sac. Sup. Ct.);
- *Blig v. Medical Management International, Inc.*, Case No. 34-2017-00213906 (Sac. Sup. Ct.);
- *Caguioa, et al. v. Fortune Senior Enterprises, et al.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac. Sup. Ct.);
- *Carlos v. Abel Mendoza, Inc., et al.*, Case No. 34-2016-00195806 (Sac. Sup. Ct.);
- *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup. Ct.);
- *Carr et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-00209613 (Sac. Sup. Ct.);
- *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
- *Colbert v. American Home Craft Inc.*, Case No. 05AS05012 (Sac. Sup. Ct.);

- *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.)
- *Diosdado v. Nor-Cal Venture Group, Inc., et al.*, Case No. STK-CV-UOE-2020-0008242 (San Joaquin Sup. Ct.);
- *Dugue v. Sierra Forever Families, et al.*, Case No. 34-2017-00210770 (Sac. Sup. Ct.);
- *Fadhl v. Siemens Healthcare Diagnostics, Inc., et al.*, Case No. 34-2017-00209518 (Sac. Sup. Ct.);
- *Fujimoto v. Nabe-Ya, Inc., et al.*, Case No. 20CV01255 (Butte Sup. Ct.);
- *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- *Gerard v. Les Schwab Tires Center of California, Inc.*, Case No. 34-2007-30000003 (Sac. Sup. Ct.);
- *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
- *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);
- *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
- *Hernandez et al. v. MP Nexlevel, LLC et al*, Case No. 3 :16-cv-03015-JCS (N.D. Cal.);
- *Hernandez v. Snyir, Inc.*, Case No. 34-2017-00207641 (Sac Sup. Ct.);
- *Heinz v. Wright Tree Services*, Case No. 34-2012-00131949 (Sac. Sup. Ct.);
- *Hoover v. Mom365*, Case No. 2:17-cv-01328-TLN-CKD (E.D. Cal.);
- *James v. Language World Services, Inc., et al.*, Case No. 34-2020-00279929 (Sac. Sup. Ct.);
- *Josol v. Dial Medical Corp.*, Case No. 34-2008-00010040 (Sac. Sup. Ct.);
- *Koretsky v. Furniture USA, Inc.*, Case No. 34-2014-00172142 (Sac. Sup. Ct.);
- *Muhieddine v. KBA Docusys, Inc.*, Case No. 34-2014-00164720 (Sac. Sup. Ct.);
- *Massey v. V3 Electric, Inc., et al.*, Case No. 34-2019-00263666 (Sac. Sup. Ct.);
- *Miller v. Caldwell Transportation Company, LLC, et al.*, Case No. 34-2018-00234954 (Sac. Sup. Ct.);
- *Miller v. Leaders in Community Alternatives*, Case No. FCSO47249 (Solano Sup. Ct.);
- *Pickens v. Elica Health Centers*, Case No. 34-2016-00200382 (Sac. Sup. Ct.);
- *Prasad v. D. G. Smith Enterprises, Inc.*, Case No. 34-2017-00215046 (Sac. Sup. Ct.);
- *Ralston v. JMJ Incorporated, Inc. et al.*, Case No. 34-2017-00217047 (Sac. Sup. Ct.);

- *Rickwalt v. Direct Reconditioning, LLC, et al.*, Case No. 34-2015-00175642 (Sac. Sup. Ct.);
- *Robinson v. West of Chicago Restaurants, Inc., dba Chicago Fire*, Case No. 34-2010-00082201 (Sac Sup. Ct.);
- *Rogers v. Les Scwhab Tires Center of California, Inc.*, Case No. 34-2009-00066320 (Sac. Sup. Ct.);
- *Schechter et al. v. Isys Solutions, Inc.*, Case No. RG10550517 (Alameda Sup. Ct.);
- *Smith v. Greyhound Lines, Inc.*, Case No. 34-2017-00219188 (Sac. Sup. Ct.);
- *Talent v. Leslie's Poolmart, Inc.*, Case No. 34-2012-00128539 (Sac. Sup. Ct.);
- *Thornton v. McConnell Jones Lanier & Murphy LLP*, Case No. No. 34-2017-00211553 (Sac. Sup. Ct.);
- *Valencia v. Lowbrau Bier Garten, LLC, et al.*, Case No. 34-2019-00258038 (Sac Sup. Ct.);
- *Watson v. Quarter At A Time, LLC*, Case No. 34-2017-00217570 (Sac. Sup. Ct.);
- *Williams v. Civic Development Group*, Case No. 06AS00267 (Sac. Sup. Ct.); and
- *Willis v. Premier Pools, Incorporated*, Case No. 34-2017-00211710 (Sac. Sup. Ct.).

18. The preceding list of cases does not include those where, for a variety of reasons, the case was initially filed as a class and/or PAGA action, but did not maintain that status through the end of the case.

19. My associate, Renald Konini, Esq., also worked with me on this case. In May 2011, Mr. Konini graduated from Seton Hall University School of Law. Prior to moving to California, he practiced law in New Jersey. While working for my firm, Mr. Konini has worked on a variety of individual and class action cases, including those involving wage and hour claims, Private Attorney General Act claims, wrongful termination claims, discrimination claims, retaliation claims, and harassment claims. Mr. Konini passed the July 2016 California Bar Examination and started practicing as an associate at my firm from approximately April 2019 to February 2021 and rejoined my firm in September 2022. Mr. Konini has worked on the written and oral discovery, including defending a PAGA representative's deposition, drafting special interrogatories and request for production of documents, calculating class-wide damages, communicating with class representatives, drafting mediation briefs, negotiating, drafting correspondence to defendants' counsel regarding the damages

1 calculated per plaintiffs' claims against defendant companies, and more. Mr. Konini worked on other
2 class and/or PAGA wage and hour actions that my firm has filed, namely *Bertelli v. Air Products and*
3 *Chemicals, Inc.*, Case No. 34-2018-00236898 (Sac. Sup. Ct.), *Carr v. Howroyd-Wright Employment*
4 *Agency, Inc.*, Case No. 34-2018-00228290 (Sac. Sup. Ct.), *Gomez v. Vander Schaaf Dairy, et al.*, Case
5 No. STK-CV-UOE-2020-0003954 (San Joaquin Sup. Ct.), *Haggins v. Kelly Services, Inc.*, Case No.
6 34-2017-00220473 (Sac. Sup. Ct.), *Hussaini v. Integrated Resources, Inc.*, et al, Case No. 34-2021-
7 00297152 (Sac. Sup. Ct.), *Kee, et al. v. Dr. Jeffrey A. Saladin, Dental Corporation (D/B/A Children's*
8 *Choice Pediatric Dental Care)*, et al., Case No. 34-2020-00290072 (Sac. Sup. Ct.), *Lear v. Raxium,*
9 *Inc.*, Case No. 21CV004358 (Alameda Sup. Ct.), *Serrano v. Cool Time, LLC*, Case No. 34-2021-
10 00312356 (Sac. Sup. Ct.), *Grebe v. Mary Ann's Baking Co., Inc.*, Case No. 34-2020-00285254-CU-
11 OE-GDS (Sac. Sup. Ct.), *Fujimoto v. Nabe-Ya, Inc., et al.*, Case No. 20CV01255 (Butte Sup. Ct.),
12 *Massey v. V3 Electric, Inc., et al.*, Case No. 34-2019-00263666 (Sac. Sup. Ct.), *Miller v. Caldwell*
13 *Transportation Company, LLC, et al.*, Case No. 34-2018-00234954 (Sac. Sup. Ct.), *Pek, et al v. Varris*
14 *Management, Inc.*, Case No. STK-CV-UOE-2020-3954 (San Joaquin Sup. Ct.), *Valencia v. Lowbrau*
15 *Bier Garten, LLC, et al.*, Case No. 34-2019-00258038 (Sac Sup. Ct). Mr. Konini's practice largely
16 revolves around wage and hour matters, including PAGA claims.

17 20. My office is requesting attorneys' fees and costs pursuant to the common fund doctrine
18 as I believe it to be applicable to the present case pursuant to *Serrano v. Priest*, 20 Cal.3d 25, 34-35
19 (1977), *Laffitte v. Robert Half Internat. Inc.*, 1 Cal.5th 480 (2016), and *Paul, Johnson, Alston & Hunt v.*
20 *Grauly*, 886 F.2d 268, 271 (9th Cir. 1989). Plaintiff and our firm have been able to secure an
21 identifiable benefit on behalf of the class and equity counsels that the cost of the representation should
22 be borne equally amongst all class members receiving these benefits. The settlement recovery provides
23 an excellent result and is the product of substantial time and effort in analyzing the facts and law
24 applicable to this case. I agreed to take this case on a contingency basis and as a class action with the
25 possibility that I would not receive any compensation for my time and efforts due to issues regarding
26 the merits and/or certification and have carried that risk over the course of the case. I have reviewed
27 fee arrangements and Court ordered fee awards in similar class cases and I believe that the thirty-five
28 percent (35%) fee request is within the accepted ranges. In my experience with contingency cases in

1 employment law cases, the typical percentage negotiated between parties ranges from thirty-five to
2 forty percent (35% to 40%) in individual litigation. In class action litigation, my experience in my own
3 firm and working with several other firms has been that the typical percentage negotiated between
4 parties and approved by a court ranges from thirty to forty percent (30% to 40%) based on the same
5 factors. I have also reviewed several recent Federal District Court Cases where the Court has approved
6 common fund based fee requests. These cases include *In re Activision Sec. Litigation*, 723 F.Supp.
7 1373, 1379 (N.D. Cal. 1989), *Watson v. Raytheon Company*, USDC Southern District, Case No. 3:10-
8 cv-0063, *Dirienzo v. Dunbar Armored, Inc.*, USDC Southern District, Case No. 3:09-cv-02745, *Green,*
9 *et al. v. Penske Logistics, L.L.C., et al.*, USDC Southern District, Case No. 3:09-cv-00069, *Benitez et*
10 *al. v. Wilbur*, USDC Eastern District, Case No. 1:08-cv-01122, *Chavez et al. v. Petrissans et al.*, USDC
11 Eastern District, Case No. 1:08-cv-00122, and *Willis et al. v. Cal-Western Transport*, USDC Eastern
12 District, Case No. 1:00-cv-05695, which are cited in Plaintiff's Memorandum of Points and
13 Authorities. I believe my request of \$70,000 (approximately 35%) for attorneys' fees is justified given
14 the results obtained on behalf of the class. The expected total costs through final approval by Class
15 Counsel are not expected to exceed \$15,000. Filed with this Motion as Exhibit D is a true and correct
16 copy of the costs (\$10,209.53) incurred to date and expected to be incurred through the completion of
17 this case by Shimoda & Rodriguez Law, PC. Any difference in the actual costs and the maximum
18 amount allocated under the Agreement will be added to the Net Settlement Amount.

19 21. I have used several class action administrator companies in the wage and hour class
20 actions I have resolved in the past and believe ILYM Group, Inc. will provide the best service to
21 administer the proposed class settlement. Under the settlement, the difference between the actual costs
22 of \$6,550 and the originally allocated \$15,000, will be paid to the Participating Class Members on a pro
23 rata basis.

24 22. A copy of the Agreement and the entire Motion was submitted to the LWDA for review
25 at the same time the Motion was submitted to the Court pursuant to California Labor Code section
26 2699(l)(2). A true and correct copy of documents demonstrating the settlement documents were
27 provided to the LWDA and that the LWDA has confirmed receipt are being filed with this Motion as
28 Exhibit E.

1 23. The designated *cy pres* beneficiaries in this case are Capital Pro Bono, Inc. (“CPB”) and
2 The Center For Workers Rights (“CFWR”). Only those funds that remain from uncashed settlement
3 checks will be sent to the *cy pres* beneficiaries pursuant to section 5.6 of the Agreement.

4 24. CPB is a 501(c)(3) nonprofit in good standing with the State of California that was
5 established in 1981 and incorporated in 1986 to provide free civil legal services to the indigent,
6 primarily through the use of volunteer attorneys. The formal service area includes Sacramento, Yolo,
7 San Joaquin, El Dorado and Placer counties, however it also regularly provides assistance, whether in
8 person or by phone, to individuals residing outside those counties, including Solano, Nevada, Merced,
9 Sutter, Yuba, and Stanislaus counties. CPB changed its name in 2020 from Voluntary Legal Services
10 Program of Northern California (“VLSP”) to Capital Pro Bono, Inc. CPB has been the recipient of *cy*
11 *pres* funds from several jurisdictions in the State of California, including from Sacramento County
12 Superior Court.

13 25. If CPB is approved as a *cy pres* beneficiary, any funds received will be dedicated to the
14 Employment Law Clinic and Advice Line project, which assists the indigent with legal matters related to
15 their current or former employment. This assistance regularly includes, but is not limited to, free legal
16 advice regarding claims for unpaid wages, failure to provide meal and rest periods, failure to pay
17 reimbursement, and waiting time penalty claims. CPB provides legal advice, assistance with legal
18 forms, and direct representation in administrative hearings, including administrative hearings in front of
19 the California Labor Commissioner for unpaid wages. CPB has a staff attorney and clinic coordinator
20 who provide assistance, along with experienced employment law attorney volunteers. These services
21 have been a focus of the Employment Law Clinic and Advice Line project since its inception with VLSP
22 and continuing through today under CPB.

23 26. CFWR is also a qualified *cy pres* designee in class actions, under section 384, as it is a
24 501(c)(3) nonprofit in good standing with the State of California providing free civil legal services to the
25 indigent. Since its inception in 2014 and in partnership with Legal Aid at Work, the CFWR offers one-
26 on-one legal consultations for low-wage workers. The CFWR discusses employment issues with
27 workers and advises them as to the available legal remedies. In addition to individual counseling on
28

employment issues, the CFWR educates workers, unions, and community members about workplace laws and remedies through “Know-Your-Rights” trainings conducted by the CFWR staff and volunteers.

27. The CFWR provides limited representation for low-wage workers in wage claims before the California Labor Commissioner. The CFWR has provided services to low-wage workers in a variety of industries across the entire state of California. CFWR primarily focuses on the enforcement of basic workplace protections, including claims for unpaid wages, minimum wage violations, failure to pay overtime, failure to pay reimbursement, waiting time penalties, and meal and rest period violations. The CFWR helps workers navigate the wage claim process before the California Labor Commissioner through advice given at its legal consultation clinics and/or, in some cases, through representing workers in these claims. If the CFWR is approved as a *cy pres* beneficiary, the funds received will be dedicated towards assisting low-wage workers with wage claims and enforcing the California Labor Code with respect to those wage claims.

28. I believe the services provided by CPB and the CFWR promote the law consistent with the objective of wage and hour class actions in general and in this case specifically.

29. I have spoken with every other attorney at my firm to determine whether they have any relationship with either of the proposed *cy pres* beneficiaries.

30. I have volunteered for both organizations numerous times over the past several years, either directly in the advice clinics or by presenting seminars on wage and hour laws for law students seeking to also volunteer at advice clinics. I have also volunteered by sitting on CPB’s advisory committee. These organizations are non-profits that assist low-income workers throughout California, giving free legal advice regarding employment law issues and representing employees with wage claims before the California Labor Commissioner. I have witnessed firsthand the quality service and attention these entities provide to individuals in need of employment law advice and representation at the California Labor Commissioner.

31. Galen T. Shimoda has volunteered for both organizations on and off over the past several years through either presenting wage and hour seminars to law students who staff the free advice clinics or helping at the advice clinics themselves. However, Mr. Shimoda has not performed any volunteer work with either organization since approximately March 2020. Mr. Shimoda has never received

1 payment or compensation of any kind in connection with any work he's done with either of the proposed
2 *cy pres* beneficiaries. Renald Konini has never done any work, volunteer or otherwise with Capital Pro
3 Bono, Inc. or the Center For Workers' Rights.

4 32. Neither my firm, myself, Mr. Konini, nor Mr. Shimoda have ever received any
5 compensation, direct or indirect, for designating CFWR or CPB as *cy pres* beneficiaries or in connection
6 with any of the volunteer work we have done with the organizations.

7 33. Plaintiff has entered into a separate individual settlement agreement resolving her
8 individual claims under the Tenth and Eleventh Causes of Action for the alleged violation of Labor
9 Code section 1102 and Wrongful Termination/Retaliation in exchange for a waiver of all her claims
10 other than those wage and hour claims resolved by the Agreement. The amount of the individual
11 settlement is \$35,000, which is separate and apart from the Gross Settlement Amount. Based on her
12 hourly rate and the value of benefits and wages earned Plaintiff earned as compensation on a standard 40
13 hour workweek, her annual earnings were approximately \$44,641.60. Although Plaintiff was able to
14 mitigate her damages by finding another job after several months of unemployment, it did not provide
15 the same level of pay or hours, resulting in a continued loss of approximately \$569.99 per week. By the
16 time of trial (approximately two years from the initial claim filing), this would equate to approximately
17 \$59,278.96 in lost wages. Given the facts of the individual claims and potential wage loss, I believe a
18 reasonable valuation of Plaintiff's individual claims would be approximately \$148,562.16, representing
19 the lost wages up to the estimated trial date and the equivalent of two years' worth of lost wages to
20 approximate the reasonable estimated value of claimed emotional distress. Plaintiff resolving her claim
21 for approximately 23.5% of its estimated worth is a substantial compromise. I believe that compromise
22 is in line with the compromises made for the class claims, especially since her individual claims are not
23 subject to such broad and categorical defenses like class claims for waiting time penalties or liquidated
24 damages on unpaid minimum wages are. Furthermore, the individual settlement is not contingent on
25 Plaintiff's approval of the class and PAGA settlement in any way. There was no inappropriate
26 preferential treatment for Plaintiff's individual claims over the class and PAGA claims in any way.
27
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1 I declare under penalty of perjury under the laws of the State of California that the foregoing is
2 true and correct. Executed on June 27, 2024, in Sacramento, California.

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5 Justin P. Rodriguez
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Attorneys for Plaintiff TARA TROTTER
individually and on behalf of similarly situated employees

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN

TARA TROTTER, individually and on behalf
of all other similarly situated employees,

Plaintiff,

vs.

SEC TRANSPORTATION, INC., a California
Corporation; STOCKTON EDUCATIONAL
CENTER, INC., an unknown association; and
DOES 1 to 100, inclusive,

Defendants.

Case No. STK-CV-UOE-2023-0003641

*Assigned for All Purposes to Hon. Jayne Lee,
Department 10C*

CLASS ACTION

**DECLARATION OF TARA TROTTER IN
SUPPORT OF PLAINTIFF’S MOTION FOR
FINAL APPROVAL OF CLASS ACTION
AND PAGA SETTLEMENT**

Date: July 25, 2024
Time: 9:00 am.
Dept.: 10C
Judge: Hon. Jayne Lee

Filed: April 11, 2023
FAC Filed: July 7, 2023
Trial Date: None Set

1 I, Tara Trotter, declare:

2 1. I am a competent adult, I have personal knowledge of the facts set forth in this declaration,
3 and I am making this declaration on behalf of myself, as a named plaintiff, and in support of Plaintiff's
4 Motion for Final Approval of Class Action and PAGA Settlement.

5 2. I started working for Defendants SEC Transportation, Inc., and Stockton Educational
6 Center, Inc. ("Defendants") in approximately 2018 as a non-exempt employee. Although there were
7 several months in 2020 that I did not work due to Covid-19, I continued working for Defendants until
8 approximately November 2020. I worked for Defendants again from approximately July 2022 to
9 November 4, 2022. I was subject to all of Defendants' policies and practices that have been alleged as
10 unlawful in the Complaint and the notice sent to the Labor and Workforce Development Agency,
11 including the following: failure to pay overtime, failure to pay minimum wages, failure to provide
12 accurate wage statements, failure to timely pay final wages, failure to provide meal and rest periods or
13 pay premiums in lieu thereof, and engaging in unlawful inquiry into criminal history.

14 3. I have actively participated in the litigation of the wage and hour claims for the benefit of
15 all Class Members. Prior to obtaining an attorney, I performed several hours of research trying to find a
16 quality attorney to handle the claims. I also performed several hours of research on the potential claims,
17 so I could be sure I could have an informed discussion with the attorneys about the claims and have a
18 better idea of what to expect in litigation and how to help the case proceed. After securing Shimoda &
19 Rodriguez Law, PC, I continued to be actively involved in the case to help ensure a positive outcome.

20 4. My attorneys explained to me the risks and benefits of bringing a wage and hour class
21 action and a claim under the Private Attorneys General Act ("PAGA"). I understood that pursuing the
22 wage and hour claims as a class and PAGA action meant that it would take substantially longer than
23 pursuing these claims individually, whether in Court or with the California Labor Commissioner, and that
24 I risked getting nothing in the end, but I believed it was important to make sure that Defendants followed
25 the law for everyone. I understood that I took on the risk, both professionally and financially, in pursuing
26 the wage and hour claims as a class and PAGA action rather than pursuing these claims individually,
27 including the risk of having to pay Defendants' costs if we were unsuccessful in bringing these claims.

1 5. During the course of this litigation, I have given detailed accounts of all the facts related to
2 my employment. I provided my attorneys with extensive documentation that I believe supported the
3 claims brought against Defendants. I met with and assisted my attorneys in understanding these
4 documents and providing context for Defendants' payroll process as it applied to me and how I believed
5 it applied to Defendants' other employees. I worked for Defendants at two different time periods and for
6 a considerable amount of time, so I was able to discuss the similarities of the wage and hour policies and
7 practices among all Class Members.

8 6. The work I performed for this case included an extensive review of documents and payroll
9 practices to show and explain to my attorneys what was happening and why I thought it was unlawful. I
10 provided my attorneys with timesheets, paystubs, policies, and emails related to the wage and hour
11 claims of this case. I also explained the job duties of the various positions held by class members, the
12 type of tasks and work performed, how these raised wage and hour issues, estimates of the total number
13 of class members for each position, typical schedules, and the policies of the Defendant and how they
14 affected myself and class members. I helped review and explain to my attorney's different documents
15 such as payroll documents, paystubs and payroll records, payroll policies, meal and rest period policies,
16 criminal history policies, vehicle use policies, timecards, and Defendants' practices of such policies. I
17 believe this was very important as it helped not only the claims of failure to pay minimum wages, failure
18 to pay overtime, and failure to provide meal and rest periods, but also claims related to waiting time
19 penalties and failure to provide accurate wage statements. The review became even more detailed when
20 my attorneys asked me questions about the payroll data sample that was produced as part of informal
21 discovery to engage in mediation. I also spent time finding witnesses for this case. Overall, I have spent
22 an enormous amount of time assisting in the prosecution of this case. I estimate that I spent about 70 to
23 80 hours assisting with this case.

24 7. I participated in the negotiations and settlement discussions in this case, including
25 participating in mediation by zoom, speaking with my attorneys to answer questions, provide any
26 additional information needed to assist the negotiations, and discussing the potential terms of the
27 Agreement to evaluate its adequacy. Throughout the course of this litigation, I have asked questions
28

1 when I needed clarification about various aspects of this case to make sure there were continually steps
2 taken to advance the interests of Class Members.

3 8. I have experienced substantial burdens as a result of filing the wage and hour class claims
4 that other Class Members were not subject to. For example, in bringing the lawsuit, I assumed the risk of
5 having to pay Defendants' costs if the Court or jury rules against us on the claims. My understanding is
6 that this is a substantial risk because the costs associated with litigation, in general, are very high and this
7 cost is multiplied many times over in complex litigation like class actions. I have spent a substantial
8 amount of time in this case, securing a monetary benefit for many individuals who have not had to do
9 anything whatsoever to have the opportunity to receive it. I have been employed part-time during the
10 majority of the time this case has been pending. As a result, the time I have spent on this case has to
11 occur during my lunch and/or break times, after hours, and on my days off. Rather than spend this time
12 with friends and family, I have spent this time for the benefit of Class Members. I have also experienced
13 a great amount of stress and anxiety, arising because of litigation in this case.

14 9. I have entered into a settlement agreement with Defendant to resolve the individual claims
15 I brought in this matter. The individual settlement was for \$35,000 in exchange for a release of all claims
16 except for the class and PAGA wage and hour claims. My individual settlement was not contingent on
17 my approval of the class and PAGA settlement in any way. Given what I experienced, I believe the
18 \$35,000 is a reasonable compromise to resolve my individual claims.

19 10. I have reviewed the final Joint Stipulation of Class Action and PAGA Settlement and
20 Release, discussed the terms with my attorney, and asked my attorney any questions I had. I believe the
21 terms of the Settlement and allocations are fair and reasonable given the facts of the case. I understand
22 that any Class Representative Enhancement Payment I may receive is for my participation as a Class
23 Representative and it is not contingent on my support or approval of the Agreement.

24 I declare under penalty of perjury under the laws of the State of California that the foregoing is
25 true and correct. Executed on June 27, 2024, in Galt, California.

26 DocuSigned by:
27 Tara Trotter
28 EB6CE7A7C72E4E5...
Tara Trotter

Galen T. Shimoda (Cal. State Bar No. 226752)
Justin P. Rodriguez (Cal. State Bar No. 278275)
Renald Konini (Cal. State Bar No. 312080)
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Elk Grove, CA 95624
Telephone: (916) 525-0716
Facsimile: (916) 760-3733

Attorneys for Plaintiffs
TARA TROTTER, individually and on
behalf of others similarly situated employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN JOAQUIN

TARA TROTTER, individually and on behalf
of all others similarly situated,

Plaintiff,

vs.

SEC TRANSPORTATION, INC., a California
Corporation; STOCKTON EDUCATIONAL
CENTER, INC., an unknown association; and
DOES 1 through 100, inclusive,

Defendants.

Case No.: STK-CV-UOE-2023-0003641

CLASS ACTION

**DECLARATION OF LESLY
RUBALCAVA OF ILYM GROUP, INC.,
IN SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: July 25, 2024
Time: 9:00 a.m.

Judge: Hon. Jayne C. Lee
Dept.: 10C

1 I, Lesly Rubalcava, declare as follows:

2 1. I am a resident of the United States of America and am over the age of 18. I am a
3 Case Manager for ILYM Group, Inc., (herein after referred to as “ILYM Group”), the professional
4 settlement services provider who has been retained by the Parties’ Counsel and subsequently
5 appointed by the Court to serve as the Claims Administrator for the above captioned *Trotter v. SEC*
6 *Transportation, Inc., et al.*, matter. I am authorized to make this declaration on behalf of ILYM
7 Group. I have personal knowledge of the facts herein, and, if called upon to testify, I could and
8 would testify competently to such facts.

9 2. ILYM Group has extensive experience in administering Class Action Settlements,
10 including direct mail services, database management, claims processing and settlement fund
11 distribution services for Class Actions ranging in size from 26 to 4.5 million Settlement Class
12 Members.

13 3. ILYM Group was engaged by the Parties’ Counsel and subsequently approved and
14 appointed by the Court to provide notification services and claims administration, pursuant to the
15 terms of the Settlement, in the above referenced Action. Duties performed to-date and to be
16 performed after Final Approval of the Settlement is granted, include: (a) printing and mailing the
17 *Notice of Proposed Class Action and PAGA Settlement, and Hearing Date for Final Court*
18 *Approval of Settlement* (collectively referred to as “Notice Packet”); (b) receiving and processing
19 requests for exclusion; (c) resolving Settlement Class Members’ disputes over the number of
20 workweeks Defendants have record of them working during the Class Period, which was pre-
21 printed on their individualized Class Notice; (d) calculating individual settlement award amounts;
22 (e) processing and mailing settlement award checks; (f) handling tax withholdings as required by
23 the Settlement and the law; (g) preparing, issuing and filing tax returns and other applicable tax
24 forms; (h) handling the distribution of any unclaimed funds pursuant to the terms of the Settlement;
25 and (i) performing other tasks as the Parties mutually agree to and/or the Court orders ILYM Group
26 to perform.

1 4. On March 13, 2024, ILYM Group received the Court approved text for the Notice
2 Packet from Counsel. ILYM Group prepared a draft of the formatted Notice Packet, which was
3 approved by the Parties' Counsel prior to mailing.

4 5. On April 17, 2024, ILYM Group received the class data file from Counsel for
5 Defendants, which contained the name, social security number, last known mailing address, last
6 known telephone number, and employment dates for each Settlement Class Member. The data file
7 was uploaded to our database and checked for duplicates and other possible discrepancies. The
8 Class List contained 164 individuals who worked 15,687.44 workweeks. Following the
9 transmission of the class data file, ILYM Group informed the Parties that the Escalator Clause of the
10 Joint Stipulation had been triggered. Specifically, the Escalator Clause provides that if the number of
11 workweeks is more than 10,778, then Defendant may elect to shorten the Class Period and PAGA
12 Claim Period in order to avoid the escalator payment being triggered. Defendant elected to shorten the
13 Class Period and PAGA Claim Period to September 3, 2022, such that the number of workweeks does
14 not exceed 10,778. The Class List was reduced to 126 individuals who worked 10,769.15 workweeks.
15 On or about May 3, 2024, all Parties confirmed the shortened Class Period and PAGA Claim Period,
16 consistent with the terms of Paragraph 10.1 of the Agreement.

17 6. As part of the preparation for mailing, all 126 names and addresses contained in the
18 Class List were then processed against the National Change of Address ("NCOA") database,
19 maintained by the United States Postal Service ("USPS"), for purposes of updating and confirming
20 the mailing addresses of the Settlement Class Members before mailing of the Notice Packet. The
21 NCOA contains requested change of addresses filed with the USPS. To the extent that an updated
22 address was found in the NCOA database, the updated address was used for the mailing of the
23 Notice Packet. To the extent that no updated address was found in the NCOA database, the original
24 address provided by Counsel for Defendants was used for the mailing of the Notice Packet.

25 7. On May 8, 2024, the Notice Packet was mailed, via U.S First Class Mail, to all 126
26 individuals contained in the Class List. Attached hereto, as **Exhibit A**, is a true and correct copy
27 of the mailed Notice Packet.

28

1 8. As of the date of this declaration, 21 Notice Packets have been returned to our office
2 as undeliverable. ILYM Group performed a computerized skip trace on the 21 returned Notice
3 Packets that did not have a forwarding address in an effort to obtain an updated address for the
4 purpose of re-mailing the Notice Packet. As a result of this skip trace, 13 updated address was
5 obtained and the Notice Packets were promptly re-mailed to those Settlement Class Member, via
6 U.S First Class Mail.

7 9. As of the date of this declaration, a total of 13 Notice Packet has been re-mailed as
8 a result of ILYM Group's skip tracing efforts.

9 10. As of the date of this declaration, a total of 8 Notice Packets have been deemed
10 undeliverable as no updated address was found, notwithstanding the skip tracing.

11 11. As of the date of this declaration, ILYM Group has received one request for
12 exclusion from Settlement Class Member, Jacqueline Lathan. The deadline to request exclusion
13 from the Settlement is July 8, 2024.

14 12. As of the date of this declaration, ILYM Group has not received any objections to
15 the Settlement. The deadline to file an objection to the Settlement is July 8, 2024.

16 13. As of the date of this declaration, ILYM Group has received 1 dispute from a
17 Settlement Class Member. Defendant was promptly notified and approved the dates provided by
18 the Settlement Class Member. The deadline to submit a dispute is July 8, 2024.

19 14. As of the date of this declaration, ILYM Group will report a total of 125
20 Participating Class Members, representing 99.21% of the 126 Settlement Class Members.

21 15. Participating Class Members will receive a proportional share of the Net Settlement
22 Fund through individual settlement payments, calculated by a pro-rata formula, based on the
23 number of workweeks worked by Class Members during the Class Period. The Net Settlement Fund
24 is the amount remaining after deduction of the Court-approved payments from the Gross Settlement
25 Fund for Class Counsel Fees and Litigation Costs, the Class Representative Enhancement Award,
26 Claims Administration Fees to ILYM Group, LWDA and the PAGA Member allocation, e.g.,

27 Gross Settlement Amount	\$200,000.00
28 Class Counsel Fees	\$70,000.00

1	Class Counsel Costs/ Expenses	\$10,209.20
2	Enhancement Award - Tara Trotter	\$5,000.00
3	ILYM Group Fees	\$6,550.00
4	LWDA	\$7,500.00
5	PAGA Member Allocation	\$2,500.00
6	Net Settlement Fund	\$98,240.80

7 To determine a Participating Class Member's individual settlement award payment, the Net
8 Settlement Fund will be divided by the total number of workweeks worked by all Settlement Class
9 Members during the Class Period, multiplied by the number of workweeks worked by that
10 Participating Class Member. Based on these calculations, the Participating Class Member will
11 receive an estimated average gross payment of \$799.53, with the estimated highest gross payment
12 being \$1,663.57.

13 16. ILYM Group's total fees and costs for services in connection with the administration
14 of this Settlement, which includes fees and costs incurred to date, as well as anticipated fees and
15 costs for completion of the settlement administration, are \$6,550.00. ILYM Group's work in
16 connection with this matter will continue with the calculation of the settlement award payments,
17 issuance and mailing of the settlement award checks, the necessary tax filing and reporting on such
18 payments, and any other tasks that the Parties mutually agree to and/or the Court orders ILYM
19 Group to perform.

20 I declare under penalty of perjury under the laws of the State of California and the United
21 States that the foregoing is true and correct to the best of my knowledge and that this Declaration
22 was executed this 27th day of June 2024, at Tustin, California.

23
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25
26
27
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Lesly Rubalcava
LESLY RUBALCAVA

EXHIBIT “A”

CALIFORNIA SUPERIOR COURT
FOR THE COUNTY OF SAN JOAQUIN

TARA TROTTER, individually and on behalf of all other
similarly situated employees,

Plaintiff,

vs.

SEC TRANSPORTATION, INC., a California
Corporation; STOCKTON EDUCATIONAL CENTER,
INC., an unknown association; and DOES 1 to 100,
inclusive,

Defendants.

Case No. **STK-CV-UOE-0003641**

**NOTICE OF PROPOSED CLASS ACTION AND
PAGA SETTLEMENT, AND HEARING DATE FOR
FINAL COURT APPROVAL OF SETTLEMENT**

ATTENTION: All nonexempt employees who have worked, or continue to work, for Defendants in California at any time between April 10, 2019, to September 3, 2022 (the “Class Members”).

PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF CLASS ACTION LITIGATION AND POTENTIAL DISBURSEMENT OF SETTLEMENT FUNDS TO YOU. IF YOU ARE A CLASS MEMBER, IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHT TO PARTICIPATE IN OR OPT OUT OF THE SETTLEMENT ACCORDING TO THE PROCEDURES DESCRIBED BELOW.

You are receiving this notice pursuant to an order from the San Joaquin County Superior Court (“Court”) granting Plaintiff’s motion for preliminary approval of a Joint Stipulation Regarding Class Action PAGA Settlement and Release (“Agreement” or “Settlement”) as fair, reasonable, and adequate. The Settlement was entered into between Plaintiff Tara Trotter (“Plaintiff” or “Class Representative”), and Defendants SEC Transportation, Inc. and Stockton Educational Center, Inc. (“Defendants”) on behalf of Class Members as defined above. The terms of the Settlement are outlined herein. You are receiving this notice because Defendants’ records indicate you fall within the definition of “Class Member.” Defendants’ records also indicate that you worked «Class_Weeks_Through_9322» weeks during the applicable Class Period (as defined below), which means your total share of the settlement proceeds is estimated to be \$«Estimated_Individual_Class_Settlement». Your actual share of the settlement proceeds will vary depending on the total number of Class Members that choose to participate and the resolution of any workweek disputes as described in this notice.

The terms of the Agreement and a description of the case are identified in this notice. Pursuant to the Court’s order, YOU ARE HEREBY NOTIFIED AS FOLLOWS:

I. BACKGROUND OF THE CASE

On April 11, 2023, Plaintiff filed a Complaint against Defendants in the San Joaquin County Superior Court of California on behalf of herself and Class Members. The term “Action” means this putative class action pending in San Joaquin County Superior Court, Case No. STK-CV-UOE-0003641. The Class Period is between April 10, 2019, to September 3, 2022 (the “Class Period”).

In the Action, Plaintiff sought to obtain unpaid wages, interest, statutory penalties, civil penalties, fees, and costs on behalf of herself, Class Members, and Aggrieved Employees. Plaintiff alleged that Defendants violated California law by 1) failing to pay overtime wages, 2) failing to pay minimum wages, 3) failing to provide meal periods or pay premiums in lieu thereof, 4) failing to provide rest periods or pay premium in lieu thereof, 5) failing to provide accurate wage statements, 6) failing to pay final wages, 7) failing to maintain accurate records, 8) engaging in unfair competition, 9) engaging in unlawful inquiry into criminal history, 10) violation of Labor Code section 1102, 11) engaging in wrongful termination and retaliation, and 12) committing PAGA violations. Defendants have denied all of Plaintiff’s allegations. The Action has been actively litigated. There have been on-going investigations, and there has been an exchange of extensive documentation and information. Furthermore, the Parties have participated in a full day mediation facilitated by a neutral third party. Based upon the negotiations, and all known facts and circumstances, including the various risks and uncertainties related to legal actions, the Parties reached a class-wide settlement. By settling, the Parties will avoid the risks associated with a lengthy litigation process. Despite agreeing to and supporting the Agreement, Defendants continue to deny all allegations and claims. Defendants have entered into this Settlement to fully, finally, and forever resolve this Action, based on the terms

Page 1 of 6

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

Questions? Call: (888) 250-6810

ILYM ID: «ILYMID»
«PC»

set forth in the Agreement, in order to avoid the burden and expense associated with ongoing litigation.

The Agreement applies to any and all Class Members, which are defined as all nonexempt employees who have worked, or continue to work, for Defendants in California at any time between April 10, 2019, to September 3, 2022. The Agreement also applies to Aggrieved Employees, which are defined as all nonexempt employees who have worked, or continue to work, for Defendants in California at any time between April 10, 2022, to September 3, 2022. If you are a Class Member, you have the opportunity to participate in the Settlement, or to exclude yourself (“opt out”) from the Settlement. This notice is to advise Class Members of how they can either participate in the Settlement or be excluded from the Settlement. As set forth below, Aggrieved Employees cannot opt out of this Agreement as it relates to the PAGA Payment or Released PAGA Claims regardless of whether they opt out of being a Class Member. Aggrieved Employees will receive their share of the PAGA Payment regardless of whether they opt out of being a Class Member.

II. SUMMARY OF THE PROPOSED SETTLEMENT

A. The Amount of the Settlement

Under the terms of the Agreement, Defendants have agreed to pay a total sum of Two Hundred Thousand Dollars (\$200,000) (“Gross Settlement Amount”). Deducted from this Gross Settlement Amount will be sums approved by the Court for attorneys’ fees not to exceed 35% of the Gross Settlement Amount, attorneys’ costs not to exceed \$15,000, Settlement Administrator Costs estimated not to exceed \$15,000, Class Representative’s Enhancement Payment of \$5,000, and \$10,000 for alleged PAGA penalties (the “PAGA Payment”), which will result in a “Net Settlement Amount” for distribution to all Class Members. Any employer side taxes attributable to payments allocated as wages will be paid by Defendants in addition to the Gross Settlement Amount. As explained further below, the amount of each Class Member’s share of the Net Settlement Amount will depend on the number of weeks worked by participating Class Members during the Class Period. Of the \$10,000 allocated to resolving the PAGA claims, 75% of the PAGA Payment will be paid to the State of California Labor and Workforce Development Agency and 25% of the PAGA Payment will be divided among Aggrieved Employees.

The number of weeks you worked during the Class Period and your estimated total share of the Net Settlement Amount and PAGA Payment (“Individual Settlement Amount”) is stated on the first page of this notice. The actual amount received may be more or less than the amount stated depending on the actual number of weeks worked by Participating Class Members (i.e., those who do not opt out of the Settlement), the resolution of any disputes regarding workweeks, and on the distributions finally approved and allocated by the Court. However, whether Class Members opt out will have no effect on Aggrieved Employees’ allocations for the PAGA claims.

B. Individual Settlement Amounts and Allocation Between Class Members and Aggrieved Employees

Defendants will pay Individual Settlement Amounts through the Settlement Administrator, as described below, to each Participating Class Member and to Aggrieved Employees. All Individual Settlement Amounts will be subject to appropriate taxation. The Parties have agreed, based on the allegations in the Action that all Individual Settlement Amounts payable to eligible Class Members will be allocated from the Net Settlement Amount and paid as 2/3 for disputed interest, statutory penalties, and other non-wage damages for which IRS Forms 1099-MISC and 1099-INT will issue and 1/3 for disputed wages for which IRS Forms W-2 will issue. The PAGA Payment to Aggrieved employees will be paid as 100% for civil penalties.

Payment to Participating Class Members and Aggrieved Employees will not require the submission of a claim form. Each Participating Class Member’s share will be determined by dividing their total weeks worked within the Class Period by the total weeks worked by all Participating Class Members within the Class Period. That fraction will then be multiplied by the Net Settlement Amount to arrive at the Class Member’s individual share of the Net Settlement Amount. Each Aggrieved Employee’s share of the 25% portion of the PAGA Payment will be determined by dividing their total weeks worked within the PAGA Claim Period by the total weeks worked by all Aggrieved Employees within the PAGA Claim Period. That fraction will then be multiplied by the 25% portion of the PAGA Payment to arrive at the Aggrieved Employee’s individual share. The PAGA Claim Period is defined as April 10, 2022, up to September 3, 2022. Defendants’ records indicate that you worked «PAGA_Weeks_Through_9322» weeks during the applicable PAGA Claim Period, which means your share of the PAGA Payment is estimated to be \$«Estimated_Individual_PAGA_Settlement». This amount is included in your estimated Individual Settlement Amount stated on the first page of this notice, not in addition to it. You will still receive your share of the PAGA Payment even if you opt out of being a Class Member. Receipt of the Individual Settlement Amounts will not entitle any Class Member or Aggrieved Employee to additional compensation or benefits under any compensation, retirement or benefit plan or agreement in place during the period covered by the Settlement.

C. Calculations to Be Based on Defendants' Records and Resolution of Workweek Disputes

For each Class Member, the amount payable will be calculated by the Settlement Administrator from Defendants' records. Defendants' records will be presumed correct unless evidence to the contrary is provided to the Settlement Administrator. Defendants' records and any additional evidence will be reviewed by the Settlement Administrator in the event of a dispute about the number of workweeks worked by an individual Class Member. If a Class Member disputes the accuracy of Defendants' records, all supporting documents evidencing additional workweeks must be submitted by the Class Member. The dispute must (a) identify the nature of the dispute; (b) provide any information or documentation supporting the dispute; (c) be signed; and (d) be post-marked no later than July 8, 2024. The dispute will be resolved by the Settlement Administrator based on the records and evidence provided.

D. Release of Claims

For those Class Members who do not opt out and Aggrieved Employees, the Agreement contains the following releases:

Class members who do not opt out will be deemed to have released any and all class claims that are alleged in the Complaint, and any additional wage and hour claims that could have been brought based on the facts alleged in the Complaint, through the Class Period. This release excludes the release of claims not permitted by law. The Released Class Claims exclude claims for workers' compensation or unemployment insurance benefits. This release will cover all Class Members who do not opt out.

Aggrieved Employees will be deemed to have released any and all claims that were brought under the Private Attorneys General Act, Labor Code §§ 2698 *et seq.*, contained in the Complaint and any additional wage and hour PAGA claims that could have been brought based on the facts alleged in the Complaint during the PAGA Claim Period. Aggrieved Employees cannot opt out of this waiver of claims.

The individuals released ("Released Parties") include Defendants, as well as Defendants' officers, shareholders, directors, agents, employees, attorneys, and insurers.

Class Members and/or Aggrieved Employees can talk to one of the lawyers appointed as Class Counsel (listed below) for free or talk to their own lawyer if they have questions about the released claims and what they mean.

III. WHAT ARE YOUR RIGHTS AS A CLASS MEMBER

A. Participating in the Settlement as a Class Member

If you wish to be a Participating Class Member and believe your workweek information is accurate, **you do not need to take any further action**. Payment will be automatically made to you consistent with the terms of the Agreement and Court Order. If you wish to dispute the workweek calculation, you may follow the procedures outlined in Section II.C above. California law protects Class Members from retaliation based on their decision to participate in the Settlement.

B. Excluding Yourself from the Settlement as a Class Member

The Court will exclude you from being a Class Member if you request this by July 8, 2024. If you do not wish to be bound by the Settlement as a Class Member, you may request to be excluded (*i.e.*, "opt out") by submitting a timely written request to the Settlement Administrator. The request to opt-out must (a) state your full name and date of birth; (b) a statement that you do not want to be a Class Member, do not want to participate in the Settlement, and/or wants to be excluded from this Settlement; (c) identify the case name and number (*i.e.* *Trotter v. SEC Transportation Inc., et al.*, STK-CV-UOE-0003641); (d) be signed; and (e) be post-marked no later than July 8, 2024. The request to opt out must be mailed by First Class U.S. Mail, or the equivalent, to:

ILYM Group, Inc.
P.O. Box 2031
Tustin, CA 92781

If you submit a request to opt out which is not postmarked by July 8, 2024 your request to opt out will be rejected, and you will be bound by the release and all other terms of the Agreement. Do not use a postage meter as that may not result in a postmark appearing on the envelope containing your request to opt out. Any Class Member who submits a complete and timely request to opt out shall, upon receipt by the Settlement Administrator, no longer be a Class Member and not received their share of the Net Settlement Amount. Aggrieved Employees cannot opt out of this Agreement and will receive their share of the PAGA Payment regardless of whether they opt out of being a Class Member.

C. Objection to Settlement

If you do not opt out of the Settlement, you can object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. You can ask the Court to deny approval by filing an objection. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. The objection must (a) state your full name and date of birth; (b) provide evidence that you are, in fact, a Class Member; (c) state the reasons for the objection(s), including supporting documentation; (d) identify the case name and number (*i.e. Trotter v. SEC Transportation Inc., et al.*, STK-CV-UOE-0003641); (e) be signed; and (f) be post-marked no later than July 8, 2024. The objection must be sent to the Settlement Administrator at the address identified in Section III.B and to counsel for Plaintiff and Defendants at the addresses identified in Section VI of this notice.

If you have submitted a written objection as outlined above, you may also appear at the final approval hearing to state your objection. Any Class Member who does not request exclusion may, if the Class Member so desires, enter an appearance through an attorney. If you appear through your own attorney, you are responsible for paying that attorney. You should also file a notice of intent to appear with the Court and serve the notice on counsel for Plaintiff and Defendants.

IV. EFFECT OF THE SETTLEMENT: RELEASED RIGHTS AND CLAIMS

If the Court grants final approval of the Settlement, the Court will make and enter judgment consistent therewith. The judgment, whether favorable or not, will bind all Class Members who do not request exclusion. After final approval, each and every Class Member who does not opt out of the Settlement and Aggrieved Employee, will release Defendants and the Released Parties from the Released Class Claims and the Released PAGA Claims described above. In other words, if you were employed as a Class Member by Defendants in California during the Class Period, and you do not exclude yourself from the Settlement, you will be deemed to have entered into these releases and to have released the above-described claims. In addition, you will be barred from ever suing Defendants and the Released Parties with respect to the claims covered by this Settlement. If the Settlement is not approved by the Court or does not become final for some other reason, the litigation will continue.

V. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a hearing in Department 10C, at 180 E Weber Ave, Stockton, California, 95202 on July 25, 2024 at 9:00 a.m. to determine whether the Agreement should be finally approved as fair, reasonable and adequate. The Court also will be asked to approve Class Counsel's request for attorneys' fees and costs, the Settlement Administrator Costs, and the Class Representative's Enhancement Payment. The hearing may be continued without further notice. It is not necessary for you to appear at this hearing.

VI. ADDITIONAL INFORMATION

You may access the Complaint, Class Counsel's motion for preliminary approval, the Agreement, and any other documents required by the Court at the Settlement Administrator's website: <https://ilymgroup.com/SECTransportation>. You can also contact Class Counsel or Defendants' Counsel as follows:

Galen T. Shimoda
Justin P. Rodriguez
Renald Konini
Shimoda & Rodriguez Law, PC
9401 East Stockton Blvd., Suite 120
Elk Grove, CA 95624
Telephone: (916) 525-0716
Facsimile: (916) 760-3733
On behalf of Plaintiff

Jamie M. Bossuat
Kelsea A. Carbajal
Kroloff, Belcher, Smart,
Perry & Christopherson
7540 Shoreline Drive
Stockton, California 95219
Phone: 209-478-2000
Facsimile: 209-478-0354
On behalf of Defendants

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS. IF YOU HAVE ANY QUESTIONS, CALL (888) 250-6810
BY ORDER OF THE COURT**

Trotter v. SEC Transportation, Inc. et al.

c/o ILYM Group, Inc.

P.O. Box 2031

Tustin, CA 92781

«IL

VMIT

ILYM ID: «ILYMID» «PC»

«First_Name» «Last_Name»

«Address_1»

«City», «State» «Zip_Code»

Galen T. Shimoda (Cal. State Bar No. 226752)
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Attorneys for Plaintiff TARA TROTTER
individually and on behalf of similarly situated employees

SUPERIOR COURT OF CALIFORNIA

FOR THE COUNTY OF SAN JOAQUIN

TARA TROTTER, individually and on behalf
of all other similarly situated employees,

Plaintiff,

vs.

SEC TRANSPORTATION, INC., a California
Corporation; STOCKTON EDUCATIONAL
CENTER, INC., an unknown association; and
DOES 1 to 100, inclusive,

Defendants.

Case No. STK-CV-UOE-2023-0003641

*Assigned for All Purposes to Hon. Jayne Lee,
Department 10C*

CLASS ACTION

**EXHIBIT LIST AND EXHIBITS IN
SUPPORT OF PLAINTIFF'S MOTION FOR
FINAL APPROVAL OF CLASS ACTION
AND PAGA SETTLEMENT**

Date: July 25, 2024

Time: 9:00 a.m.

Dept.: 10C

Judge: Hon. Jayne Lee

Filed: April 11, 2023

FAC Filed: July 7, 2023

Trial Date: None Set

<u>EXHIBIT</u>	<u>DESCRIPTION</u>
A	Joint Stipulation Regarding Class Action and PAGA Settlement and Release
B	Plaintiff's Operative Complaint
C	Plaintiff's Letter to the LWDA Regarding PAGA Claims
D	Plaintiff's Itemized Costs
E	Proof of Submission of Proposed Settlement Agreement to LWDA

Dated: June 28, 2024

Shimoda & Rodriguez Law, PC

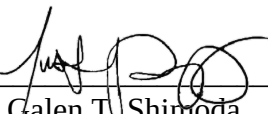
By: 
 Galen T. Shimoda
 Justin P. Rodriguez
 Renald Konini
 Attorneys for Plaintiff

Exhibit A

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Attorneys for SEC TRANSPORTATION, INC., and STOCKTON EDUCATIONAL CENTER, INC.

**SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN**

TARA TROTTER, individually and on behalf
of all other similarly situated employees,

Plaintiff,

vs.

SEC TRANSPORTATION, INC., a California
Corporation; STOCKTON EDUCATIONAL
CENTER, INC., an unknown association; and
DOES 1 to 100, inclusive,

Defendants.

Case No.: STK-CV-UOE-0003641

**JOINT STIPULATION REGARDING CLASS
ACTION AND PAGA SETTLEMENT AND
RELEASE**

Filed: April 11, 2023

FAC Filed: July 7, 2023

Trial Date: None Set

1 This Joint Stipulation Regarding Class Action and PAGA Settlement and Release is made and
2 entered into between the Plaintiff Tara Trotter (“Plaintiff”), on behalf of herself, the Labor and Workforce
3 Development Agency, Class Members, and Aggrieved Employees, and Defendants Sec Transportation,
4 Inc., and Stockton Educational Center, Inc., (“Defendants”). This Agreement is subject to the terms and
5 conditions set forth below and the approval of the Court.

6 **1. DEFINITIONS**

7 The following terms, when used in this Agreement, have the following meanings:

8 1.1 “Action” means the above stated lawsuit, *Trotter v. SEC Transportation Inc., et al.* , San
9 Joaquin County Superior Court, Case No. STK-CV-UOE-0003641, filed April 11, 2023.

10 1.2 “Aggrieved Employee(s)” means all nonexempt employees who have worked, or continue
11 to work, for Defendants in California at any time between April 10, 2022, up to either (1) the date a signed
12 order preliminarily approving the settlement is filed by the Court, or (2) sixty (60) days after the acceptance
13 of the Mediator’s Proposal, whichever is earlier. The estimated number of Aggrieved Employees is 74.

14 1.3 “Agreement” or “Settlement” or “Settlement Agreement” means this Joint Stipulation
15 Regarding Class Action and PAGA Settlement and Release.

16 1.4 “Class Counsel” means Galen T. Shimoda, Justin P. Rodriguez and Renald Konini of
17 Shimoda & Rodriguez Law, PC.

18 1.5 “Class Member(s)” means all nonexempt employees who have worked, or continue to work,
19 for Defendants in California at any time between April 10, 2019, up to either (1)) the date a signed order
20 preliminarily approving the settlement is filed by the Court, or (2) sixty (60) days after the acceptance of
21 the Mediator’s Proposal, whichever is earlier. The estimated number of Class Members is 186.

22 1.6 “Class Period” means April 10, 2019, up to either (1) the date a signed order preliminarily
23 approving the settlement is filed by the court, or (2) sixty (60) days after acceptance of the Mediator’s
24 Proposal, whichever is earlier.

25 1.7 “Class Representative” means Plaintiff Tara Trotter .

26 1.8 “Class Representative's Released Claims” means all claims arising from, could have been
27 asserted, or related in any way to the Class Representative's employment with Defendants, under federal,
28 state, or local laws, and/or ordinances, or tort or contract theories, whether known or unknown, and whether

1 anticipated or unanticipated, including without limitation statutory, constitutional, contractual or common
2 law claims for lost wages, unpaid wages, emotional distress, punitive damages, special damages, damages,
3 unpaid costs, penalties, liquidated damages, interest, attorneys' fees, litigation costs, restitution, equitable
4 relief or other similar relief or claims. The Class Representative's Released Claims exclude claims for
5 workers' compensation, unemployment insurance benefits, or other claims that cannot be released as a
6 matter of law. Further, the Class Representative's Released Claims exclude all individual claims made in
7 the Action by Plaintiff for (1) Violation of Labor Code § 1102 (Cause of Action 10 of the First Amended
8 Complaint), and (2) Wrongful Termination/Retaliation (Cause of Action 11 of the First Amended
9 Complaint).

10 1.9 "Complaint" means the operative Complaint on file in the Action with the Court.

11 1.10 "Court" means the San Joaquin County Superior Court.

12 1.11 "Defendants" means SEC Transportation, Inc., and Stockton Educational Center, Inc.

13 1.12 "Defendants' Counsel" means Kroloff, Belcher, Smart, Perry & Christopherson.

14 1.13 "Enhancement Payment" means the amount approved by the Court to be paid to the Class
15 Representative in recognition of the time and effort expended on behalf of Class Members for the benefit
16 of Class Members, which is in addition to any Individual Settlement Amount paid to the Class
17 Representative as a Participating Class Member.

18 1.14 "Effective Date" means the Final Approval Date unless there is a timely objection lodged
19 that has not later been withdrawn, in which case the Effective Date will be either (a) the 60th calendar day
20 after a signed order approving this settlement has been filed provided no appellate proceeding having been
21 filed; or (b) seventh (7th) calendar day after any appellate proceeding opposing the settlement has been
22 finally dismissed with no material change to the terms of this settlement and there is no right to pursue
23 further remedies or relief, whichever is later.

24 1.15 "Final Approval Date" means the date a signed order granting final approval of this
25 Agreement is filed with the Court.

26 1.16 "Gross Settlement Amount" is the sum of Two Hundred Thousand Dollars (\$200,000).
27
28

1 1.17 “Individual Settlement Amount” means an individual Class Member’s and Aggrieved
2 Employee’s allocation of the Net Settlement Amount and PAGA Payment respectively, as defined in
3 Sections 1.19, 1.23, 5.5, and 5.8.

4 1.18 “LWDA” means the California Labor and Workforce Development Agency.

5 1.19 “Net Settlement Amount” is the portion of the Gross Settlement Amount available for
6 distribution to Class Members, as described in this Agreement, after deduction of Class Counsel’s
7 attorneys’ fees and litigation costs, Settlement Administrator Costs, the PAGA Payment, and Enhancement
8 Payment to the Class Representative.

9 1.20 “Notice of Settlement” means the document substantially in the form attached hereto as
10 Exhibit 1.

11 1.21 “Notice Period” means sixty (60) calendar days from the initial mailing of the Notice of
12 Settlement to Class Members and Aggrieved Employees.

13 1.22 “PAGA” means Private Attorneys General Act.

14 1.23 “PAGA Payment” means the amount allocated from the Gross Settlement Amount towards
15 resolving claims under the Private Attorneys General Act of 2004, California Labor Code §§ 2698 *et seq.*

16 1.24 “PAGA Claim Period” means April 10, 2022, up to either (1) the date a signed order
17 preliminarily approving the settlement is filed by the court, or (2) sixty (60) days after the acceptance of
18 the Mediator’s Proposal, whichever is earlier.

19 1.25 “Parties” mean Defendants and Plaintiff.

20 1.26 “Participating Class Member” means any and all Class Members who have not made any
21 timely request to opt-out of the Agreement.

22 1.27 “Preliminary Approval Date” means the date a signed order granting preliminary approval
23 of this Agreement is filed with the Court.

24 1.28 “QSF” means a Qualified Settlement Fund set up by the Settlement Administrator for the
25 benefit of the Participating Class Members and/or Aggrieved Employees and from which the payments
26 under this Agreement shall be made. Any amounts Defendants have agreed to pay under this Agreement
27 shall remain the property of Defendants until the payments required under the Agreement are made.

1 1.29 “Qualifying Workweeks” are weeks worked by Class Members and/or Aggrieved
2 Employees during the Class Period and/or PAGA Claim Period, respectively, in California. For Class
3 Members, workweeks shall be defined as the total length of service (in days) in California during the Class
4 Period divided by seven. For Aggrieved Employees workweeks shall be defined as the total length of
5 service (in days) in California during the PAGA Claim Period divided by seven. The calculation of a Class
6 Member’s and/or Aggrieved Employee’s workweeks and a determination as to whether a Class Member
7 and/or Aggrieved Employee was actively employed in California in a particular workweek shall be
8 construed from Defendants’ records.

9 1.30 “Released Class Claims” means any and all class claims that are alleged in the Complaint,
10 and any additional wage and hour claims that could have been brought based on the facts alleged in the
11 Complaint, through the Class Period. This release excludes the release of claims not permitted by law.
12 The Released Class Claims exclude claims for workers’ compensation or unemployment insurance
13 benefits. This release will cover all Class Members who do not opt out.

14 1.31 “Released PAGA Claims” means any and all claims that were brought under the Private
15 Attorneys General Act, Labor Code §§ 2698 *et seq.*, contained in the Complaint and any additional wage
16 and hour PAGA claims that could have been brought based on the facts alleged in the Complaint during
17 the PAGA Claim Period. Aggrieved Employees cannot opt out of this waiver of claims.

18 1.32 “Released Parties” means Defendants, as well as Defendants’ officers, shareholders,
19 directors, agents, employees, attorneys, and insurers.

20 1.33 “Settlement Administrator” means and refers to ILYM Group, Inc., the third-party entity
21 that will administer the Agreement as outlined in Sections 4 and 7, or any other third-party administrator
22 agreed to by the Parties and approved by the Court for the purposes of administering this Agreement. The
23 Parties each represent that they do not have any financial interest in the Settlement Administrator.

24 1.34 “Settlement Administrator Costs” means the fees and expenses reasonably incurred by the
25 Settlement Administrator as a result of the procedures and processes expressly required by this Agreement,
26 and shall include all costs of administering the Agreement, including, but not limited to, all tax document
27 preparation, custodial fees, and accounting fees incurred by the Settlement Administrator; all costs and fees
28 associated with preparing, issuing and mailing any and all notices and other correspondence to Class

Members and/or Aggrieved Employees; all costs and fees associated with communicating with Class Members and/or Aggrieved Employees, Class Counsel, and Defendants' Counsel; all costs and fees associated with computing, processing, reviewing, and paying the Individual Settlement Amounts, and resolving disputes; all costs and fees associated with calculating tax withholdings and payroll taxes, if any, making related payment to federal and state tax authorities, if any, and issuing tax forms relating to payments made under the Agreement; all costs and fees associated with preparing any tax returns and any other filings required by any governmental taxing authority or agency; all costs and fees associated with preparing any other notices, reports, or filings to be prepared in the course of administering Individual Settlement Amounts; and any other costs and fees incurred and/or charged by the Settlement Administrator in connection with the execution of its duties under this Agreement.

2. DESCRIPTION OF THE LITIGATION

2.1 On or about April 10, 2023, Plaintiff sent notice to the LWDA to exhaust administrative remedies under the PAGA for 1) Failure to Pay Overtime Wages, (2) Failure to Pay Minimum Wages, (3) Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof, (4) Failure to Provide Rest Periods or Pay Premium in Lieu Thereof, (5) Failure to Provide Accurate Wage Statements, (6) Failure to Pay Final Wages, (7) Failure to Maintain Accurate Records, (8) Unlawful Inquiry Into Criminal History, and (9) Violation of Labor Code § 1102. The LWDA did not respond to the notice within the statutorily required time frame and, as such, Plaintiff became authorized to act as a Private Attorneys General on all alleged PAGA claims.

2.2 On or about April 11, 2023, Plaintiff filed a class action Complaint in San Joaquin County Superior Court on behalf of herself and Class Members alleging claims for 1) Failure to Pay Overtime Wages, 2) Failure to Pay Minimum Wages, 3) Meal Period Violations, 4) Rest Period Violations, 5) Wage Statement Violations, 6) Waiting Time Penalties, 7) Unfair Competition, 8) Unlawful Inquiry Into Criminal History, 9) Violation of Labor Code Section 1102, and 10) Wrongful Termination/Retaliation. Plaintiff filed a First Amended Complaint on approximately July 7, 2023 to add a PAGA cause of action based on the violations alleged in the April 10, 2023 notice to the LWDA on behalf of herself and Aggrieved Employees.

1 2.3 Through formal discovery, Defendants and Defendants' Counsel provided Class Counsel
2 with copies of all applicable versions of its policies and procedures, employee handbooks, information on
3 Class Members including, but not limited to, Class Members' workweeks, dates of employment, total
4 number of Class Members, their rates of pay, and pay periods as well as timecard data and payroll reports
5 for a randomly selected sample of Class Members.

6 2.4 After Class Counsel received the data, the Parties engaged in informal settlement
7 negotiations, but were not able to come to a resolution. On September 18, 2023, the Parties participated in
8 a lengthy mediation with private mediator Brandon McKelvey. At the conclusion of the mediation, the
9 Parties were able to come to a resolution by accepting a Mediator's Proposal. At all times, the Parties'
10 settlement negotiations have been non-collusive, adversarial, and at arm's length.

11 2.5 Discussions between Plaintiff and Class Counsel, between counsel for the Parties, document
12 productions, extensive legal analysis, the provision of information by Defendants to Plaintiff and the
13 detailed analysis of the records, including expert analysis, have permitted each side to assess the relative
14 merits of the claims and the defenses to those claims.

15 2.6 In the Action, Plaintiff contends that Defendants violated California law by 1) failing to pay
16 Plaintiff and putative class members' split shift premiums, 2) failing to pay Plaintiff and putative class
17 members for all hours worked due to Defendants' failure to pay Plaintiff and putative class members for
18 the time spent waiting for clients to be released from schools, 3) failing to provide Plaintiff and putative
19 class members with off-duty meal and rest periods, 4) failing to pay Plaintiff and putative class members
20 meal period and rest period premiums for missed meal and rest periods and for the on-duty meal and rest
21 periods, 5) failing to pay for all hours worked stated in Plaintiff's and putative class members' timecards,
22 6) engaging in unlawful inquiry into the criminal history of putative class members, and 7) retaliating
23 against Plaintiff for informing Defendants that they were not paying Plaintiff for all hours worked.
24 Defendants reclassified Plaintiff as an "on-call" employee for informing Defendants that she was not being
25 paid for all hours worked. Defendants' reclassification of Plaintiff as an "on-call" employee was wrongful
26 termination and retaliation because Defendants never called Plaintiff back to work for them again.
27 Defendants' violation of California law also resulted in derivative wage statements and waiting time
28 penalty violations, as well as derivative PAGA penalties. Defendants have denied each of Plaintiff's claims

1 and Defendants have denied that this Action is appropriate for class certification for anything other than
2 settlement purposes. The agreed upon Gross Settlement Amount was reached after evaluating the Parties'
3 theories of potential exposure for the underlying claims and the class data supporting these claims. The
4 Parties, with the assistance of the mediator, also assessed appropriate discounts to the potential liability
5 based on Defendants' factual and legal contentions and defenses.

6 2.7 The Parties agree that the above-described investigation and evaluation, as well as discovery
7 and the information exchanged to date, are more than sufficient to assess the merits of the respective
8 Parties' positions and to compromise the issues on a fair and equitable basis. Plaintiff, Class Counsel,
9 Defendants, and Defendants' Counsel have concluded that it is desirable that the Action be settled in a
10 manner and upon such terms and conditions set forth herein in order to avoid further expense,
11 inconvenience and distraction of further legal proceedings, and the risk of an adverse outcome each of the
12 Parties potentially face in the Action. Therefore, the Parties desire to resolve the claims in the Action.
13 Plaintiff, Class Counsel, Defendants, and Defendants' Counsel are of the opinion that the Agreement for
14 the consideration and terms set forth herein is fair, reasonable, and adequate in light of all known facts and
15 circumstances.

16 **3. THE CONDITIONAL NATURE OF THIS AGREEMENT**

17 3.1 This Agreement and all associated exhibits or attachments are made for the sole purpose of
18 settling the Action. This Agreement and the settlement it evidences are made in compromise of disputed
19 claims. Because the Action was pled as a class action, this Agreement must receive preliminary and final
20 approval by the Court. Accordingly, the Parties enter into this Agreement and associated settlement on a
21 conditional basis. If the Effective Date does not occur, or if the Court's approval of the settlement is
22 reversed or materially modified on appellate review, this Agreement shall be deemed null and void; it shall
23 be of no force or effect whatsoever; it shall not be referred to or utilized for any purpose whatsoever; and
24 the negotiation, terms and entry of the Agreement shall remain subject to the provisions of California
25 Evidence Code Sections 1119 and 1152, Federal Rule of Evidence 408, and any other analogous rules of
26 evidence that may be applicable.

27 3.2 Defendants have denied all claims as to liability, damages, liquidated damages, penalties,
28 interest, fees, restitution, injunctive relief and all other forms of relief asserted in the Action. Defendants

1 have agreed to resolve the Action via this Agreement, but to the extent this Agreement is deemed void or
2 the Effective Date does not occur, Defendants do not waive, but rather expressly reserve, all rights to
3 challenge all such claims and allegations in the Action upon all procedural and factual grounds, including,
4 without limitation, the ability to challenge class or collective treatment on any grounds, as well as to assert
5 any and all other potential defenses or privileges.

6 **4. SCOPE OF THE CLASS**

7 4.1 The scope of the class of individuals encompassed under the Agreement and subject to all
8 obligations and duties required under the Agreement, shall include all Class Members as defined in Section
9 1.5 and all Aggrieved Employees as defined in Section 1.2. However, it shall not include any Class
10 Members who submit valid and timely requests to opt-out of the Agreement and settlement, as set forth in
11 Section 7.5.1.

12 4.2 Only Participating Class Members and Aggrieved Employees are entitled to recover under
13 this Agreement.

14 4.3 Any person who believes that he or she is a Class Member or Aggrieved Employee and
15 wishes to participate in the Agreement, but did not receive a Notice of Settlement because his or her name
16 did not appear on the class list provided to the Settlement Administrator prior to mailing, may submit a
17 data request to the Settlement Administrator. The data request must contain all of the following
18 information: (a) the full name and, if applicable, Social Security Number of the individual making the
19 request; (b) the name used by such employee as of the time his or her employment with Defendants ended;
20 (c) the individual's dates of employment with Defendants; and (d) a return address to which a response
21 may be sent. Every data request must be postmarked on or before the conclusion of the Notice Period or
22 otherwise submitted to the Settlement Administrator such that it is received before the conclusion of the
23 Notice Period. Upon receipt of any data requests, the Settlement Administrator shall promptly (in no event
24 more than two business days) transmit the data requests to Defendants' Counsel and request that Defendants
25 review their records.

26 4.4 If Defendants agree that the person listed in a data request is a Class Member and/or
27 Aggrieved Employee, the Settlement Administrator shall promptly mail a Notice of Settlement to the
28 person who submitted the data request, at the address designated for that purpose in the data request. All

provisions of this Agreement relating to the Notice of Settlement shall apply to Notice of Settlements sent in response to data requests, and any person who submits a data request and is sent a Notice of Settlement in response shall be treated by the Settlement Administrator as a Class Member and/or Aggrieved Employee for all other purposes.

4.5 If Defendants do not agree that the person listed in a data request is a Class Member and/or Aggrieved Employee, Defendants' Counsel and Class Counsel shall attempt to resolve any such dispute in good faith within seven (7) calendar days of Class Counsel being advised in writing of the data request dispute. Defendants' records shall control unless the individual submitting the data request provides persuasive evidence to doubt the accuracy of those records. Each data request dispute that Defendants' Counsel and Class Counsel cannot timely resolve shall be resolved by the Settlement Administrator. The Settlement Administrator must accept and weigh all the evidence provided in a good faith attempt to resolve the dispute. The Settlement Administrator must resolve any dispute submitted to it within seven (7) calendar days after Defendants' Counsel and Class Counsel submit the dispute to the Settlement Administrator. The decision by the Settlement Administrator shall be final as between the parties, subject to Court review.

5. TERMS OF THE SETTLEMENT

The Parties agree as follows:

5.1 Gross Settlement Amount: In consideration and exchange for the releases described in Section 6, Defendants shall pay the Gross Settlement Amount (\$200,000). Funding of the Gross Settlement Amount shall occur within 21 calendar days after the Effective Date to be held in trust in a QSF by the Settlement Administrator. The Gross Settlement Amount includes payments to Participating Class Members, Aggrieved Employees, all attorneys' fees, costs and litigation expenses related to the Action incurred to date, as well as all such fees and costs incurred in documenting the Agreement, administering the Agreement (including Settlement Administrator Costs), and obtaining final approval of the Agreement, the Enhancement Payment to the Class Representative and the PAGA Payment. Any monies necessary to satisfy Defendants' tax obligations (*e.g.* employer FICA, FUTA and SDI contributions on wage payments) on any monies distributed to Participating Class Members will be paid in addition to the Gross Settlement Amount.

1 5.2 Attorneys' Fees and Costs: Class Counsel will apply to the Court for attorney's fees of 35%
2 of the Gross Settlement Amount, which shall be paid from the Gross Settlement Amount. Defendants have
3 agreed to not oppose Class Counsel's application for attorneys' fees so long as it does not exceed the 35%
4 threshold. Class Counsel will also be entitled to reimbursement for advanced litigation expenses not to
5 exceed \$15,000, which shall be paid from the Gross Settlement Amount. Defendants have agreed to not
6 oppose Class Counsel's request for reimbursement for advanced litigation expenses so long as they do not
7 exceed the \$15,000 threshold. The Settlement Administrator will issue Class Counsel an IRS Form 1099
8 for the attorneys' fees and costs paid under this Agreement. In the event that the Court awards less than
9 the requested attorney's fees and/or costs, the portion of the requested amounts not awarded to Class
10 Counsel shall be added to the Net Settlement Amount to be distributed to Participating Class Members on
11 a pro rata basis.

12 5.3 Settlement Administrator Costs: The Settlement Administrator Costs shall be paid from the
13 Gross Settlement Amount and shall not exceed \$15,000. The difference between any actual costs and the
14 allocated \$15,000 shall be added to the Net Settlement Amount to be distributed to Participating Class
15 Members on a pro rata basis.

16 5.4 Enhancement Payment: Class Counsel, on behalf of Plaintiff, shall apply to the Court for
17 an Enhancement Payment to the Class Representative in an amount not to exceed Five Thousand Dollars
18 (\$5,000) to compensate for the risks, time, and expense of her involvement in the Action and securing the
19 benefits of this Agreement for Class Members. The Enhancement Payment is in addition to the Individual
20 Settlement Amount Plaintiff would otherwise be due under the Agreement as a Participating Class Member.
21 Defendants have agreed to not oppose Class Counsel's request for an Enhancement Payment to Plaintiff
22 so long as it does not exceed the amount stated herein. The Enhancement Payment will be designated as a
23 non-wage payment and reported on an IRS Form 1099-MISC. In the event that the Court awards less than
24 the Enhancement Payment amount requested, then any portion of the requested amount not awarded to the
25 Class Representative shall be added to the Net Settlement Amount to be distributed to Participating Class
26 Members on a pro rata basis.

27 5.5 PAGA Payment: Ten Thousand (\$10,000) of the Gross Settlement Amount shall be
28 allocated to resolving claims under the PAGA. Seventy-Five percent (75%) of the PAGA Payment will be

1 paid to the LWDA and Twenty-Five percent (25%) will be paid to Aggrieved Employees on a pro rata
2 basis as described below in Section 5.8. Any amount not approved by the Court for the allocated PAGA
3 Payment shall be added to the Net Settlement Amount to be distributed to Participating Class Members on
4 a pro rata basis.

5 5.6 Treatment of Residue and Cy Pres: For any portion of the Net Settlement Amount or PAGA
6 Payment allocated to Participating Class Members and/or Aggrieved Employees that were not claimed by
7 cashing their respective settlement checks before the deadline to do so, that remaining amount shall be
8 donated equally, *i.e.* 50/50, to Capital Pro Bono, Inc., and the Center for Workers' Rights under the doctrine
9 of *cy pres*. No portion of the Gross Settlement Amount will revert to Defendants for any reason.

10 5.7 No Additional Benefits Contributions: All Individual Settlement Amounts paid to
11 Participating Class Members and Aggrieved Employees shall be deemed to be income solely in the year in
12 which such amounts were actually received. It is expressly understood and agreed that the receipt of such
13 Individual Settlement Amounts will not entitle any Participating Class Member or Aggrieved Employee to
14 any new or additional compensation or benefits under any company bonus or other compensation or benefit
15 plan or agreement in place during the period covered by the Agreement, nor will it entitle any Participating
16 Class Member Aggrieved Employee to any increased retirement, 401(k) and/or 403(b) benefits or matching
17 benefits, or deferred compensation benefits. It is the intent of this Agreement that the Individual Settlement
18 Amounts provided for in this Agreement are the sole payments to be made by Defendants to the
19 Participating Class Members and Aggrieved Employees in connection with this Agreement
20 (notwithstanding any contrary language or agreement in any benefit or compensation plan document that
21 might have been in effect during the period covered by this Agreement).

22 5.8 Pro Rata Distribution Formula: Payment to Participating Class Members and Aggrieved
23 Employees of their Individual Settlement Amount will not require the submission of a claim form. A Net
24 Settlement Amount will be determined by subtracting from the Gross Settlement Amount any amounts for
25 approved attorneys' fees and costs, any Enhancement Payment to the Class Representative, the Settlement
26 Administrator Costs, and the PAGA Payment. Each Class Member's share will be initially determined by
27 dividing their total Qualifying Workweeks within the Class Period by the total Qualifying Workweeks of
28 all Class Members. That fraction will then be multiplied by the Net Settlement Amount to arrive at the

Class Member's individual share of the Net Settlement Amount. Any funds allocated to Class Members under this formula who timely opt out of the Settlement will be redistributed to Participating Class Members on a pro rata basis, *i.e.* each Participating Class Member's share will be determined by dividing their total Qualifying Workweeks within the Class Period by the total Qualifying Workweeks of all Participating Class Members and that fraction will then be multiplied by the Net Settlement Amount to arrive at the Participating Class Member's individual share of the Net Settlement Amount. Each Aggrieved Employee's share of the 25% portion of the PAGA Payment will be determined by dividing their total Qualifying Workweeks within the PAGA Claim Period by the total Qualifying Workweeks by all Aggrieved Employees within the PAGA Claim Period. That fraction will then be multiplied by the 25% portion of the PAGA Payment to arrive at the Aggrieved Employee's individual share.

5.9 Tax Allocation: The Parties recognize that the Individual Settlement Amounts to be paid to Participating Class Members and/or Aggrieved Employees reflect a settlement of a dispute over claimed penalties and wages. The Settlement Administrator shall calculate the employer's share of payroll taxes on the amounts paid to Participating Class Members as wages as well as calculating all required withholdings and deductions from said wage payments. The characterization of Individual Settlement Amounts to Participating Class Members and Aggrieved Employees are as follows:

5.9.1 One Third (1/3) of each Participating Class Members' Individual Settlement Amount shall be allocated for payment of disputed wages and shall be subject to required employer taxes. Participating Class Members shall receive an IRS Form W-2 for reporting of this portion of their Individual Settlement Amount.

5.9.2 Two Thirds (2/3) of each Participating Class Members' Individual Settlement Amount shall be allocated for disputed statutory penalties and interest, and no amount shall be deducted for any taxes. This portion of the Individual Settlement Amount consists of other income, not wages, for which the Participating Class Members shall receive an IRS Form 1099-MISC.

5.9.3 The entirety (100%) of each Aggrieved Employee's share of the 25% portion of the PAGA Payment shall be allocated for payment of disputed civil penalties, and no amount shall be deducted for any taxes. This portion of the Individual Settlement Amount consists of other income, not wages, for which the Aggrieved Employees shall receive an IRS Form 1099-MISC.

1 5.10 Participating Class Members and Aggrieved Employees shall be solely responsible for the
2 reporting and payment of their share of any federal, state and/or municipal income or other taxes on
3 payments made pursuant to this Agreement, and shall hold the Parties, Class Counsel, and Defendants'
4 Counsel free and harmless from any claims resulting from treatment of such payments as non-taxable,
5 including the treatment of such payments as not subject to withholding or deduction for payroll and
6 employment taxes. No party has made any representation to any of the other Parties as to the taxability of
7 any payments pursuant to this Agreement, including the payments to Participating Class Members, the
8 payments to Aggrieved Employees, the payments to Class Counsel, the payments to the Class
9 Representative, the payroll tax liability of Defendants, or the allocation of the Net Settlement Amount or
10 PAGA Payment to wage and non-wage income as provided in this Section, or otherwise as to tax
11 implications of any provision of this Agreement.

12 5.11 No Additional Contribution by Defendants: Defendants' monetary obligation under this
13 Agreement is limited to the Gross Settlement Amount and any employer side payroll taxes owed on
14 amounts characterized as wages under this Agreement. All other costs and expenses arising out of or in
15 connection with the performance of this Agreement shall be paid from the Gross Settlement Amount, unless
16 expressly provided otherwise herein. However, in the event this agreement is deemed null and void as
17 described in Section 3 because the Court, in its independent determination, finds that the Agreement does
18 not meet the standards for settlement approval, then Defendants and Plaintiff shall be equally responsible
19 for the costs of the Settlement Administrator incurred between the date the Agreement was executed and
20 the date of such event.

21 5.12 Certification For Settlement Purposes: The Parties agree that, for purposes of settlement
22 only, certification of the class as defined in Section 1.5 and 4.1 is appropriate and the requisites for
23 establishing class certification have been met and are met.

24 5.13 Adequacy of Class Counsel and Class Representative: The Parties agree that, for purposes
25 of settlement only, Class Counsel and Plaintiff are adequate representatives for Class Members and
26 Aggrieved Employees.

27 **6. RELEASE**
28

1 6.1 Release of Claims by Participating Class Members: Upon the Effective Date, all
2 Participating Class Members will be deemed to fully, finally and forever release the Released Class Claims
3 as to all Released Parties. In addition, on the Effective Date, all Participating Class Members and their
4 successors in interest will be permanently enjoined and forever barred from prosecuting any of Released
5 Class Claims against any of the Released Parties.

6 6.2 Release of Claims by Aggrieved Employees: Upon the Effective Date, all Aggrieved
7 Employees will be deemed to fully, finally and forever release the Released PAGA Claims as to all
8 Released Parties. In addition, on the Effective Date, all Aggrieved Employees and their successors in
9 interest will be permanently enjoined and forever barred from prosecuting any of the Released PAGA
10 Claims against any of the Released Parties.

11 6.3 Release by Plaintiff: Upon the Effective Date, Plaintiff will be deemed to fully, finally and
12 forever release the Released Class Claims, Released PAGA Claims, and Class Representative's Released
13 Claims as to all Released Parties. In addition, on the Effective Date, Plaintiff and any successors in interest
14 will be permanently enjoined and forever barred from prosecuting any of the Released Class Claims,
15 Released PAGA Claims, and Class Representative's Released Claims against any of the Released Parties.

16 7. **SETTLEMENT ADMINISTRATION**

17 7.1 Duties of Settlement Administrator: The Settlement Administrator shall be responsible for:
18 1) receiving Class Member and Aggrieved Employee contact information and confirming addresses are
19 valid; 2) calculating estimated Individual Settlement Amounts and any and all taxes associated with the
20 Individual Settlement Amounts, including employer taxes; 3) taking appropriate steps to trace and locate
21 any individual Class Members and Aggrieved Employee whose address or contact information as provided
22 to the Settlement Administrator is inaccurate or outdated and mailing the Notice of Settlement to Class
23 Members; 4) providing notification to the appropriate state and federal officials of this Agreement as
24 required under the law; 5) receiving, independently reviewing, and resolving any challenges (in
25 consultation with Class Counsel and Defendants' Counsel) from Class Members or Aggrieved Employees,
26 including any associated documentation, regarding their Qualified Workweek calculations; 6) receiving
27 and serving on Class Counsel, Defendants' Counsel, and the Court, copies of any written objections, and/or
28 any opt out statements; 7) establishing a toll free telephone line and responding to inquiries and requests

1 for information or assistance from Class Members and/or Aggrieved Employees; 8) maintaining a QSF; 9)
2 determining and paying the final amounts due to be paid under the Agreement after resolution of all
3 challenges, disputes, opt-outs, awarded attorneys' fees and costs, Settlement Administrator Costs, PAGA
4 Payment, taxes, any Enhancement Payments, and for funds that cannot be distributed due to the inability
5 to locate Class Members or Aggrieved Employees; 10) determining the validity of any disputes or late opt-
6 outs by previously unidentified Class Members or Aggrieved Employees; 11) paying any residual funds
7 from uncashed checks; 12) reporting to Class Counsel and Defendants' Counsel regarding the statistics of
8 the administration, including (a) the number of initial Notice of Settlements mailed; (b) the number of
9 forwarded Notice of Settlements; (c) the number of re-mailed Notice of Settlements; (d) the number of
10 total undeliverable Notice of Settlements; (e) the number of address traces performed for undeliverable
11 Notice of Settlements; (f) the number of Notice of Settlements undeliverable from traced addresses; (g) the
12 number of total objections received; (h) the number of opt-out requests received; (i) the number of disputes
13 received; (j) the number of disputes resolved; 13) providing a declaration to the Court regarding the final
14 statistics of the administration and compliance with all payment obligations under the Agreement; 14)
15 completing all necessary tax reporting on the QSF and payment of the Individual Settlement Amounts to
16 Participating Class Members and Aggrieved Employees; and 15) carrying out other related tasks as
17 necessary to effectuate the terms of this Agreement and any Order of the Court. All disputes relating to
18 the Settlement Administrator's ability and need to perform its duties shall be referred to the Court, if
19 necessary, which will have continuing jurisdiction over the terms and conditions of this Agreement, until
20 all payments and obligations contemplated by the Agreement have been fully executed.

21 7.2 Notice to Class Members and Aggrieved Employees: Defendants represent and warrant that
22 Class Members and Aggrieved Employees are able to read and write in English such that no translation of
23 the Notice of Settlement into another language is necessary. The Notice of Settlement will provide Class
24 Members and Aggrieved Employees with a summary of the terms and conditions of the Agreement, how
25 to participate in the settlement, how to object to the Agreement, how to dispute the individual's Qualifying
26 Workweeks, and how to opt-out from the Agreement. The Notice of Settlement will also inform Class
27 Members and Aggrieved Employees of the Gross Settlement Amount, Net Settlement Amount, proposed
28 attorneys' fees and costs allocations, any proposed Enhancement Payments, proposed Settlement

1 Administrator Cost allocations, proposed PAGA Payment allocations, the scope of the class, the nature and
2 extent of the released claims, dates set for a fairness hearing and hearing on Class Counsels' motion for
3 attorneys' fees and costs. The Notice of Settlement shall include information regarding Class Member's
4 and Aggrieved Employee's estimated Individual Settlement Amount. The Notice of Settlement will
5 provide information on how to access electronic copies online of the Notice of Settlement, any motions for
6 approval of the Agreement, any motions for approval of attorneys' fees and costs, and any other documents
7 as the Court directs.

8 7.3 Class Member Data and Mailing: No later than fourteen (14) calendar days after the
9 Preliminary Approval Date, Defendants shall provide the Settlement Administrator with the name, last
10 known mailing address, last known telephone number, Social Security Number, start and end date of
11 employment (if any) of each Class Member and Aggrieved Employee, and any other information the
12 Settlement Administrator needs to effectuate notice to Class Members and Aggrieved Employees as
13 outlined herein. The Settlement Administrator shall review the data to determine the number of Qualifying
14 Workweeks for each Class Member and Aggrieved Employee. No later than fourteen (14) calendar days
15 after receipt of such address information, the Settlement Administrator will perform a national change of
16 address ("NCOA") search, update the addresses per the results of the NCOA search, and then mail the
17 Notice of Settlement, substantially in the form attached as Exhibit 1, to each Class Member and Aggrieved
18 Employee by first-class mail, postage prepaid. The Settlement Administrator shall maintain all information
19 received from Defendants confidential to itself, and Defendants' Counsel. However, Class Counsel shall
20 be able to review the breakdown of Qualified Workweeks and estimated Individual Settlement Amounts
21 for Class Members and Aggrieved Employees prior to mailing for quality assurance provided the personal
22 identifying information is redacted and/or omitted.

23 7.4 Returned and/or Re-mailed Notice of Settlements: In the event that a Notice of Settlement
24 is returned to the Settlement Administrator as undeliverable on or before the conclusion of the Notice
25 Period, the Notice of Settlement shall be sent to the forwarding address affixed thereto within five (5)
26 calendar days. If no forwarding address is provided, then the Settlement Administrator shall promptly
27 attempt to determine a correct address using a skip-trace, computer or other search using the name, address
28 and/or Social Security number of the individual involved, and shall then perform a single re-mailing within

five (5) calendar days to any more recent address found as a result of the search. Following each search that does not result in a corrected address, for those Class Members who appear to be current employees of Defendants at the time of the Preliminary Approval Date, the Settlement Administrator shall contact Defendants' Counsel for assistance and Defendants shall cooperate in good faith with the Settlement Administrator's reasonable efforts to obtain valid mailing addresses for Class Members to the extent they are active employees of Defendants. In the event the Notice of Settlement is forwarded to a new address and/or re-mailed to a Class Member, the deadline for the Class Member to submit any request to opt-out, a dispute, or an objection shall be the end of the Notice Period or 10 days from the date of the re-mailing/forwarding to a new address, whichever is later. In the event the procedures in this Section are followed and the Class Member does not timely and properly request to opt-out, the Class Member shall be bound by all terms of the Agreement, including the releases contained in Section 6.

7.5 Responses to Notice of Settlement:

7.5.1 *Opt-Outs:* The Notice of Settlement shall provide that Class Members who wish to exclude themselves from the Agreement must submit a request to opt-out as provided in this Section. The request to opt-out must (a) state the Class Member's full name and date of birth; (b) a statement that he or she does not want to be a Class Member, does not want to participate in the settlement, and/or wants to be excluded from the settlement; (c) identify the case name and number (i.e. Trotter v. SEC Transportation Inc., et al. , Case No. STK-CV-UOE-0003641); (d) be signed; and (e) be post-marked no later than the conclusion of the Notice Period or the re-mailing timeline stated in Section 7.4. The Class Member must personally sign the request to opt-out. No request to opt-out may be made on behalf of a group of Class Members. The date of the postmark on the return-mailing envelope shall be the exclusive means used to determine whether a request to opt-out has been timely submitted. Any Class Member who requests to opt-out of the Agreement will not be entitled to any portion of the Net Settlement Amount nor will they have any right to object, appeal or comment thereon. The name of any Class Member who submits a valid and timely opt out request will be specifically identified in any proposed order granting final approval. Class Members who fail to submit a valid and timely request to opt-out shall be bound by all terms of the Agreement and any order or final judgment thereon. Regardless of whether an Aggrieved Employee opts

1 out of being a Class Member, they will still receive their share of the PAGA Payment as Aggrieved
2 Employees cannot opt out of this Agreement as it relates to the PAGA Payment or Released PAGA Claims.

3 7.5.2 *Objection Procedures:* Any Class Member who does not opt-out but who wishes to
4 object to this Agreement or otherwise to be heard concerning this Agreement shall send their written
5 objections to the Settlement Administrator and also serve copies of the objections on Class Counsel and
6 Defendants' Counsel. The Notice of Settlement shall make clear that the Court can only approve or deny
7 the Agreement, not change the terms of the Agreement. The objection must (a) state the Class Member's
8 full name and date of birth; (b) provide evidence that the individual is, in fact, a Class Member; (c) state
9 the reasons for the objection(s), including any supporting documentation; (d) identify the case name and
10 number (*i.e.* Trotter v. SEC Transportation Inc., et al. , Case No. STK-CV-UOE-0003641) (e) be signed;
11 and (f) be post-marked no later than the conclusion of the Notice Period or the re-mailing timeline stated
12 in Section 7.4. The Notice of Settlement will inform the Class Member that they should also file a notice
13 of intent to appear with the Court and serve the notice on Class Counsel and Defendants' Counsel, if they
14 intend to appear at the final approval hearing.

15 7.5.3 *Dispute Procedures:* Any Class Member who disputes the number of Qualifying
16 Workweeks on the Notice of Settlement shall contact the Settlement Administrator. The dispute must (a)
17 identify the nature of the dispute; (b) provide any information or documentation supporting the dispute; (c)
18 be signed; and (d) be post-marked no later than the conclusion of the Notice Period or the re-mailing
19 timeline stated in Section 7.4. The Settlement Administrator shall promptly (in no event more than two
20 business days) forward all such disputes to Defendants' Counsel and request that Defendants review the
21 dispute. Defendants' records shall presumptively control unless the Class Member can produce
22 documentation evidencing other periods of employment worked. If Defendants agree with submitted
23 information, the Class Member shall be credited or subtracted Qualifying Workweeks in accordance with
24 their submitted dispute and that final number of Qualified Workweeks shall govern the calculation of that
25 Class Member's Individual Settlement Amount. If Defendants disagree with the submitted information,
26 Defendants' Counsel will promptly advise Class Counsel of the dispute, which includes turning over any
27 documentation submitted by the Class Member as part of the dispute. Defendants' Counsel and Class
28 Counsel shall attempt in good faith to resolve any such dispute within five (5) calendar days of Class

Counsel being advised of the dispute. Each dispute that Defendants' Counsel and Class Counsel cannot timely resolve shall be resolved by the Settlement Administrator, subject to Court review.

7.5.4 Deficient Opt-Outs, Objections, or Disputes: In the event that a deficient opt-out, objection, or dispute is received on or before the conclusion of the Notice Period, the Settlement Administrator shall mail a letter to the Class Member within five (5) calendar days informing them of the deficiency. If a deficiency letter is mailed to a Class Member, the deadline for the Class Member to cure the deficiency shall be the end of the Notice Period or 10 calendar days from the date of the deficiency letter, whichever is later.

7.6 Due Process Acknowledgement: Compliance with the procedures set forth in Sections 7.1 to 7.5.4 shall constitute due and sufficient notice to Class Members of the Action and the Agreement and shall satisfy Class Members' due process rights. Nothing else shall be required of the Parties, Class Counsel or Defendants' Counsel to provide notice of the proposed Agreement.

7.7 Settlement Administrator Declaration Regarding Notice Period: Within fourteen (14) calendar days after the conclusion of the Notice Period, the Settlement Administrator shall provide Class Counsel and Defendants' Counsel with a signed declaration under penalty of perjury providing a complete and detailed report regarding the statistics and responses of settlement administration to date and all the Settlement Administrators' obligations under Sections 5.8 to 5.9.3 and 7.1 to 7.5.4.

7.8 Settlement Administrator Payments to Participating Class Members, Class Counsel and Plaintiff: Within seven (7) calendar days after the Effective Date and the Court's determination of the amount of attorneys' fees and costs payable to Class Counsel, the Enhancement Payment payable to Plaintiff, the PAGA Payment, and Settlement Administrator Costs, the Settlement Administrator shall calculate the final Net Settlement Amount, the final Individual Settlement Amounts for Participating Class Members and/or Aggrieved Employees, any applicable taxes thereon, and report the results of these calculations Class Counsel and Defendants' Counsel. Defendants shall wire the Gross Settlement Amount and applicable taxes necessary to fund the Settlement as described in Section 5.1 to the Settlement Administrator within twenty-one (21) calendar days after the Effective Date to be to be held in trust in a QSF. Within seven (7) calendar days after Defendants fund the settlement, the Settlement Administrator shall deliver payment of Class Counsels' attorney's fees and costs, the Enhancement Payment payable to

1 Plaintiff, the 75% portion of the PAGA Payment payable to the LWDA, Settlement Administrator Costs,
2 and payment to Participating Class Members and/or Aggrieved Employees as required under this
3 Agreement and approved by Court.

4 7.8.1 The Settlement Administrator shall wire the Court-approved attorneys' fees and
5 costs to Class Counsel unless another method is requested by Class Counsel. Class Counsel shall provide
6 the Settlement Administrator with the pertinent taxpayer identification number and payment instructions
7 after the Final Approval Date.

8 7.8.2 The Settlement Administrator shall send a check by mail for the Court-approved
9 Enhancement Payment to the Class Representative, care of Class Counsel unless another method is
10 requested by Class Counsel.

11 7.8.3 Only Participating Class Members and Aggrieved Employees will receive their
12 Individual Settlement Amount.

13 7.8.4 The Settlement Administrator shall remit and report the applicable portions of the
14 payroll tax payment to the appropriate taxing authorities on a timely basis pursuant to its duties under this
15 Agreement. Defendants agree to reasonably cooperate with the Settlement Administrator to the extent
16 necessary to determine the amount of the payroll tax payment required.

17 7.9 Settlement Check Expiration and Uncashed Checks: The Settlement Administrator shall
18 issue Individual Settlement Amounts to Participating Class Members and Aggrieved Employees in the
19 form of a check, which shall become null and void if not deposited within one hundred eighty (180)
20 calendar days of issuance. After one hundred eighty (180) calendar days of issuance, the checks shall be
21 voided and funds from all uncashed checks shall be transmitted in accordance with Section 5.6. The
22 Settlement Administrator shall deliver these funds within fourteen (14) calendar days after the check
23 cashing deadline.

24 7.10 Settlement Administrator Declaration Regarding Compliance and Settlement
25 Administration: Within twenty-one (21) calendar days after the last day for Participating Class Members
26 and Aggrieved Employees to cash their settlement checks, the Settlement Administrator shall provide Class
27 Counsel and Defendants' Counsel with a signed declaration under penalty of perjury providing a complete
28 and detailed report regarding the settlement administration documenting that all payments under the

Agreement have been made, that the Court's final approval order has been complied with, and that all the obligations of the Settlement Administrator have been completed.

8. PRELIMINARY SETTLEMENT ADMINISTRATION SCHEDULE

8.1 The schedule may be modified depending on whether and when the Court grants necessary approvals, orders notice to Class Members and Aggrieved Employees, and sets further hearings. The schedule may also be modified to correct clerical errors and to reflect the provisions in the Agreement as described above. In the event of such modification, the Parties shall cooperate to complete the settlement procedures as expeditiously as reasonably practicable. The preliminary schedule for notice, approval, and payment procedures carrying out the Agreement is as follows:

Last day for Defendants to provide Settlement Administrator with Class Member and Aggrieved Employee information	Within 14 calendar days after the Preliminary Approval Date
Last day for Settlement Administrator to complete NCOA search, update Class Member and Aggrieved Employee mailing information, and mail Notice of Settlement	Within 14 calendar days after the Settlement Administrators' receipt of Class Members' information from Defendants
Last day for Class Members to opt-out, submit disputes, submit objections, and submit data requests	60 calendar days after mailing of Notice of Settlement or within 10 days after Notice of Settlement is re-mailed, whichever is later
Last day for Settlement Administrator to provide Parties with signed declaration reporting on settlement administration statistics	Within 14 calendar days after end of the Notice Period
Last day for Settlement Administrator to calculate the final Net Settlement Amount, the final Individual Settlement Amounts for Participating Class Members and/or Aggrieved Employees, any applicable taxes thereon, and report the results of these calculations to Class Counsel and Defendants' Counsel	Within 7 calendar days after the Effective Date
Last day for Defendants to fund settlement	Within 21 calendar days after the Effective Date

Last day for Settlement Administrator to deliver payment of Class Counsel's attorney's fees and costs, Enhancement Payments, PAGA Payment, Settlement Administrator Costs, payment to Participating Class Members, and payment to Aggrieved Employees	Within 7 calendar days after Defendants have funded the settlement
Last day for Participating Class Members and Aggrieved Employees to cash settlement checks	180 calendar days after issuance of checks to Participating Class Members and Aggrieved Employees
Last day for Settlement Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiaries	Within 14 calendar days after settlement check cashing deadline
Last day for Settlement Administrator to provide Parties with compliance declaration	Within 21 calendar days after settlement check cashing deadline

9. DUTIES OF THE PARTIES

9.1 Preliminary Approval: The Parties will cooperate in obtaining, through an unopposed motion to be filed as soon as reasonably practicable, an order from the Court preliminarily approving this Agreement at the earliest possible date concurrently with the Court's certification of the Action as a class action for settlement purposes. The Parties further agree to fully cooperate in the drafting and/or filing of any further documents or filings reasonably necessary to be prepared or filed, shall take all steps that may be requested by the Court relating to, or that are otherwise necessary to the approval and implementation of this Agreement and shall otherwise use their respective best efforts to obtain certification for settlement purposes, approval of, and implementation of this Agreement. The Parties will submit this Agreement to the Court for preliminary approval of its terms and for approval of the steps to be taken to obtain its final approval. Within one week of signing this Agreement Class Counsel shall provide a draft of the Preliminary Approval Motion to Defendants' Counsel. Defendants' Counsel will provide comments and/or proposed revisions within one week after receipt of the draft Preliminary Approval Motion from Class Counsel. With regard to the final approval documents, a similar one-week maximum review and response time shall be observed by the Parties. The Parties will request that the Court's preliminary approval of this

1 Agreement be embodied in an Order Granting Preliminary Approval of Class Action and PAGA
2 Settlement.

3 9.1.1 Plaintiff's motion shall seek an order: 1) Preliminarily approving the Agreement; 2)
4 Approving as to form and content the proposed Notice of Settlement; 3) Directing the mailing of the Notice
5 of Settlement by first class mail to Class Members and Aggrieved Employees; 4) Preliminarily appointing
6 Plaintiff and Class Counsel as representatives of Class Members; 5) Preliminarily approving settlement
7 administration services to be provided by the Settlement Administrator; 6) Preliminarily approving the
8 proposed Enhancement Payment to Plaintiff; 7) Preliminarily approving the application for payment of
9 reasonable attorneys' fees and reimbursement of litigation-related expenses to Class Counsel; and 8)
10 Scheduling a fairness hearing on the question of whether the proposed Agreement should be finally
11 approved as fair, reasonable and adequate as to the Class Members.

12 9.1.2 Defendants shall not oppose Plaintiff's motion for approval of the proposed
13 Agreement.

14 9.1.3 The Parties shall cooperate with each other and the Settlement Administrator during
15 the process of giving Class Members notice and opportunity to object to the Agreement, as necessary and
16 appropriate to assure effective communication to individual Class Members of information about their
17 rights and obligations under this Agreement.

18 9.2 Final Approval and Fairness Hearing: On a date approved by the Court and set forth in the
19 Notice of Settlement, the Court shall hold the Final Approval and Fairness Hearing where objections, if
20 any, may be heard. Class Counsel shall provide the Court as part of the motion for final approval of the
21 Agreement, a declaration by the Settlement Administrator of due diligence and proof of mailing of the
22 Notice of Settlement required to be mailed to Class Members by this Agreement, and of the delivery results
23 of the Settlement Administrator's mailings including tracing and re-mailing efforts. The Settlement
24 Administrator declaration shall identify, by name, any Class Member who submitted a timely and valid
25 request to opt out during the Notice Period.

26 9.2.1 Class Counsel and Defendants shall work in good faith to draft a mutually agreeable
27 Proposed Order Granting Final Approval of Class Action and PAGA Settlement and Final Judgment. The
28 Proposed Order Granting Final Approval of Class Action and PAGA Settlement and Final Judgment shall

include findings and orders: 1) Approving the Agreement, adjudging the terms thereof to be fair, reasonable and adequate, and directing that its terms and provisions be carried out; 2) Approving the payment of an Enhancement Payment to the Class Representative; 3) Approving Class Counsel's application for an award of attorneys' fees and reimbursement of out-of-pocket litigation expenses; 4) Approving the Settlement Administrator Costs; and 5) Providing that the Court will retain jurisdiction to oversee administration and enforcement of the terms of the Agreement and the Court's orders.

9.2.2 Following entry of the Court's order granting final approval of the Agreement, the Parties will each act to ensure the fulfillment of all its provisions, including but not limited to the following: 1) Should an appeal be taken from the final approval of the Agreement or motion to set aside the judgement be filed, all parties will support the final approval order on appeal or otherwise; 2) Class Counsel will assist the Settlement Administrator as needed or requested in the process of identifying and locating Participating Class Members and Aggrieved Employees entitled to payments under the Agreement and assuring delivery of such payments; 3) Class Counsel and Defendants' Counsel will cooperate with each other and assist the Settlement Administrator as needed or requested in completing the distribution of any residual amounts, as specified above, to the *cy pres* beneficiaries; 4) Class Counsel, in conjunction with the Settlement Administrator, will certify to the Court completion of all payments required to be made by this Agreement.

9.3 Final Judgment: If the Court approves this Agreement at the final approval and fairness hearing, the Parties will request that the Court enter an Order Granting Final Approval of Class Action and PAGA Settlement and Final Judgment.

9.4 Notice to LWDA: Plaintiff will provide notice to the Labor and Workforce Development Agency ("LWDA") of this settlement in accordance with Labor Code § 2699(1)(2).

10. MISCELLANEOUS TERMS

10.1 Defendant's Right to Withdraw Based on Opt-Outs: If, prior to the Final Approval Date, 15% or more of the Class Members have submitted proper and timely requests to opt-out in accordance with the provisions of the Agreement, Defendants may rescind the Agreement and all actions taken in its furtherance will be thereby null and void. Defendants must exercise this right of rescission, in writing, to Class Counsel, within seven (7) calendar days after the Settlement Administrator notifies the Parties of the total number of opt-outs. If the option to rescind is exercised, then any Settlement Administrator Costs

1 shall be paid by Defendants. Defendants have represented that there are no more than 9,373 workweeks
2 during the Class Period. In the event the number of workweeks during the Class Period is more than
3 10,778 (i.e., greater than 15% more than 9,373), then the Gross Settlement Amount shall be increased
4 proportionally by the workweeks in excess of 9,373, multiplied by the pay period value. For example,
5 if there were 11,900 workweeks represented to exist during the Class Period, but there are actually 15,000
6 workweeks in the Class Period, and the actual workweek value is \$5.00 per workweek, Defendants would
7 have to increase the Gross Settlement Amount by \$15,500.00 (15,000 workweeks – 11,900 workweeks
8 = 3,100 workweeks x \$5.00/workweek). Alternatively, Defendants may elect to shorten the Class Period
9 and PAGA Claim Period such that the number of workweeks does not exceed 10,778 in order to avoid the
10 escalator payment being triggered.

11 10.2 Circular 230 Disclaimer: EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF
12 THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS AGREEMENT
13 OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND
14 AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN
15 COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR
16 ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH
17 COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON
18 AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT
19 CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS
20 RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX
21 COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS
22 AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
23 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY
24 OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR
25 DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX
26 PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO
27 ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT
28 PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY’S OR ADVISER’S TAX

1 STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON
2 DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX
3 STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY
4 THIS AGREEMENT.

5 10.3 No Prior Assignments: The Parties represent, covenant, and warrant that they have not
6 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to
7 any person or entity any portion of any liability, claim, demand, action, cause of action or right released
8 and discharged in this Agreement.

9 10.4 Waiver of Appeal and Ability to Opt Out: To the extent permitted by applicable law, by
10 signing this Agreement Defendants are waiving any rights to appeal from the Court's approval of the
11 settlement unless the Court materially modifies the settlement. Furthermore, by signing this Agreement
12 Plaintiff is waiving any right or ability to opt out of this Agreement during the Notice Period or otherwise.

13 10.5 Exhibits Incorporated by Reference: The terms of this Agreement include the terms set
14 forth in any attached Exhibits, which are incorporated by this reference as though fully set forth in this
15 Agreement. Any Exhibits to this Agreement are an integral part of the Settlement.

16 10.6 Judgment and Retention of Jurisdiction to Enforce: Upon the Effective Date, judgment will
17 be entered according to this Agreement. The Parties stipulate and agree that the San Joaquin County
18 Superior Court shall have continuing jurisdiction to enforce the terms of the Agreement pursuant to Civil
19 Procedure Code section 664.6 and that the prevailing party any action necessary to enforce the terms of the
20 Agreement after default by the other party may recover reasonable attorney's fees and costs related thereto.

21 10.7 Mutual Cooperation: The Parties agree to cooperate fully with one another to accomplish
22 and implement the terms of this Agreement. Such cooperation shall include, but not be limited to, execution
23 of such other documents and the taking of such other action as may reasonably be necessary to fulfill the
24 terms of this Agreement. The Parties to this Agreement shall use their best efforts, including all efforts
25 contemplated by this Agreement and any other efforts that may become necessary by Court order, or
26 otherwise, to effectuate this Agreement and the terms set forth herein.

27 10.8 No Admission of Liability: Neither the acceptance nor the performance by Defendants of
28 the terms of this Agreement, nor any of the related negotiations or proceedings, is or shall be claimed to

1 be, construed as, or deemed to be, an admission by Defendants of the truth of any of the allegations in the
2 Complaint, the representative character of the Action, the validity of any of the claims that were or could
3 have been asserted by Plaintiff and/or Class Members in the Action, or of any liability or guilt of
4 Defendants in the Action. Nothing in this Agreement shall be construed to be or deemed an admission by
5 Defendants of any liability, culpability, negligence, or wrongdoing toward Plaintiff, the Class Members,
6 or any other person, and Defendants specifically disclaim any liability, culpability, negligence, or
7 wrongdoing toward Plaintiff, the Class Members, or any other person. Each of the Parties has entered into
8 this Stipulation with the intention to avoid further disputes and litigation.

9 10.9 Notices: Unless otherwise specifically provided herein, all notices, demands, or other
10 communications given hereunder shall be in writing and shall be deemed to have been duly given as of the
11 third business day after mailing by United States certified mail, return receipt requested, addressed as
12 follows:

13 To Plaintiff and the Class:

14 Galen T. Shimoda, Justin P. Rodriguez and Renald Konini
15 Shimoda & Rodriguez Law, PC
16 9401 East Stockton Blvd., Suite 120
17 Elk Grove, CA 95624

18 To Defendants:

19 Jamie M. Bossuat
20 Kelsea A. Carbajal
21 Kroloff, Belcher, Smart,
22 Perry & Christopherson
23 7540 Shoreline Drive
24 Stockton, California, 95219
25 Phone: 209-478-2000
26 Facsimile: 209-478-0354

27 10.10 Mutual Drafting of Agreement: The Parties hereto agree that the terms and conditions of
28 this Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that
this Agreement shall not be construed in favor of or against any party by reason of the extent to which any
party or its counsel participated in the drafting of this Agreement.

10.11 Attorneys' Fees and Costs Limitations: Neither Class Counsel nor any other attorneys
acting for, or purporting to act for, the Class, Class Members, or Plaintiff, may recover or seek to recover

1 any amounts for fees, costs, or disbursements from the Releasees or the Gross Settlement Amount except
2 as expressly provided in this Agreement.

3 10.12 No Modifications: This Agreement may be amended or modified only by a written
4 instrument signed by counsel for all Parties or their successors-in-interest. This Agreement may not be
5 discharged except by performance in accordance with its terms.

6 10.13 Authorization to Enter Into Settlement Agreement: Counsel for all Parties warrant and
7 represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement and
8 to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement
9 to effectuate its terms and to execute any other documents required to effectuate the terms of this
10 Agreement.

11 10.14 Class Member Signatories: Because the Action has not yet been certified, and the Class
12 Members are so numerous, the Parties agree that it is impossible or impractical to have each Class Member
13 sign this Agreement. It is agreed that, for purposes of seeking approval of the Agreement, this Agreement
14 may be executed on behalf of all Class Members by the Class Representative.

15 10.15 Counterparts: This Agreement shall become effective upon its execution by all of the
16 undersigned. Plaintiff, Class Counsel, Defendants and Defendants' Counsel may execute this Agreement
17 in counterparts, and execution of counterparts shall have the same force and effect as if each had signed
18 the same instrument. Facsimile, electronic, and/or scanned copies of signatures shall have the same force
19 and effect of originals.

20 10.16 Choice of Law: The Agreement and any exhibits hereto shall be considered to have been
21 negotiated, executed, and delivered, and to have been wholly performed, in the State of California, and the
22 rights and obligations of the Parties to the Agreement shall be construed and enforced in accordance with,
23 and governed by, the substantive laws of the State of California without giving effect to that State's choice
24 of law principles.

25 10.17 Headings and Captions: Section titles or captions contained in the Agreement are inserted
26 as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of
27 this Agreement, or any provision thereof.

10.18 No Retaliation or Discouragement: The Parties agree they will take no action that could be construed as retaliation against any Class Members for participating or seeking to participate in this class action settlement. The Parties will not discourage any class member from participating or seeking to participate in this class action settlement. This is a material term of the Agreement and non-breaching Parties will seek court intervention if this provision is breached.

10.19 Integrated Agreement: This Agreement sets forth the entire understanding between the Parties and supersedes any and all prior agreements, oral or written, pertaining to the subject matter hereof. Each party acknowledges that there is no representation, inducement, promise or agreement which has been made, orally or otherwise, by the other party, concerning the terms or conditions of this Agreement, which is not expressly embodied in this Agreement. In entering into this Agreement, the Parties represent that the terms of this Agreement are fully understood and voluntarily accepted by the Parties.

10.20 Binding on Successors and Assigns: This Agreement will be binding upon, and inure to the benefit of, the successors or assigns of the Parties to this Agreement, as previously defined.

10.21 Invalidity of Any Provision: Before declaring any provision of this Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

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

IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized attorneys, as of the day and year herein set forth.

For Plaintiff:

Date: 12/19/2023

DocuSigned by:
Tara Trotter
EB8CF7A7C72E4E5...

Tara Trotter

FOR Defendants:

Date: _____

By: _____

For SEC Transportation, Inc.

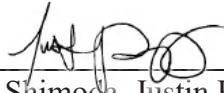
Date: _____

By: _____
For Stockton Educational Center, Inc.

APPROVED AS TO FORM

Shimoda & Rodriguez Law, PC

Dated: 12/19/2023

By:  _____
Galen T. Shimoda, Justin P. Rodriguez and
Renald Konini
Attorney for Plaintiff and Aggrieved
Employees

APPROVED AS TO FORM

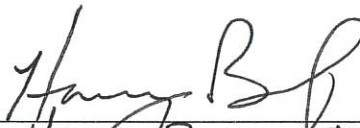
**KROLOFF, BELCHER, SMART, PERRY &
CHRISTOPHERSON**

Dated: _____

By: _____
Jamie M. Bossuat
Kelsea A. Carbajal
Attorney for Defendants

1 **FOR Defendants:**

2 Date: 1/19/2024

3 
By: Harry Brown Jr.
For SEC Transportation, Inc.

4
5 Date: 1/19/2024

6 
By: Harry Brown Jr.
For Stockton Educational Center, Inc.

7
8
9 APPROVED AS TO FORM

Shimoda & Rodriguez Law, PC

10
11 Dated: _____

By: _____
Galen T. Shimoda, Justin P. Rodriguez and
Renald Konini
Attorney for Plaintiff and Aggrieved
Employees

12
13
14 APPROVED AS TO FORM

KROLOFF, BELCHER, SMART, PERRY &
CHRISTOPHERSON

15
16
17 Dated: 1/19/24

18 
By: Jamie M. Bossuat
Jamie M. Bossuat
Kelsea A. Carbajal
Attorney for Defendants

Exhibit 1

CALIFORNIA SUPERIOR COURT
FOR THE COUNTY OF SAN JOAQUIN

TARA TROTTER, individually and on behalf of
all other similarly situated employees,

Plaintiff,

vs.

SEC TRANSPORTATION, INC., a California
Corporation; STOCKTON EDUCATIONAL
CENTER, INC., an unknown association; and
DOES 1 to 100, inclusive,

Defendants.

Case No. **STK-CV-UOE-0003641**

**NOTICE OF PROPOSED CLASS ACTION
AND PAGA SETTLEMENT, AND HEARING
DATE FOR FINAL COURT APPROVAL OF
SETTLEMENT**

ATTENTION: All nonexempt employees who have worked, or continue to work, for Defendants in California at any time between April 10, 2019, to [REDACTED] (the "Class Members").

PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF CLASS ACTION LITIGATION AND POTENTIAL DISBURSEMENT OF SETTLEMENT FUNDS TO YOU. IF YOU ARE A CLASS MEMBER, IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHT TO PARTICIPATE IN OR OPT OUT OF THE SETTLEMENT ACCORDING TO THE PROCEDURES DESCRIBED BELOW.

You are receiving this notice pursuant to an order from the San Joaquin County Superior Court ("Court") granting Plaintiff's motion for preliminary approval of a Joint Stipulation Regarding Class Action PAGA Settlement and Release ("Agreement" or "Settlement") as fair, reasonable, and adequate. The Settlement was entered into between Plaintiff Tara Trotter ("Plaintiff" or "Class Representative"), and Defendants SEC Transportation, Inc. and Stockton Educational Center, Inc. ("Defendants") on behalf of Class Members as defined above. The terms of the Settlement are outlined herein. You are receiving this notice because Defendants' records indicate you fall within the definition of "Class Member." Defendants' records also indicate that you worked [REDACTED] weeks during the applicable Class Period (as defined below), which means your total share of the settlement proceeds is estimated to be [REDACTED]. Your actual share of the settlement proceeds will vary depending on the total number of Class Members that choose to participate and the resolution of any workweek disputes as described in this notice.

The terms of the Agreement and a description of the case are identified in this notice. Pursuant to the Court's order, YOU ARE HEREBY NOTIFIED AS FOLLOWS:

I. BACKGROUND OF THE CASE

On April 11, 2023, Plaintiff filed a Complaint against Defendants in the San Joaquin County Superior Court of California on behalf of herself and Class Members. The term "Action" means this putative class action pending in San Joaquin County Superior Court, Case No. STK-CV-UOE-0003641. The Class Period is between April 10, 2019, to [REDACTED] (the "Class Period").

In the Action, Plaintiff sought to obtain unpaid wages, interest, statutory penalties, civil penalties, fees, and costs on behalf of herself, Class Members, and Aggrieved Employees. Plaintiff alleged that Defendants violated California law by 1) failing to pay overtime wages, 2) failing to pay minimum wages, 3) failing to provide meal periods or pay premiums in lieu thereof, 4) failing to provide rest periods or pay premium in lieu thereof, 5) failing to provide accurate wage statements, 6) failing to pay final wages, 7) failing to maintain accurate records, 8) engaging in unfair competition, 9) engaging in unlawful inquiry into criminal history, 10) violation of Labor Code section 1102, 11) engaging in wrongful termination and retaliation, and 12) committing PAGA violations. Defendants have denied all of Plaintiff's allegations. The Action has been actively litigated. There have been on-going investigations, and there has been an exchange of extensive documentation and information. Furthermore, the Parties have participated in a full day mediation facilitated by a neutral third party. Based upon the negotiations, and all known facts and circumstances, including the various risks and uncertainties related to legal actions, the Parties reached a class-wide settlement. By settling, the Parties will avoid the risks associated with a lengthy litigation process. Despite agreeing to and supporting the Agreement, Defendants continue to deny all

allegations and claims. Defendants have entered into this Settlement to fully, finally, and forever resolve this Action, based on the terms set forth in the Agreement, in order to avoid the burden and expense associated with ongoing litigation.

The Agreement applies to any and all Class Members, which are defined as all nonexempt employees who have worked, or continue to work, for Defendants in California at any time between April 10, 2019, to [REDACTED]. The Agreement also applies to Aggrieved Employees, which are defined as all nonexempt employees who have worked, or continue to work, for Defendants in California at any time between April 10, 2022, to [REDACTED]. If you are a Class Member, you have the opportunity to participate in the Settlement, or to exclude yourself (“opt out”) from the Settlement. This notice is to advise Class Members of how they can either participate in the Settlement or be excluded from the Settlement. As set forth below, Aggrieved Employees cannot opt out of this Agreement as it relates to the PAGA Payment or Released PAGA Claims regardless of whether they opt out of being a Class Member. Aggrieved Employees will receive their share of the PAGA Payment regardless of whether they opt out of being a Class Member.

II. SUMMARY OF THE PROPOSED SETTLEMENT

A. The Amount of the Settlement

Under the terms of the Agreement, Defendants have agreed to pay a total sum of Two Hundred Thousand Dollars (\$200,000) (“Gross Settlement Amount”). Deducted from this Gross Settlement Amount will be sums approved by the Court for attorneys’ fees not to exceed 35% of the Gross Settlement Amount, attorneys’ costs not to exceed \$15,000, Settlement Administrator Costs estimated not to exceed \$15,000, Class Representative’s Enhancement Payment of \$5,000, and \$10,000 for alleged PAGA penalties (the “PAGA Payment”), which will result in a “Net Settlement Amount” for distribution to all Class Members. Any employer side taxes attributable to payments allocated as wages will be paid by Defendants in addition to the Gross Settlement Amount. As explained further below, the amount of each Class Member’s share of the Net Settlement Amount will depend on the number of weeks worked by participating Class Members during the Class Period. Of the \$10,000 allocated to resolving the PAGA claims, 75% of the PAGA Payment will be paid to the State of California Labor and Workforce Development Agency and 25% of the PAGA Payment will be divided among Aggrieved Employees.

The number of weeks you worked during the Class Period and your estimated total share of the Net Settlement Amount and PAGA Payment (“Individual Settlement Amount”) is stated on the first page of this notice. The actual amount received may be more or less than the amount stated depending on the actual number of weeks worked by Participating Class Members (*i.e.*, those who do not opt out of the Settlement), the resolution of any disputes regarding workweeks, and on the distributions finally approved and allocated by the Court. However, whether Class Members opt out will have no effect on Aggrieved Employees’ allocations for the PAGA claims.

B. Individual Settlement Amounts and Allocation Between Class Members and Aggrieved Employees

Defendants will pay Individual Settlement Amounts through the Settlement Administrator, as described below, to each Participating Class Member and to Aggrieved Employees. All Individual Settlement Amounts will be subject to appropriate taxation. The Parties have agreed, based on the allegations in the Action that all Individual Settlement Amounts payable to eligible Class Members will be allocated from the Net Settlement Amount and paid as 2/3 for disputed interest, statutory penalties, and other non-wage damages for which IRS Forms 1099-MISC and 1099-INT will issue and 1/3 for disputed wages for which IRS Forms W-2 will issue. The PAGA Payment to Aggrieved employees will be paid as 100% for civil penalties.

Payment to Participating Class Members and Aggrieved Employees will not require the submission of a claim form. Each Participating Class Member’s share will be determined by dividing their total weeks worked within the Class Period by the total weeks worked by all Participating Class Members within the Class Period. That fraction will then be multiplied by the Net Settlement Amount to arrive at the Class Member’s individual share of the Net Settlement Amount. Each Aggrieved Employee’s share of the 25% portion of the PAGA Payment will be determined by dividing their total weeks worked within the PAGA Claim Period by the total weeks worked by all Aggrieved Employees within the PAGA Claim Period. That fraction will then be multiplied by the 25% portion of the PAGA Payment to arrive at the Aggrieved Employee’s individual share. The PAGA Claim Period is defined as April 10, 2022, up to [REDACTED]. Defendants’ records indicate that you worked [REDACTED] weeks during the applicable PAGA Claim Period, which means your share of the PAGA Payment is estimated to be [REDACTED]. This amount is included in your estimated Individual Settlement Amount stated on the first page of this notice, not in addition to it. You will still receive your share of the PAGA Payment even if you opt out of being a Class Member. Receipt of the Individual Settlement Amounts will not entitle any Class Member or Aggrieved Employee to additional compensation or benefits under any compensation, retirement or benefit plan or agreement in place during the period covered by the Settlement.

C. Calculations to Be Based on Defendants' Records and Resolution of Workweek Disputes

For each Class Member, the amount payable will be calculated by the Settlement Administrator from Defendants' records. Defendants' records will be presumed correct unless evidence to the contrary is provided to the Settlement Administrator. Defendants' records and any additional evidence will be reviewed by the Settlement Administrator in the event of a dispute about the number of workweeks worked by an individual Class Member. If a Class Member disputes the accuracy of Defendants' records, all supporting documents evidencing additional workweeks must be submitted by the Class Member. The dispute must (a) identify the nature of the dispute; (b) provide any information or documentation supporting the dispute; (c) be signed; and (d) be post-marked no later than [redacted]. The dispute will be resolved by the Settlement Administrator based on the records and evidence provided.

D. Release of Claims

For those Class Members who do not opt out and Aggrieved Employees, the Agreement contains the following releases:

Class members who do not opt out will be deemed to have released any and all class claims that are alleged in the Complaint, and any additional wage and hour claims that could have been brought based on the facts alleged in the Complaint, through the Class Period. This release excludes the release of claims not permitted by law. The Released Class Claims exclude claims for workers' compensation or unemployment insurance benefits. This release will cover all Class Members who do not opt out.

Aggrieved Employees will be deemed to have released any and all claims that were brought under the Private Attorneys General Act, Labor Code §§ 2698 *et seq.*, contained in the Complaint and any additional wage and hour PAGA claims that could have been brought based on the facts alleged in the Complaint during the PAGA Claim Period. Aggrieved Employees cannot opt out of this waiver of claims.

The individuals released ("Released Parties") include Defendants, as well as Defendants' officers, shareholders, directors, agents, employees, attorneys, and insurers.

Class Members and/or Aggrieved Employees can talk to one of the lawyers appointed as Class Counsel (listed below) for free or talk to their own lawyer if they have questions about the released claims and what they mean.

III. WHAT ARE YOUR RIGHTS AS A CLASS MEMBER

A. Participating in the Settlement as a Class Member

If you wish to be a Participating Class Member and believe your workweek information is accurate, **you do not need to take any further action**. Payment will be automatically made to you consistent with the terms of the Agreement and Court Order. If you wish to dispute the workweek calculation, you may follow the procedures outlined in Section II.C above. California law protects Class Members from retaliation based on their decision to participate in the Settlement.

B. Excluding Yourself from the Settlement as a Class Member

The Court will exclude you from being a Class Member if you request this by [redacted]. If you do not wish to be bound by the Settlement as a Class Member, you may request to be excluded (*i.e.*, "opt out") by submitting a timely written request to the Settlement Administrator. The request to opt-out must (a) state your full name and date of birth; (b) a statement that you do not want to be a Class Member, do not want to participate in the Settlement, and/or wants to be excluded from this Settlement; (c) identify the case name and number (*i.e.* *Trotter v. SEC Transportation Inc., et al.*, STK-CV-UOE-0003641); (d) be signed; and (e) be post-marked no later than [redacted]. The request to opt out must be mailed by First Class U.S. Mail, or the equivalent, to:

[admin info]

If you submit a request to opt out which is not postmarked by [redacted], your request to opt out will be rejected, and you will be bound by the release and all other terms of the Agreement. Do not use a postage meter as that may not result in a postmark appearing on the envelope containing your request to opt out. Any Class Member who submits a complete and timely request to opt out shall, upon receipt by the Settlement Administrator, no longer be a Class Member and not receive their share of the Net Settlement Amount. Aggrieved Employees cannot opt out of this Agreement and will receive their share of the PAGA Payment regardless of whether they opt out of being a Class Member.

C. Objection to Settlement

If you do not opt out of the Settlement, you can object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. You can ask the Court to deny approval by filing an objection. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. The objection must (a) state your full name and date of birth; (b) provide evidence that you are, in fact, a Class Member; (c) state the reasons for the objection(s), including supporting documentation; (d) identify the case name and number (*i.e. Trotter v. SEC Transportation Inc., et al.*, STK-CV-UOE-0003641); (e) be signed; and (f) be post-marked no later than [redacted]. The objection must be sent to the Settlement Administrator at the address identified in Section III.B and to counsel for Plaintiff and Defendants at the addresses identified in Section VI of this notice.

If you have submitted a written objection as outlined above, you may also appear at the final approval hearing to state your objection. Any Class Member who does not request exclusion may, if the Class Member so desires, enter an appearance through an attorney. If you appear through your own attorney, you are responsible for paying that attorney. You should also file a notice of intent to appear with the Court and serve the notice on counsel for Plaintiff and Defendants.

IV. EFFECT OF THE SETTLEMENT: RELEASED RIGHTS AND CLAIMS

If the Court grants final approval of the Settlement, the Court will make and enter judgment consistent therewith. The judgment, whether favorable or not, will bind all Class Members who do not request exclusion. After final approval, each and every Class Member who does not opt out of the Settlement and Aggrieved Employee, will release Defendants and the Released Parties from the Released Class Claims and the Released PAGA Claims described above. In other words, if you were employed as a Class Member by Defendants in California during the Class Period, and you do not exclude yourself from the Settlement, you will be deemed to have entered into these releases and to have released the above-described claims. In addition, you will be barred from ever suing Defendants and the Released Parties with respect to the claims covered by this Settlement. If the Settlement is not approved by the Court or does not become final for some other reason, the litigation will continue.

V. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a hearing in Department ____, [address] on [redacted] at [redacted] to determine whether the Agreement should be finally approved as fair, reasonable and adequate. The Court also will be asked to approve Class Counsel's request for attorneys' fees and costs, the Settlement Administrator Costs, and the Class Representative's Enhancement Payment. The hearing may be continued without further notice. It is not necessary for you to appear at this hearing.

VI. ADDITIONAL INFORMATION

You may access the Complaint, Class Counsel's motion for preliminary approval, the Agreement, and any other documents required by the Court at the Settlement Administrator's website: [admin web address]. You can also contact Class Counsel or Defendants' Counsel as follows:

Galen T. Shimoda
Justin P. Rodriguez
Renald Konini
Shimoda & Rodriguez Law, PC
9401 East Stockton Blvd., Suite 120
Elk Grove, CA 95624
Telephone: (916) 525-0716
Facsimile: (916) 760-3733
On behalf of Plaintiff

Jamie M. Bossuat
Kelsea A. Carbajal
Kroloff, Belcher, Smart,
Perry & Christopherson
7540 Shoreline Drive
Stockton, California 95219
Phone: 209-478-2000
Facsimile: 209-478-0354
On behalf of Defendants

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS. IF YOU HAVE ANY QUESTIONS, CALL [number]
BY ORDER OF THE COURT

Exhibit B

FILED
SUPERIOR COURT

2023 JUN -7 AM 11:54

BY Maureen DEPUTY CLERK

10C
16/6
AG

1 Galen T. Shimoda (Cal. State Bar No. 226752)
2 Justin P. Rodriguez (Cal. State Bar No. 278275)
3 Renald Konini (Cal. State Bar No. 312080)
4 **Shimoda & Rodriguez Law, PC**
5 9401 East Stockton Boulevard, Suite 120
6 Elk Grove, CA 95624
7 Telephone: (916) 525-0716
8 Facsimile: (916) 760-3733

9 Attorneys for Plaintiff TARA TROTTER,
10 Individually and on behalf of all other similarly situated employees

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**SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN**

11 TARA TROTTER, individually and on behalf
12 of all other similarly situated employees,

13 Plaintiff,

14 vs.

15 SEC TRANSPORTATION, INC., a California
16 Corporation; STOCKTON EDUCATIONAL
17 CENTER, INC., an unknown association; and
18 DOES 1 to 100, inclusive,

19 Defendants.

Case No. STK-CV-UOE-2023-0003641

Assigned for All Purposes to Hon. Jayne Lee
Department 10C

CLASS ACTION

**FIRST AMENDED COMPLAINT FOR
DAMAGES:**

1. Failure to Pay Overtime Wages
2. Failure to Pay Minimum Wages
3. Meal Period Violations
4. Rest Period Violations
5. Wage Statement Violations
6. Waiting Time Penalties
7. Unfair Competition
8. Unlawful Inquiry Into Criminal History
9. Private Attorneys General Act

INDIVIDUAL CLAIMS

10. Violation of Labor Code § 1102
11. Wrongful Termination/Retaliation

DEMAND FOR JURY TRIAL

FIRST AMENDED CLASS ACTION COMPLAINT

FILE BY FAX

1 Plaintiff TARA TROTTER ("Plaintiff"), on behalf of herself and all other similarly situated
2 employees, hereby files this First Amended Complaint against Defendants SEC TRANSPORTATION,
3 INC., a California Corporation; STOCKTON EDUCATIONAL CENTER, INC., an unknown
4 association; and DOES 1 to 100, inclusive (hereinafter all collectively referred to as "Defendants"). On
5 information and belief, Plaintiff alleges the following:

6 INTRODUCTION

7 1. This is a class action, an individual, and a Private Attorneys General Act ("PAGA")
8 lawsuit brought by Plaintiff for 1) Failure to Pay Overtime Wages, 2) Failure to Pay Minimum Wages,
9 3) Meal Period Violations, 4) Rest Period Violations, 5) Wage Statement Violations, 6) Waiting Time
10 Penalties, 7) Unfair Competition, and 8) Unlawful Inquiry into Criminal History. Plaintiff is also
11 asserting individual claims for wrongful termination/retaliation and violation of Labor Code section
12 1102.5.

13 JURISDICTION AND VENUE

14 2. The San Joaquin County Superior Court has jurisdiction in this matter pursuant to
15 California Code of Civil Procedure section 410.10 to determine alleged violations of the California
16 Labor Code, California Business and Professions Code, and Wage Order No. 4.

17 3. Venue is proper pursuant to Civil Procedure Code §§ 395(a) and 395.5, in that
18 Defendants reside in San Joaquin County and/or are foreign entities and have not designated any county
19 in California as being where they maintain their principal offices. In addition, some of the wrongful acts
20 and violations of law asserted herein occurred within San Joaquin County, and Defendants' obligation to
21 pay wages arose in San Joaquin County pursuant to *Madera Police Officers Assn. v. City of Madera*, 36
22 Cal.3d 403, 414 (1984).

23 4. Plaintiff sought permission pursuant to California Labor Code section 2699 *et seq.* to
24 pursue the claims set forth in this Complaint against Defendants as a Private Attorney General on behalf
25 of himself and other similarly situated employees. Pursuant to California Labor Code section 2699.3,
26 Plaintiff gave written notice via online submission to the Labor and Workforce Development Agency
27 ("LWDA") on approximately April 10, 2023. Plaintiff provided facts and legal bases for her claims
28 within the notice to the LWDA on all violations asserted under the Private Attorneys General Act cause

1 of action. Plaintiff also submitted the \$75.00 filing fee. The April 10, 2023, notice was also sent via
2 certified mail to Defendants on the same day. To date, the LWDA has not provided any response to
3 Plaintiff's notice correspondence. Accordingly, Plaintiff has exhausted all administrative remedies
4 pursuant to the Private Attorneys General Act ("PAGA") and may bring this action on behalf of himself
5 and all similarly situated employees, *i.e.* Aggrieved Employees. *See* Cal. Lab. Code § 2699.3(a)(2)(A),
6 (c)(3); *Caliber Bodyworks, Inc., v. Sup. Ct.*, 134 Cal. App. 4th 365, 383 n.18, 385 n.19 (2005).
7 Aggrieved Employees include, but is not limited to the following: all non-exempt employees who have
8 worked, or continue to work, for Defendants in California from April 10, 2022, to the present.

9 PARTIES

10 5. TARA TROTTER is an individual over the age of eighteen (18) and is a resident of
11 the State of California.

12 6. On information and belief, Plaintiff alleges, SEC TRANSPORTATION, INC., is now
13 and/or at all times mentioned in this Complaint was a California Corporation and the owner and
14 operator of an industry, business and/or facility doing business in the State of California.

15 7. On information and belief, Plaintiff alleges, STOCKTON EDUCATIONAL
16 CENTER, INC., is now and/or at all times mentioned in this Complaint was an unknown association
17 and the owner and operator of an industry, business and/or facility doing business in the State of
18 California.

19 8. Defendants DOES 1 through 100 are affiliates, subsidiaries and related entities and the
20 alter egos of each of the other Defendants named herein, corporate or otherwise, who participated in and
21 are liable for the actions herein alleged. Plaintiff will seek to amend this Complaint to allege the true
22 names and capacities of these DOE Defendants when they are ascertained.

23 9. At all times mentioned herein, each Defendant was the agent or employee of each of the
24 other Defendants and was acting within the course and scope of such agency or employment. The
25 Defendants are jointly and severally liable to Plaintiff.

26 10. Defendants, and each of them, are now and/or at all times mentioned in this Complaint
27 were members of and/or engaged in a joint employment, joint venture, partnership and common
28

1 enterprise, and were acting within the course and scope of, and in pursuance of said joint employment,
2 joint venture, partnership and common enterprise.

3 11. Defendants, and each of them, now and/or at all times mentioned in this Complaint
4 approved, ratified, acquiesced, aided or abetted the acts and omissions alleged in this Complaint.

5 12. Defendants proximately caused Plaintiff to be subjected to the unlawful practices,
6 wrongs, complaints, injuries and/or damages alleged in this Complaint.

7 **CLASS ALLEGATIONS**

8 13. Plaintiff brings the First through Eighth Causes of Action on behalf of herself and all
9 others similarly situated as a class action pursuant to California Code of Civil Procedure section 382.
10 The class which Plaintiff seeks to represent is composed of, and defined, as follows:

11 All nonexempt employees who have worked, or continue to work, for
12 Defendants in California at any time between April 10, 2019, to the
present.

13 14. This action has been brought and may be properly maintained as a class action,
14 pursuant to the provision of California Code of Civil Procedure section 382, because there is a well-
15 defined community of interests in the litigation and the proposed class is easily ascertainable.

16 (a) Numerosity: The putative class is so numerous that the individual joinder of all members
17 is impracticable under the circumstances of this case. While the exact number of class
18 members is unknown to Plaintiff at this time, Plaintiff is informed and believes that
19 Defendants have employed as many as fifty (50) individuals falling within the above
20 stated class definition throughout the State of California during the applicable statute of
21 limitations, who were subjected to the policies and practices outlined in this Complaint.
22 As such, joinder of all members of the putative class is not practicable.

23 (b) Common Questions Predominate: Common questions of law and fact exist as to all
24 members of the putative class and predominate over questions that affect only individual
25 members of the class. These common questions of law and fact include, without
26 limitation, the following:

- 27 (1) Whether Defendants paid for all hours worked;
28 (2) Whether Defendants unlawfully inquired into employees criminal history;

- (3) Whether Defendants required putative class members to work split shifts without paying split shift premiums;
- (4) Whether Defendants authorized and permitted putative class members to take all meal and rest periods;
- (5) Whether Defendant maintained accurate payroll records;
- (6) Whether as a result of Defendants' policies and practices Plaintiffs and putative class members received all wages, due and owing, at the time of their termination or separation; and
- (7) Whether Defendants provided Plaintiff's and putative class members with wage statements that complied with Labor Code section 226.

(c) Typicality: Plaintiff's claims are typical of the claims of the members of the putative class. The putative class also sustained damages arising out of Defendants' common course of conduct in violation of the law as complained of herein. Plaintiff and all members of the putative class were non-exempt employees who were subject to the same working conditions which Plaintiff alleges are unlawful. Additionally, Defendants issued Plaintiff and all members of the putative class wage statements that did not comply with Labor Code section 226. As a result, Plaintiff and each member of the putative class will have suffered the same type of harm and seek the same type of recovery based on the same legal theories.

(d) Adequacy: Plaintiff will fairly and adequately protect the interests of the members of the putative class. For all relevant times, Plaintiff resided in California and worked for Defendants in California. Moreover, Plaintiff is an adequate representative of the putative class as Plaintiff has no interests that are adverse to those of putative class members. Additionally, Plaintiff has retained counsel who has substantial experience in complex civil litigation and wage and hour matters.

(e) Superiority: A class action is superior to other available means for the fair and efficient adjudication of the controversy since individual joinder of all members of the putative class is impracticable. Class action treatment will permit a larger number of similarly

1 situated persons to prosecute their common claims in a single forum simultaneously,
2 efficiently, and without the unnecessary duplication of effort and expense that numerous
3 individual actions would engender. Further, as damages suffered by each individual
4 member of the class may be relatively small, the expenses and burden of the individual
5 litigation would make it difficult or impossible for individual members of the class to
6 redress the wrongs done to them, and an important public interest will be served by
7 addressing the matter as a class action. The cost to the court system of adjudication of
8 such individualized litigation would be substantial. Individualized litigation would also
9 present the potential for inconsistent or contradictory judgments.

10 15. Plaintiff is unaware of any difficulties that are likely to be encountered in the
11 management of this action that would preclude its maintenance as a class action.

12 **GENERAL ALLEGATIONS**

13 16. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 15 as though fully
14 set forth herein.

15 17. Plaintiff started working for Defendants in approximately 2018. Although there were
16 several months in 2020 that Plaintiff did not work due to Covid-19, Plaintiff continued working for
17 Defendants until approximately November 2020. Plaintiff began working for Defendants again in or
18 around July 2022 where she continued to November 4, 2022. Defendants run an integrated enterprise
19 engaged in transporting disabled individuals to and from schools as well as providing school instruction
20 to these individuals.

21 18. Defendants share officers, directors, and management staff as well as offices and
22 equipment. In fact, several class members, including Plaintiff, worked as drivers as well as student
23 assistants for Defendants' client. Defendants shared employment forms, letterhead, and human
24 resources. Defendants used a form that asked for an employees' criminal history regardless of whether
25 any arrests resulted in conviction, were for marijuana related offenses more than two years old, or were
26 convictions that were expunged or otherwise protected from disclosure under California law.

27 19. While working as a driver, Plaintiff and class members were required to work split shifts.
28 Although the exact amount of hours for each of the split shift would vary, there would be a several hour

1 block in the morning as well as a several hour block in the afternoon that corresponded with transporting
2 Defendants' between school and their personal homes. Despite working split shifts, Defendants never
3 paid Plaintiff and class members split shift premiums.

4 20. There were also certain routes where Defendants required Plaintiff and class members to
5 drive their normal morning split shift, but then also wait at school until Defendants' clients were ready
6 to be transported back. For example, this occurred with Plaintiff while she drove the "Concord Route."
7 While being required to wait at the school, Plaintiff and class members were required to remain with the
8 vehicles and were subject to Defendants' policies restricting what they could do during this time.
9 Defendants had several written policies prohibiting any personal use of company vehicles, including
10 limiting the transport of personal items, family and/or friends, etc. Plaintiff and class members were
11 required to be on duty during these times, including any time that should have otherwise been reserved
12 for off-duty meal or rest periods. Although Plaintiff's and class members' timecards regularly show
13 work periods in excess of five (5) hours without a meal period, Defendants never paid Plaintiff and class
14 members any meal period premiums. Similarly, Defendants never paid Plaintiff or class members any
15 rest period premiums. In addition to not being provided duty free meal and rest periods, Defendants
16 failed to pay Plaintiff and class members for their time spent waiting on these routes, resulting in unpaid
17 minimum wages and overtime.

18 21. In addition to the lack of payment due to Defendants policy and practice of not paying for
19 time spent waiting for clients to be released from school, Defendants regularly failed to pay for all hours
20 worked stated on Plaintiff's and class members' timecards. In or about September 2022, Plaintiff
21 noticed that it did not appear as though she was being paid for all hours she had marked on her
22 timecards. Plaintiff complained to Ms. Adeja Hill, Defendants' Human Resource Manager, and Mr.
23 Harry Brown, Jr., Defendants CEO, that she was not being paid for hours worked. Both Ms. Hill and
24 Mr. Brown told Ms. Trotter that they would investigate but did not correct the issue or notify Plaintiff of
25 any results of an investigation, or if any investigation did occur. On or about October 26, 2022, Plaintiff
26 emailed Defendant an accounting of her unpaid hours from September 13, 2022, to September 30, 2022.
27 While Defendants paid some of the requested hours, but did not provide complete payment. Plaintiff
28 heard that other staff were not being paid for all hours worked as well. Despite having a completed

1 timecard for the time period in question, Defendants refused to pay for the additional because it was not
2 "documentation" to verify she worked those days. Ms. Hill stated that Plaintiff's timecards were not
3 enough and that further documentation was needed to prove she worked those days in question.

4 22. On or about November 3, 2022, Ms. Hill called Plaintiff into her office. Plaintiff was
5 shocked to find that Ms. Hill was providing her with a written "Employee Corrective Action Form" for
6 allegedly mishandling the reporting of her hours. Defendants took issue with Plaintiff asking other
7 employees to help verify/document her hours worked as well as Plaintiff being unable to provide
8 additional documentation showing those hours worked. Despite giving a written timecard showing her
9 hours worked, Defendants stated they needed "approved documentation" showing her hours worked.
10 The next day, November 4, 2022, Defendants pulled Plaintiff from the regular schedule and re-classified
11 her as an "on-call" employee. Defendants did not call Plaintiff back to work for them.

12 23. As a result of Defendants' failure to pay Plaintiff and class members all wages owed, the
13 wage statements Defendants issued were inaccurate. The paystubs that Defendants issued did not
14 itemize accurate regular and overtime hours worked, premiums owed, and accurate gross and net wages
15 earned. Consequently, Plaintiff and class members were not able to determine the total wages owed to
16 them from their paystubs alone.

17 24. To date, Defendants have not paid Plaintiff and class members all minimum wages and
18 overtime wages owed.

19 **CAUSES OF ACTION**

20 **FIRST CAUSE OF ACTION**
21 **FAILURE TO PAY OVERTIME WAGES**
22 **(As to all Defendants)**

23 25. Plaintiff incorporates by reference and re-allèges paragraphs 1 through 24 as though fully
24 set forth herein.

25 26. During the period Plaintiff was employed by Defendants, Defendants were required to
26 compensate Plaintiff at one and one-half (1½) times the regular rate of pay for hours worked in excess of
27 eight (8) hours per day and/or forty (40) hours per week, and two (2) times the regular rate of pay for
28 hours worked in excess of twelve (12) hours per day. *See, e.g., IWC Wage Order No. 4, section (3)(A);*
Cal. Lab. Code §§ 510, 1194.

27. Plaintiff and similarly situated employees worked in excess of eight (8) hours per day and/or forty (40) hours per week on several occasions while employed by Defendants. However, Defendants failed to compensate Plaintiff and similarly situated employees for all overtime hours worked at their regular rate of pay.

28. Plaintiff and similarly situated employees were not exempt from overtime protections employees under the California Wage Orders and Labor Code.

29. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

SECOND CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGES
(As to all Defendants)

30. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 29 as though fully set forth herein.

31. For the period preceding the filing of this Complaint, Defendants were required to compensate Plaintiff and similarly situated employees with at least California's applicable minimum for every hour worked. *See* MW-Order 2019; IWC Wage Order, No. 4, section 4(A); Cal. Lab. Code § 1194.

32. Plaintiff and similarly situated employees were not exempt to the State's Minimum Wage Order. Defendants were aware of their obligation to pay the minimum wage for each hour worked but failed to do so.

33. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

THIRD CAUSE OF ACTION
MEAL PERIOD VIOLATIONS
(As to all Defendants)

34. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 33 as though fully set forth herein.

35. An employer must provide an employee a meal period in accordance with the applicable Wage Order, and California Labor Code sections 226.7 and 512.

36. California Labor Code sections 226.7 and 512 and IWC Wage Order No. 4, section 11(A) require an employer to provide an uninterrupted meal period of not less than thirty (30) minutes for each work period of more than five (5) hours.

37. California Labor Code section 512 and Wage Order No. 4 section 11(B) further provide that employers may not employ employees for a work period for more than ten (10) hours per day without providing the employee with a second meal period of at least thirty (30) minutes. However, if the total hours worked is no more than twelve (12) hours, the second meal period may be waived so long as there was no waiver as to the first meal period. Employees are entitled to one (1) hour of pay at their regular rate of compensation for each meal period not provided.

38. Defendants employed Plaintiff and similarly situated employees for periods of more than five (5) hours without providing meal breaks of at least thirty (30) minutes or a second meal period of at least thirty (30) minutes when Plaintiff and similarly situated employees worked more than ten (10) hours in a day. Defendants also failed to allow Plaintiff and similarly situated employees to take their first meal period before the completion of their fifth hour of work and failed to allow Plaintiff and similarly situated employees to take their second meal period before the completion of their tenth hour of work. Plaintiff and similarly situated employees did not waive their rights to all meal periods throughout their employment.

39. Defendants further failed to pay Plaintiff and similarly situated employees the applicable meal period premiums for any such missed meal breaks.

40. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

FOURTH CAUSE OF ACTION
REST PERIOD VIOLATIONS
(As to all Defendants)

41. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 40 as though fully set forth herein.

1 42. An employer must provide an employee a rest period in accordance with the
2 applicable Wage Order and California Labor Code section 226.7.

3 43. California Labor Code section 226.7 and Wage Order No. 4, section 12(A) require an
4 employer to provide a rest period of not less than ten (10) minutes for each work period of more than
5 four (4) hours or a major fraction thereof.

6 44. Plaintiff alleges that Defendants failed to authorize and permit Plaintiff and similarly
7 situated employees to take paid rest periods of at least ten (10) minutes for each work period that
8 they worked more than 4 (4) hours or a major fraction thereof.

9 45. Defendants further failed to pay Plaintiff and similarly situated employees the
10 applicable rest period premiums for any such missed rest periods.

11 46. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
12 employees have been damaged as stated in the section below entitled "DAMAGES," which is
13 incorporated here to the extent pertinent as if set forth here in full.

14 **FIFTH CAUSE OF ACTION**
15 **WAGE STATEMENT VIOLATIONS**
 (As to all Defendants)

16 47. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 46 as though fully
17 set forth herein.

18 48. Pursuant to California Labor Code section 226(a), an employer must provide an itemized
19 statement to an employee, semimonthly or at the time of each payment of wages, showing:

20 *(1) gross wages earned, (2) total hours worked by the employee, except for*
21 *any employee whose compensation is solely based on a salary and who is*
22 *exempt from payment of overtime under subdivision (a) of Section 515 or*
23 *any applicable order of the Industrial Welfare Commission, (3) the*
24 *number of piece-rate units earned and any applicable piece rate if the*
25 *employee is paid on a piece-rate basis, (4) all deductions, provided that*
26 *all deductions made on written orders of the employee may be aggregated*
27 *and shown as one item, (5) net wages earned, (6) the inclusive dates of the*
28 *period for which the employee is paid, (7) the name of the employee and*
 the last 4 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, if the employer is
 a farm labor contractor, as defined in subdivision (b) of Section 1682, the
 name and address of the legal entity that secured the services of 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. The deductions made from payment of wages shall be

1 *recorded in ink or other indelible form, properly dated, showing the*
2 *month, day, and year, and a copy of the statement and the record of the*
3 *deductions shall be kept on file by the employer for at least three years at*
4 *the place of employment or at a central location within the State of*
5 *California.*

6 49. Plaintiff alleges that Defendants intentionally and knowingly failed to provide an
7 itemized statement or failed to provide an accurate and complete itemized statement showing the
8 requirements set forth in California Labor Code section 226(a). Specifically, Defendants did not
9 accurately itemize all applicable hourly rates in effect during the pay period, all regular, overtime
10 and double time hours worked and corresponding rates of pay, and gross and net wages earned. The
11 paystubs also did not accurately itemize Plaintiff's and similarly situated employees' total hours
12 worked. Plaintiff and similarly situated employees were not able to promptly and easily determine
13 their total hours worked from their paystubs alone. Additionally, Plaintiff and similarly situated
14 employees suffered confusion over whether they received all wages owed and were prevented from
15 effectively challenging information on their wage statements.

16 50. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
17 employees have been damaged as stated in the section below entitled "DAMAGES," which is
18 incorporated here to the extent pertinent as if set forth here in full.

19 **SIXTH CAUSE OF ACTION**
20 **WAITING TIME PENALTIES**
21 **(As to all Defendants)**

22 51. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 50 as though fully
23 set forth herein.

24 52. An employer must pay an employee who is terminated all unpaid wages immediately
25 upon termination. *See* Cal. Lab. Code § 201.

26 53. An employer must pay an employee who resigns all unpaid wages within seventy-two
27 (72) hours of their resignation. *See* Cal. Lab. Code § 202.

28 54. Plaintiff and similarly situated employees did not receive all wages, including minimum
wages, straight time wages, overtime wages, and meal and rest period premiums owed at their
termination or within the required time after their separation from employment.

1 55. An employer who willfully fails to pay an employee wages in accordance with California
2 Labor Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to thirty (30)
3 days. *See* Cal. Lab. Code § 203.

4 56. Defendants knew of their obligation to pay Plaintiff's and similarly situated employees'
5 their final wages when their employment terminated. Indeed, Defendants had knowledge that Plaintiff
6 and similarly situated employees were not getting paid split shift premiums, or paid for all hours worked
7 on employees' timecards, including time spent waiting for clients to be transported after school. Such
8 conduct shows Defendants had knowledge of earned, but unpaid wages at the time of separation, yet
9 Defendants still refused to pay the remaining wages owed.

10 57. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
11 have been damaged and deprived of their wages and thereby seek their daily rate of pay multiplied by
12 thirty (30) days for Defendants' failure to pay all wages due.

13 **SEVENTH CAUSE OF ACTION**
14 **UNFAIR COMPETITION**
 (As to Defendants)

15 58. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 57 as though fully
16 set forth herein.

17 59. Unfair competition shall mean and include any unlawful, unfair or fraudulent business act
18 or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1
19 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. *See*
20 California Business and Professions ("B&P") Code § 17200.

21 60. Plaintiff and similarly situated employees were not paid all wages owed, including
22 minimum, straight time, and overtime wages, and meal and rest period premiums, or reimbursed for
23 business expenses, during their employment or any time thereafter. Moreover, through Defendants
24 conduct Plaintiff and similarly situated employees were denied statutory protections regarding meal and
25 rest periods.

26 61. Plaintiff further alleges that such actions and/or conduct constitute a violation of the
27 California Unfair Competition Law ("UCL") (Business and Professions Code 17200 *et seq.*) pursuant to
28 *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal. 4th 163 (2000).

62. As a direct and legal result of the Defendants' conduct, as alleged herein, pursuant to the UCL (including B&P Code §17203), Plaintiff and similarly situated employees are entitled to restitution, including, but not limited to, interest and penalties pursuant to Business & Professions Code sections 17203, 17208, all in an amount as yet unascertained but subject to proof at trial, for four (4) years from the filing of this Action.

EIGHTH CAUSE OF ACTION
UNLAWFUL INQUIRY INTO CRIMINAL HISTORY
(As to all Defendants)

63. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 62 as though fully set forth herein.

64. California Labor Code § 432.7(a)(1) makes it unlawful for an employer to ask an applicant or employees disclose information regarding arrests not resulting in conviction or information concerning a conviction that has been judicially dismissed or ordered sealed pursuant to law. Moreover, Labor Code § 432.8 prohibits employers from asking an applicant or an employee about “convictions that are more than two years old for possession of marijuana.” As stated above, Defendants inquired about Plaintiff and similarly situated employees’ criminal history in violation of these statutes.

65. California Labor Code section 432.7(c) provides that:

If a person violates this section, or Article 6 (commencing with Section 11140) of Chapter 1 of Title 1 of Part 4 of the Penal Code, the applicant may bring an action to recover from that person actual damages or two hundred dollars (\$200), whichever is greater, plus costs, and reasonable attorney's fees. An intentional violation of this section shall entitle the applicant to treble actual damages, or five hundred dollars (\$500), whichever is greater, plus costs, and reasonable attorney's fees. An intentional violation of this section is a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500).

66. Defendants inquired about Plaintiff's and similarly situated employees' criminal history including arrests not resulting in conviction of any type. Defendants' also failed to narrow its inquiry to specify that convictions that have been sealed, dismissed, and statutorily eradicated pursuant to law are not to be disclosed also violates the statute given the broadness of the question.

67. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

NINTH CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT
(As to all Defendants)

68. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 67 as though fully set forth herein.

69. Plaintiff has alleged to the Labor Commissioner that Defendants have violated the following provisions of the Labor Code in their dealings with Plaintiff and other similarly situated current and former employees:

- Violation of Labor Code §§ 510, 1194; IWC Wage Order 4, § 3 (Failure to Pay Overtime Wages)
- Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order 4, § 4 (Failure to Pay Minimum Wages)
- Violation of Labor Code §§ 226.7, 512 and Wage Order No. 4, §§ 11(A) and 11(B) (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)
- Violation of Labor Code § 226.7 and Wage Order No. 4, § 12(A) (Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof)
- Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)
- Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)
- Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)
- Violation of Labor Code §§ 226.3, 1174 (Failure to Maintain Accurate Records)
- Violation of Labor Code §§ 432.7, 432.8 (Unlawful Inquiry Into Criminal History)
- Violation of Labor Code § 1102 (Whistleblower Retaliation)

70. Plaintiff seeks civil penalties against Defendants as provided in the California Labor Code, or, if no civil penalty is provided, default penalties pursuant to California Labor Code section 2699(f)(2).

71. Plaintiff seeks these civil penalties from Defendants pursuant to California Labor Code sections 2699(a) and 2699.3.

72. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees

1 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
2 the extent pertinent as if set forth here in full.

3 **TENTH CAUSE OF ACTION**
4 **VIOLATION OF LABOR CODE SECTION 1102.5**
5 **(As to all Defendants)**

6 73. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 72 as though fully
7 set forth herein.

8 74. Labor Code section 1102.5(a) states that an employer may not "make, adopt, or enforce
9 any rule, regulation, or policy preventing an employee from disclosing information to a . . . person with
10 authority over the employee, or to another employee who has authority to investigate, discover, or
11 correct the violation or noncompliance, . . . if the employee has reasonable cause to believe that the
12 information discloses a violation of state or federal statute, or a violation of or noncompliance with a
13 local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the
14 employee's job duties."

15 75. An employer also may not "retaliate against an employee for disclosing information, or
16 because the employer believes that the employee disclosed or may disclose information, to a
17 government or law enforcement agency, to a person with authority over the employee or another
18 employee who has the authority to investigate, discover, or correct the violation or noncompliance, . . . if
19 the employee has reasonable cause to believe that the information discloses a violation of state or federal
20 statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of
21 whether disclosing the information is part of the employee's job duties." Labor Code § 1102.5(b).

22 76. Lastly, an employer may "not retaliate against an employee for refusing to participate in
23 an activity that would result in a violation of state or federal statute, or a violation or noncompliance
24 with a state or federal rule or regulation." Labor Code § 1102.5(c).

25 77. Defendant unlawfully retaliated against Plaintiff after she complained about the failure to
26 pay her wages owed and then effectively terminated her by placing her on the "on-call" list while never
27 calling her to work for any point thereafter.

28 78. Plaintiff had a reasonable, good faith belief that Defendant's work practices violated the
law.

79. Defendant's aforesaid acts in retaliating against and terminating Plaintiff for reporting unlawful activity and for refusing to participate in unlawful activity were illegal and a reckless disregard for the rights and sensibilities of Plaintiff.

80. Defendant's acts were wanton, willful, intentional, malicious and were a conscious and reckless disregard for the rights and sensibilities of Plaintiff and, therefore, warrant punitive damages.

81. As a proximate result of Defendants' conduct, Plaintiff has been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

ELEVENTH CAUSE OF ACTION
WRONGFUL TERMINATION/RETALIATION
(As to all Defendants)

82. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 81 as though fully set forth herein.

83. Defendants terminated Plaintiff in violation of public policy.

84. Defendants' acts of discharge herein were malicious, fraudulent, and oppressive, with the wrongful intention of injuring Plaintiff, and acted with an improper and evil motive amounting to malice, and in conscious disregard of Plaintiff's rights.

85. As a proximate result of Defendants' conduct, Plaintiff has been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

DAMAGES

WHEREFORE Plaintiff requests relief as follows:

1. A jury trial;
2. As to the First Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;

1 3. As to the Second Cause of Action:

- 2 a. Wages in an amount to be proven at trial;
- 3 b. Interest for the wages due pursuant to California Labor Code section 1194;
- 4 c. For reasonable attorney's fees and costs incurred pursuant to California Labor
- 5 Code section 1194;
- 6 d. Liquidated damages pursuant to California Labor Code section 1194.2;

7 4. As to the Third Cause of Action:

- 8 a. Wages in an amount to be proven at trial;
- 9 b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure
- 10 section 1021.5;

11 5. As to the Fourth Cause of Action:

- 12 a. Wages in an amount to be proven at trial;
- 13 b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure
- 14 section 1021.5;

15 6. As to the Fifth Cause of Action:

- 16 a. Penalties as provided for in Labor Code section 226, including the greater of all
- 17 actual damages or fifty dollars (\$50.00) for the initial pay period in which the
- 18 violation occurred and one hundred dollars (\$100.00) per employee for each
- 19 violation in the subsequent pay periods, but not to exceed 4 thousand dollars
- 20 (\$4,000.00);
- 21 b. For reasonable attorney's fees and costs incurred pursuant to Labor Code section
- 22 226(e);

23 7. As to the Sixth Cause of Action:

- 24 a. For statutory penalties equal to an employees' daily rate of pay multiplied by
- 25 thirty (30) days;
- 26 b. For attorneys fees, costs, and interest as allowed by law;
- 27
- 28

1 8. As to the Seventh Cause of Action:

- 2 a. For restitution of unpaid wages and unreimbursed expenses in an amount to be
3 proven at trial;

4 9. As to the Eighth Cause of Action:

- 5 a. Actual damages or two hundred dollars (\$200), whichever is greater, plus costs,
6 and reasonable attorney's fees.
7 b. For intentional violations, treble actual damages, or five hundred dollars (\$500),
8 whichever is greater, plus costs, and reasonable attorney's fees.

9 10. As to the Ninth Cause of Action:

- 10 a. For civil penalties as provided in the Labor Code for each enumerated
11 violation;
12 b. For those Labor Code sections where there is no civil penalty provided for their
13 violation, the default penalty provided in Labor Code section 2699(f): for any
14 initial violation, one hundred dollars (\$100) for each aggrieved employee per pay
15 period; For any subsequent violation, two hundred dollars (\$200) for each
16 aggrieved employee per pay period;
17 c. Reasonable attorney's fees and costs pursuant to Labor Code section 2699;
18 d. For any other remedies as allowed by law and/or deemed appropriate by the
19 Court;

20 11. As to the Tenth and Eleventh Causes of Action

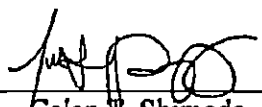
- 21 a. For compensatory damages, including lost wages, earnings, retirement benefits,
22 and other employee benefits, and all other sums of money, together with interest
23 on these amounts;
24 b. For a money judgment for mental pain and anguish and emotional distress;
25 c. For an award of punitive damages, according to proof;
26 d. For attorneys fees and costs as allowed by law;

- 27 12. For such other and further relief as this Court may deem just and proper,
28 including, but not limited to:

- 1 a. Wages as proved at trial;
2 b. Injunctive and Declaratory relief;
3 c. Attorney's fees and costs as provided for by law; and
4 d. Interest.
5

6 Dated: June 30, 2023

Shimoda & Rodriguez Law, PC

7
8 By: 
9

10 Galen T. Shimoda
11 Justin P. Rodriguez
12 Renald Konini
13 Attorneys for Plaintiff
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1 *Trotter v. SEC Transportation Inc., et al.*
2 *San Joaquin County Superior Court of California STK-CV-UOE-2023-3641*

3 **PROOF OF SERVICE — CCP §§ 1013a and 2015.5**
4 **and California Rules of Court, Rule 1.21 and Rule 2.150**

5 I, Shaniya Baird, declare that:

6 I am a citizen of the United States and am over the age of eighteen years and not a party to
7 the within above-entitled action.

8 On July 7, 2023, I served the following documents on the party below:

- 9 • **FIRST AMENDED COMPLAINT FOR DAMAGES**

10 Kroloff, PC 11 Jamie Bossuat 12 Kelsea A. Carbajal 13 7540 Shoreline Drive 14 Stockton, California 95219 15 Phone: 209-478-2000 Facsimile: 209-478-0354 Email: JBossuat@kroloff.com Kcarbajal@kroloff.com sswingle@kroloff.com	
--	--

16 [XXX] [By Mail] I am familiar with my employer's practice for the collection and
17 processing of correspondence for mailing with the United States Postal Service
18 and that each day's mail is deposited with the United States Postal Service that
19 same day in the ordinary course of business. On the date set forth above, I served
20 the aforementioned document(s) on the parties in said action by placing a true
copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, for
collection and mailing on this date, following ordinary business practices, at Salt
Lake City, Utah, addressed as set forth above.

21 [] [By Personal Service] By personally delivering a true copy thereof to the office
of the addressee above.

22 [] [By Overnight Courier] By causing a true copy and/or original thereof to be
23 personally delivered via the following overnight courier service: _____.

24 I declare under penalty of perjury under the laws of the State of California that the foregoing
25 is true and correct, and that this declaration was executed on July 7, 2023, at Salt Lake City, Utah.

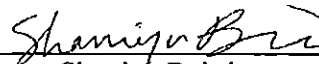
26 
27 Shaniya Baird
28

Exhibit C



Shimoda & Rodriguez Law, PC
9401 East Stockton Blvd.
Suite #120
Elk Grove, CA 95624
Ph. (916) 525-0716
Fax (916) 760-3733
www.shimodalaw.com

April 10, 2023

For Online Filing:

Labor and Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Re: *Trotter v. SEC Transportation Inc., et al.*

Dear Labor Commissioner,

As counsel for Tara Trotter ("Plaintiff"), I am writing to provide you and the following "employers" notice pursuant to California Labor Code section 2699.3:

SEC Transportation, Inc.
3031 W. March Lane, Suite 330
Stockton, California 95219

Stockton Educational Center, Inc.
7525 Oakmont Drive
Stockton, CA 95207-1573

Harry Brown, Jr.
3031 W. March Lane, Suite 330
Stockton, California 95219

We are setting forth the "facts and theories" to support each of the counts found within this complaint. Please notify us of your intent to investigate any or all of the claims alleged herein against SEC Transportation, Inc., Stockton Educational Center, Inc., and Harry Brown, Jr. ("Defendants"). Should you decide not to investigate, we request that you allow us to bring the following action on behalf of Plaintiff and all Aggrieved Employees, pursuant to Labor Code section 2699(a). Specifically, aggrieved employees shall include, but is not limited to the following: all nonexempt employees who have worked, or continue to work, for Defendants in California at any time between one year prior to the filing of this notice to the present. Plaintiff is clearly entitled to bring a Private Attorneys General Act ("PAGA") claim for civil penalties on behalf of these individuals pursuant to *Huff v. Securitas Security Services USA, Inc.*, 23 Cal.App.5th 745, 757 (2018) (finding a plaintiff has PAGA standing if affected by one of the alleged violations and that a plaintiff need not have personally experienced all the violations pursued in PAGA action).



A. FACTS

Plaintiff started working for Defendants in approximately 2018. Although there were several months in 2020 that Plaintiff did not work due to Covid-19, Plaintiff continued working for Defendants until approximately November 2020. Plaintiff began working for Defendants again in or around July 2022 where she continued to November 4, 2022. Defendants run an integrated enterprise engaged in transporting disabled individuals to and from schools as well as providing school instruction to these individuals. Defendants share officers, directors, and management staff as well as offices and equipment. In fact, several aggrieved employees, including Plaintiff, worked as drivers as well as student assistants for Defendants' client. Defendants shared employment forms, letterhead, and human resources. Defendants used a form that asked for an employees' criminal history regardless of whether any arrests resulted in conviction, were for marijuana related offenses more than two years old, or were convictions that were expunged or otherwise protected from disclosure under California law.

While working as a driver, Plaintiff and aggrieved employees were required to work split shifts. Although the exact amount of hours for each of the split shift would vary, there would be a several hour block in the morning as well as a several hour block in the afternoon that corresponded with transporting Defendants' between school and their personal homes. Despite working split shifts, Defendants never paid Plaintiff and aggrieved employees split shift premiums.

There were also certain routes where Defendants required Plaintiff and aggrieved employees to drive their normal morning split shift, but then also wait at school until Defendants' clients were ready to be transported back. For example, this occurred with Plaintiff while she drove the "Concord Route." While being required to wait at the school, Plaintiff and aggrieved employees were required to remain with the vehicles and were subject to Defendants' policies restricting what they could do during this time. Defendants had several written policies prohibiting any personal use of company vehicles, including limiting the transport of personal items, family and/or friends, etc. Plaintiff and aggrieved employees were required to be on duty during these times, including any time that should have otherwise been reserved for off-duty meal or rest periods. Although Plaintiff's and aggrieved employees' timecards regularly show work periods in excess of five (5) hours without a meal period, Defendants never paid Plaintiff and aggrieved employees any meal period premiums. Similarly, Defendants never paid Plaintiff or aggrieved employees any rest period premiums. In addition to not being provided duty free meal and rest periods, Defendants failed to pay Plaintiff and aggrieved employees for their time spent waiting on these routes, resulting in unpaid minimum wages and overtime.

In addition to the lack of payment due to Defendants policy and practice of not paying for time spent waiting for clients to be released from school, Defendants regularly failed to pay for all hours worked stated on Plaintiff's and aggrieved employees' timecards. In or about September 2022, Plaintiff noticed that it did not appear as though she was being paid for all



hours she had marked on her timecards. Plaintiff complained to Ms. Adeja Hill, Defendants' Human Resource Manager, and Mr. Harry Brown, Jr., Defendants CEO, that she was not being paid for hours worked. Both Ms. Hill and Mr. Brown told Ms. Trotter that they would investigate but did not correct the issue or notify Plaintiff of any results of an investigation, or if any investigation did occur. On or about October 26, 2022, Plaintiff emailed Defendant an accounting of her unpaid hours from September 13, 2022, to September 30, 2022. While Defendants paid some of the requested hours, but did not provide complete payment. Plaintiff heard that other staff were not being paid for all hours worked as well. Despite having a completed timecard for the time period in question, Defendants refused to pay for the additional because it was not "documentation" to verify she worked those days. Ms. Hill stated that Plaintiff's timecards were not enough and that further documentation was needed to prove she worked those days in question.

On or about November 3, 2022, Ms. Hill called Plaintiff into her office. Plaintiff was shocked to find that Ms. Hill was providing her with a written "Employee Corrective Action Form" for allegedly mishandling the reporting of her hours. Defendants took issue with Plaintiff asking other employees to help verify/document her hours worked as well as Plaintiff being unable to provide additional documentation showing those hours worked. Despite giving a written timecard showing her hours worked, Defendants stated they needed "approved documentation" showing her hours worked. The next day, November 4, 2022, Defendants pulled Plaintiff from the regular schedule and re-classified her as an "on-call" employee. Defendants did not call Plaintiff back to work for them.

As a result of Defendants' failure to pay Plaintiff and aggrieved employees all wages owed, the wage statements Defendants issued were inaccurate. The paystubs that Defendants issued did not itemize accurate regular and overtime hours worked, premiums owed, and accurate gross and net wages earned. Consequently, Plaintiff and aggrieved employees were not able to determine the total wages owed to them from their paystubs alone.

As of this date of this letter, Defendants have not paid Plaintiff and aggrieved employees all minimum wages and overtime wages owed.

B. ALLEGATIONS AND CHARGES

Count 1 – Violation of Labor Code §§ 510, 1194; IWC Wage Order 4, § 3 (Failure to Pay Overtime Wages)

Labor Code sections 510 and 1194 require employers to pay employees 1 ½ times their regular rate of pay for any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any one workweek. Employers must also pay employees 1 ½ times their regular rate of pay for the first eight (8) hours worked on the seventh day of work in any one workweek. Finally, employers must pay employees two times their regular rate of pay for



all hours worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours on the seventh day of work in any one workweek. As stated above, Plaintiff and aggrieved employees worked over eight (8) hours per day and forty (40) hours per week and were not paid all overtime wages owed. Plaintiff and all aggrieved employees are entitled to recover all unpaid overtime wages. Failure to pay such wages is against the law.

Count 2 – Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order 4, § 4 (Failure to Pay Minimum Wages)

During the period Plaintiff and aggrieved employees were employed by Defendants they were entitled to be paid at least the State's minimum wage rate for each hour that they worked. *See, e.g.*, IWC Wage Order MW-2019; IWC Wage Order No. 4, § (4); Cal. Lab. Code §§ 1194, 1197.1. For the reasons stated above, Defendants did not pay Plaintiff and aggrieved employees for all hours worked. Thus, Plaintiff and aggrieved employees were not paid at least the applicable state minimum wage for those hours worked. Furthermore, when being required to work split shifts, employees must be paid an additional hour at the state minimum wage to compensate for the inconvenience of such work. Defendants failed to pay any split shift premiums. This is against the law.

Count 3 - Violation of Labor Code §§ 226.7, 512 and Wage Order No. 4, §§ 11(A) and 11(B) (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)

Labor Code section 226.7 and Wage Order No. 4, section 11(A) require employers to provide employees meal periods of thirty (30) minutes per five (5) hours worked, which is to be taken before the completion of the fifth hour. Labor Code section 512 and Wage Order No. 4, section 11(B) further provide that employers may not employ employees for a work period of more than ten (10) hours per day without providing the employee with a second meal period of thirty (30) minutes; however, if the total hours worked is no more than twelve (12) hours, the second meal period may be waived so long as there was no waiver as to the first meal period. For the reasons stated above, Plaintiff and aggrieved employees were not authorized and permitted to take legally compliant meal periods pursuant to California law. Defendants also failed to pay any meal period premiums for their failure to provide meal periods. This was in violation of the law.

Count 4 – Violation of Labor Code § 226.7 and Wage Order No. 4, § 12(A) (Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof)

Labor Code section 226.7 and Wage Order No. 4, section 12(A) require employers to provide employees paid off-duty rest periods of ten (10) minutes per 4 (4) hours or major fraction thereof worked. For the reasons stated above, Plaintiff and aggrieved employees were not authorized and permitted to take legally compliant rest periods pursuant to California law.



Defendants also failed to pay any rest period premiums for their failure to provide rest periods. This was in violation of the law.

Count 5 – Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)

Labor Code section 226 requires employers to furnish to employees with “an accurate itemized 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, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last 4 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” For the reasons stated above, Defendants failed to comply with these requirements with respect to Plaintiff and aggrieved employees. This is in violation of the law.

Count 6 – Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)

Labor Code sections 201-203 require that all wages, including minimum wages, split shift premiums, overtime wages, and meal and rest period premiums, be paid to employees upon separation and/or termination of employment. Here, for the reasons stated above, Plaintiff and aggrieved employees did not receive all final wages due and owing to them at the time of termination or seventy-two (72) hours thereafter as required by Labor Code sections 201-203. This is in violation of the law.

Count 7 – Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)

Labor Code section 558 states that it is unlawful for any employer, or other person acting on behalf of an employer, to violate or cause to be violated any of sections 500 to 558.1 of the Labor Code or any order of the Industrial Welfare Commission. Similarly, Labor Code section 558.1 states that it is unlawful for any employer or other person acting on behalf on an employer to violate, or cause to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, as well as Sections 203, 226, 226.7, 1193.6, 1194, or 2802 of the Labor Code. As described above, Defendants, by and through Defendants agents, violated Plaintiff and Aggrieved Employees’ rights provided for under Labor Code sections 558 and 558.1 as well as the incorporated Wage Orders and incorporated statutes therein. Harry Brown, Jr., was, and continues to be, Defendants CEO for the entirety of the time covering the unlawful practices alleged herein. He was responsible for the violations stated



herein as he was in a position of authority with the power and responsibility to monitor, institute, and/or modify the unlawful practices, but chose to ratify them instead. This is against the law.

Count 8 – Violation of Labor Code §§ 226.3, 1174 (Failure to Maintain Accurate Records)

Labor Code section 226.3 provides that any employer who fails to maintain records required by Labor Code section 226(a) or provide records required by 226(a) shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation. Labor Code section 1174(d) provides that employers must keep and maintain accurate payroll records showing the hours worked daily by, and the wages paid to, employees. Defendants failed to maintain the accurate records required by law and, instead, maintained incomplete, inaccurate records regarding Plaintiff and aggrieved employees' wage records and hours worked. This was against the law.

Count 9 – Violation of Labor Code §§ 432.7, 432.8 (Unlawful Inquiry Into Criminal History)

California Labor Code § 432.7(a)(1) makes it unlawful for an employer to ask an applicant or employees disclose information regarding arrests not resulting in conviction or information concerning a conviction that has been judicially dismissed or ordered sealed pursuant to law. Moreover, Labor Code § 432.8 prohibits employers from asking an applicant or an employee about "convictions that are more than two years old for possession of marijuana." As stated above, Defendants inquired about Plaintiff and aggrieved employees' criminal history in violation of these statutes.

Count 10 – Violation of Labor Code § 1102 (Whistleblower Retaliation)

An employer also may not "retaliate against an employee for disclosing information, or because the employer believes that the employee disclosed or may disclose information, to a government or law enforcement agency, to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance, . . . if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties. *See* Labor Code § 1102.5(b).

Lastly, an employer may "not retaliate against an employee for refusing to participate in an activity that would result in a violation of state or federal statute, or a violation or noncompliance with a state or federal rule or regulation." *See* Labor Code § 1102.5(c). After complaining that she was not paid for all hours worked, Defendants retaliated against Plaintiff by subjecting her to a write-up and taking away her full-time status. Defendants demoting Plaintiff



to “on-call” status and effectively terminating her as a result of her complaining about the underpayment of wages was against the law.

If you have any questions or require any further information regarding the facts and theories to support these claims, do not hesitate to contact our office.

Very truly yours,

Shimoda & Rodriguez Law, PC

By: _____

Justin P. Rodriguez

JPR

cc: Client via e-mail

1 *Trotter v. SEC Transportation Inc., et al.*

2 **PROOF OF SERVICE — CCP §§ 1013a and 2015.5**
3 **and California Rules of Court, Rule 1.21 and Rule 2.150**

4 I, Elias Tapia, declare that:

5 I am a citizen of the United States and am over the age of eighteen years and not a party to
6 the within above-entitled action.

7 On April 10, 2023, I served the following documents on the party below:

- 8 • PRIVATE ATTORNEYS GENERAL ACT LETTER

9 SEC Transportation, Inc. 10 3031 W. March Lane, Suite 330 11 Stockton, California 95219	Harry Brown, Jr. 3031 W. March Lane, Suite 330 Stockton, California 95219
12 Stockton Educational Center, Inc. 13 7525 Oakmont Drive 14 Stockton, CA 95207-1573	

15 [XXX] [By Certified Mail] I am familiar with my employer's practice for the collection
16 and processing of correspondence for mailing with the United States Postal
17 Service and that each day's mail is deposited with the United States Postal
18 Service that same day in the ordinary course of business. On the date set forth
19 above, I served the aforementioned document(s) on the parties in said action by
placing a true copy thereof enclosed in a sealed envelope with postage thereon
fully prepaid, for collection and mailing on this date, following ordinary business
practices, at Elk Grove, California, addressed as set forth above.

20 [] [By Personal Service] By personally delivering a true copy thereof to the office
of the addressee above.

21 [] [By Overnight Courier] By causing a true copy and/or original thereof to be
22 personally delivered via the following overnight courier service:_____.

23 I declare under penalty of perjury under the laws of the State of California that the foregoing
24 is true and correct, and that this declaration was executed on April 10, 2023, at Elk Grove,
California.

25 
26 Elias Tapia
27
28

Exhibit D

Date	Description	Amount
4/10/2023	Administration fee - Class Action	\$500.00
4/10/2023	Certified Mail - PAGA Letters	\$14.97
4/10/2023	One Legal Service Fee	\$90.00
4/10/2023	Payment to LWDA - PAGA Filing Fee	\$75.00
4/11/2023	One Legal Service Fee, Compliant Filing Fee & Complex Fee	\$1,710.51
5/3/2023	Proof of Service of Summons 20338278	\$61.26
7/7/2023	Mediation fee	\$6,250.00
7/10/2023	One Legal Service Fee - Amended complaint order 20748479	\$78.76
8/21/2023	One Legal Service Fee - \$20 court fee, \$93.84 filing fee order 20716809	\$113.84
9/13/2023	One Legal Service Fee - Case management statement order 21201336	\$83.39
1/22/2024	One Legal Service Fee - notice of settlement order 22059083	\$83.39
1/23/2024	One Legal Service Fee - case management order 22064103	\$83.39
2/5/2024	One Legal Service Fee - Preliminary Approval Motion court fee \$60, filing fee \$242.67 order 22157889	\$302.67
2/7/2024	One Legal Service Fee - Plaintiff's notice of hearing order 22175394	\$83.39
2/22/2024	One Legal Service Fee - Case Management Statement 22274930	\$83.39
Anticipated	ALS - Service Fee to OC - Final Approval Motion	\$161.25
Anticipated	One Legal Filing Fee Final Approval Motion	\$350.00
Anticipated	One Legal Fee - Compliance Declaration	\$83.99

Total: \$10,209.20

Exhibit E

Galen T. Shimoda (Cal. State Bar No. 226752)
Justin P. Rodriguez (Cal. State Bar No. 278275)
Renald Konini (Cal. State Bar No. 312080)
Shimoda & Rodriguez Law, PC
9401 East Stockton Boulevard, Suite 120
Elk Grove, CA 95624
Telephone: (916) 525-0716
Facsimile: (916) 760-3733

Attorneys for Plaintiff TARA TROTTER
individually and on behalf of similarly situated employees

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN

TARA TROTTER, individually and on behalf
of all other similarly situated employees,

Plaintiff,

vs.

SEC TRANSPORTATION, INC., a California
Corporation; STOCKTON EDUCATIONAL
CENTER, INC., an unknown association; and
DOES 1 to 100, inclusive,

Defendants.

Case No. STK-CV-UOE-2023-0003641

*Assigned for All Purposes to Hon. Jayne Lee,
Department 10C*

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND PAGA
SETTLEMENT**

Date: July 25, 2024

Time: 9:00 a.m.

Dept.: 10C

Judge: Hon. Jayne Lee

Filed: April 11, 2023

FAC Filed: July 7, 2023

Trial Date: None Set

1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

2 The Motion for Final Approval of Class Action and PAGA Settlement (“Motion”) in the above
3 referenced case came before this Court, on the date noted above at 9:00 a.m., in Department 10C
4 before the Honorable Jayne Lee, presiding. Named Plaintiff Tara Trotter (“Plaintiff”) filed this
5 putative class action on April 11, 2023. The operative Complaint alleges that Defendants SEC
6 Transportation, Inc., and Stockton Educational Center, Inc. (“Defendants”) violated California wage
7 and hour law by 1) failing to pay overtime wages, 2) failing to pay minimum wages, 3) failing to
8 provide meal periods or pay premiums in lieu thereof, 4) failing to provide rest periods or pay
9 premiums in lieu thereof, 5) failing to provide accurate wage statements, 6) failing to timely pay all
10 final wages, 7) unlawfully inquiring into criminal history, and 8) engaging in unfair competition.
11 Plaintiff has also alleged Defendants are liable for a civil penalties under the Private Attorneys General
12 Act (“PAGA”) based on these violations. Plaintiff sought attorneys’ fees and costs as part of this
13 Action. Defendants denied all of Plaintiff’s claims and denied that this case was appropriate for class
14 treatment. No class has been certified. The class settlement was preliminarily approved by this Court
15 on March 12, 2024.

16 The parties have agreed to settle the class and PAGA claims. Defendants will provide
17 monetary consideration in exchange for a release of claims consistent with the terms of the proposed
18 settlement as set forth in the Joint Stipulation Regarding Class Action and PAGA Settlement and
19 Release (“Agreement” or “Settlement”). Any capitalized terms herein shall have the same meaning as
20 set forth in the Agreement. The Court, having received and considered Plaintiff’s Motion for Final
21 Approval of Class Action and PAGA Settlement, the declarations in support, the Agreement, the
22 proposed Notice of Settlement, and other evidence, HEREBY ORDERS AND MAKES
23 DETERMINATIONS AS FOLLOWS:

24 **I. CERTIFYING A SETTLEMENT CLASS; APPOINTMENT OF CLASS**
25 **REPRESENTATIVES; APPOINTMENT OF CLASS COUNSEL**

26 The Court finds that certification of the following class for settlement purposes only is
27 appropriate under the California Code of Civil Procedure and related case law:
28

1 All nonexempt employees who have worked, or continue to work, for
2 Defendants in California at any time between April 11, 2019, up to
3 September 3, 2022.

4 The Court recognizes that the foregoing definition is for Class Member identification purposes
5 only and is not intended to capture the claims at issue or limit or alter the released claims under the
6 Agreement.

7 For settlement purposes only, the Court finds that Class Members meet the ascertainability and
8 numerosity requirements since the parties can identify with a matter of certainty, based on payroll
9 records, individuals who fall within the definition and the number of Class Members would make
10 joinder impractical. The commonality and predominance requirements are met for settlement purposes
11 since there are questions of law and fact common to Class Members. The common questions of law or
12 fact in this case all stem from Plaintiff's contentions that Defendants caused the violations outlined
13 above by 1) failing to pay Plaintiff and Class Members' split shift premiums, 2) failing to pay Plaintiff
14 and Class Members for all hours worked due to Defendants' failure to pay Plaintiff and Class Members
15 for the time spent waiting for clients to be released from schools, 3) failing to provide Plaintiff and Class
16 Members with off-duty meal and rest periods, 4) failing to pay Plaintiff and Class Members meal period
17 and rest period premiums for missed meal and rest periods and for the on-duty meal and rest periods, 5)
18 failing to pay for all hours worked stated in Plaintiff's and Class Members' timecards, and 6) engaging
19 in the unlawful inquiry into the criminal history of Class Members. The PAGA, waiting time penalty,
20 wage statement violation, and unfair competition claims also derive from these violations. Additionally,
21 Class Members seek the same wage and hour remedies under state law. The typicality requirement for
22 settlement purposes is also satisfied since the wage and hour claims of the Class Representative are
23 based on the same facts and legal theories as those applicable to the class members.

24 The Court also finds that certifying the settlement class is required to avoid each Class Member
25 from litigating similar claims individually. This Settlement will achieve economies of scale for Class
26 Members with relatively small individual claims and conserve the resources of the judicial system.

27 The Court finds that Plaintiff Tara Trotter and Plaintiff's counsel, Galen T. Shimoda
28 Justin P. Rodriguez, Renald Konini of Shimoda & Rodriguez Law, PC, to be adequate representatives of
the settlement class. The Court appoints them as Class Representative and Class Counsel, respectively.

II. APPROVING CLASS ACTION AND PAGA SETTLEMENT

The Court has again reviewed the preliminarily approved Agreement, which was submitted with Plaintiff's Motion as Exhibit A. The Court finds that final approval is warranted as the Settlement is falls within the range of reasonableness and is fair, reasonable, and adequate for the class. The Court also finds the Settlement was agreed upon only after extensive investigation, litigation, and arms-length negotiations by counsel experienced in complex litigation, who took reasonable steps and measures to weigh the potential value of the disputed claims against the risks of continued litigation. Class Members were able to object to the Agreement and its terms through the administration process and at a fairness hearing or opt-out of being bound by the preliminarily approved Agreement.

No objections were made by Class Members and no Class Members opted out of the settlement. Because the Court finds the Parties' settlement to have been agreed upon only after an extensive investigation and arms-length negotiations, and in an attempt to avoid further delays and costs, the Court gives final approval to the Agreement and all terms therein as if stated here in full, including the \$200,000 Gross Settlement Amount.

Class Counsel sought an award of attorneys' fees of \$70,000, attorney's costs of \$10,209.20, an Enhancement Payment to the Class Representative in the amount of \$5,000, and for Settlement Administrator Costs in the amount of \$6,550. Defendant does not oppose these requests. The Notice of Settlement sent to Class Members included information regarding these amounts and that they would be requested in connection with final approval of the Agreement. Class Members have been given the opportunity to object to these amounts and no objections have been submitted in any respect whatsoever.

The Court finds that an award of fees under the common fund doctrine is appropriate in this case because there is a sufficiently identifiable class of beneficiaries (*i.e.* Class Members), the benefits that Plaintiff and Class Counsel were able to negotiate on behalf of Class Members can be accurately traced as set forth in the Agreement, and the fee can be shifted with exactitude to those benefiting as the fee request is a specific, lump-sum percentage of the Gross Settlement Amount. *See Laffitte v. Robert Half Internat., Inc.*, 1 Cal.5th 480, 506 (2016); *Paul, Johnson, Alston & Hunt v. Gaulty*, 886 F.2d 268, 271 (9th Cir. 1989); *Boeing Co. v. Van Gemert*, 444 U.S. 472, 477-478 (1980) ("A lawyer who recovers a common fund for the benefit of persons other than . . . her client is entitled to a reasonable attorney's fee

1 from the fund as a whole.”). The Court finds the attorneys’ fees request of Thirty Five Percent (35%) of
2 the Gross Settlement Amount, *i.e.* \$70,000, to be appropriate compensation for Plaintiff’s Counsel. The
3 attorneys’ fees request is within the range of percentages that have been approved by other Courts in
4 similar cases and is reasonable in light of the circumstances of this case, the substantial and beneficial
5 results obtained on behalf of Class Members, Aggrieved Employees and the LWDA, and the contingent
6 nature of the recovery over the course of this case, which included potential loss at summary judgment
7 and/or trial proceedings. Additionally, the Court orders that \$10,209.20 of the Gross Settlement Amount
8 will be paid to Plaintiff’s Counsel for reasonable costs incurred in this case.

9 The Court orders and approves ILYM Group, Inc., to act as the Settlement Administrator in this
10 case. The Settlement Administrator will take its fees out of the Gross Settlement Amount, which are
11 \$6,550. Any difference between the actual Settlement Administrator Costs and the approved amount
12 will be added to the Net Settlement Amount for distribution between the Participating Class Members
13 pro rata as set forth in the Agreement.

14 The Court orders that Plaintiff Tara Trotter will receive \$5,000 as a Class Representative
15 Enhancement Payment for her work on behalf of Class Members, Aggrieved Employees, and the
16 LWDA, in addition to any amount Plaintiff may be entitled to under the Agreement’s pro rata
17 distribution formula.

18 The Court approves of the Ten Thousand (\$10,000) PAGA Payment, which shall be paid from
19 the Gross Settlement Amount, not in addition to the Gross Settlement Amount, to resolve the alleged
20 PAGA claims. Seventy-Five percent (75%) of the PAGA Payment will be paid to the Labor and
21 Workforce Development Agency (“LWDA”) and Twenty-Five percent (25%) will be paid to Aggrieved
22 Employees on a pro rata basis as described in the Agreement. The Court also finds that based on the
23 facts of this case and the disputed issues, the Agreement provides a recovery that creates an effective,
24 substantial deterrent to any potential future non-compliance, furthering the purpose of the Labor Code
25 and LWDA.

26 The Court approves of the identified *cy pres* beneficiaries and distribution plan wherein any
27 checks issued to Participating Class Members and/or Aggrieved Employees that are not cashed by the
28 deadline to do so shall be donated equally, *i.e.* 50/50, to Capital Pro Bono, Inc., and the Center for

Workers’ Rights. *See In re Microsoft I-V Cases*, 135 Cal.App.4th 706, 718 (2006). No portion of the Gross Settlement Amount will revert to Defendants for any reason.

The releases and waivers for Class Members who did not opt out of being bound by the Agreement (*i.e.* Participating Class Members), Aggrieved Employees, and the Class Representative are also approved by the Court as set forth in the Agreement.

III. APPROVAL OF THE DISTRIBUTION METHOD OF NOTICE TO THE CLASS, INCLUDING THE NOTICE OF SETTLEMENT

The Court finds that the Notice of Settlement, which was submitted with Plaintiff’s Motion as Exhibit A to the Declaration of Lesly Rubalcava, fairly and adequately advised Class Members of the terms of the Agreement, the rights being waived, their right to opt out, the ability to dispute the number of workweeks worked during the Class Period, their pro rata share of the Net Settlement Amount, how to participate in the settlement, how to file documentation in opposition to the proposed settlement, and when to appear at the fairness hearing. The Court further finds that the Notice of Settlement and proposed distribution of such notice by first class mail to each identified Class Member at his or her most recent address based on a National Change of Address database search from the Class Members’ last known address and a skip trace on any Class Members who have the Notice of Settlement returned as “undeliverable” or “not at this address” comported with all constitutional requirements, including those of due process.

IV. IMPLEMENTATION SCHEDULE

Accordingly, with good cause shown, the Court hereby approves and orders that the following implementation schedule be adhered to:

Last day for Settlement Administrator to calculate the final Net Settlement Amount, the final Individual Settlement Amounts to Participating Class Members and/or Aggrieved Employees, any applicable taxes thereon, and report the results of these calculations to Class Counsel and Defendants’ Counsel	Within 7 calendar days after the Effective Date
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Last day for Defendants to fund settlement	Within 21 calendar days after the Effective Date
Last day for Settlement Administrator to deliver payment of Class Counsel's attorney's fees and costs, Enhancement Payments, PAGA Payment, Settlement Administrator Costs, payment to Participating Class Members, and payment to Aggrieved Employees	Within 7 calendar days after Defendants have funded the settlement
Last day for Participating Class Members and Aggrieved Employees to cash settlement checks	180 calendar days after issuance of checks to Participating Class Members and Aggrieved Employees
Last day for Settlement Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiaries	Within 14 calendar days after settlement check cashing deadline
Last day for Settlement Administrator to provide Parties with compliance declaration	Within 21 calendar days after settlement check cashing deadline

IT IS FURTHER ORDERED that this final approval order is effective as a judgment with each party to bear its own fees and costs outside of what has been ordered herein. This matter is subject to the Court's continuing jurisdiction to monitor and enforce the terms of this order and the approved Agreement pursuant to California Civil Procedure Code section 664.6.

IT IS SO ORDERED.

Date: _____

By: _____

Judge of the Superior Court