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Attorneys for MANUEL BALUX OCH and PEDRO GARCIA ALFEREZ, on behalf of themselves, all others similarly situated, and on behalf of the general public

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA**

MANUEL BALUX OCH and PEDRO
GARCIA ALFEREZ on behalf of
themselves, all others similarly situated, and
on behalf of the general public,

Plaintiffs,

v.

SAC PROFLOORS; and DOES 1-100,
Defendants.

Case No. 23CV031860
(Consolidated with Case No. 23CV039543)

*[Assigned for All Purposes to the
Hon. Michael Markman; Dept. 23]*

**DECLARATION OF JILL VECCHI, ESQ.,
IN SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY APPROVAL**

Date: May 14, 2024
Time: 2:30 p.m.
Reservation ID: 457084238219

Action File: April 25, 2023
Trial Date: None Set

1 I, JILL VECCHI, declare as follows:

- 2 1. I am an attorney duly authorized to practice law before all courts of the State of California.
- 3 2. I am an attorney of record for Plaintiffs and the putative class in this action.
- 4 3. If called to testify, I could and would competently testify as to the matters contained herein
5 from my own personal knowledge, except as to those matters stated on information and
6 belief, and as to those matters, I believe them to be true.
- 7 4. In the Court's tentative ruling, the Court asked counsel to explain the reason for providing
8 six months after final approval to fund the Gross Settlement Amount ("GSA"). The Parties
9 agreed to provide Defendant with six months to fund the GSA to provide Defendant with
10 time to accumulate the funds for the GSA. Providing Defendant with this time allowed the
11 Parties to agree on a higher GSA. After the Court issued its tentative ruling, the Parties
12 revisited this issue and Defendant determined that it would be able to fund the GSA without
13 this extra time. As such, the Parties entered into an Addendum to Joint Stipulation and
14 Settlement Agreement. The Parties' addendum is attached hereto as **Exhibit 1**. The
15 addendum revises the deadline for Defendant to fund the GSA to ten (10) business days
16 after the Effective Final Settlement Date.
- 17 5. On April 13, 2023, Plaintiff Manuel Balux Och uploaded a Notice of Labor Code
18 Violations Pursuant to Labor Code Section 2699.3 to the Labor and Workforce
19 Development Agency. A copy of this notice is attached hereto as **Exhibit 2**.
- 20 6. The Parties revised the proposed Notice of Class Action Settlement. A redlined copy
21 showing the changes that were made is attached hereto as **Exhibit 3**. A clean copy is
22 attached hereto as **Exhibit 4**.
- 23 7. The Parties revised the Proposed Order Granting Plaintiffs' Motion for Preliminary
24 Approval of Class and PAGA Action Settlement, Conditional Certification, Approval of
25 Class Notice, Setting of Final Approval Hearing Date. A redlined copy showing the
26 changes that were made is attached hereto as **Exhibit 5**.
- 27 8. This declaration, including the Addendum to Joint Stipulation and Settlement Agreement,
28 was uploaded to the Labor Workforce Development Agency. Attached hereto as **Exhibit**

1 6 is a confirmation received as a result of this upload.

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

4
5 Dated: May 2, 2024

MARA LAW FIRM PC

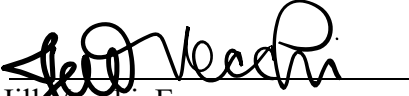
6 
7 Jill Vecchi, Esq.
8 Attorneys for the Plaintiffs
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Exhibit 1

ADDENDUM TO JOINT STIPULATION AND SETTLEMENT AGREEMENT

Subject to final approval by the Court, this Addendum to the Parties' Joint Stipulation and Settlement Agreement is made between Plaintiffs Manuel Balux Och and Pedro Garcia Alferez (hereinafter "Plaintiffs") on behalf of themselves and the Class and Defendant Sac ProFloors (hereinafter "Defendant") (collectively Plaintiffs and Defendant are referred to in this Agreement as the "Parties").

I. AMENDMENT TO SETTLEMENT AGREEMENT

a. Section I, Paragraph 21 shall be amended to read as follows:

- i. **Funding of Settlement:** Defendants shall wire or otherwise provide to the Settlement Administrator the Gross Settlement Amount no later than ten (10) business days after the Effective Final Settlement Date.

b. Section III, Paragraph 63(M)(i) shall be amended to read as follows:

- i. **Funding the Settlement:** Defendant shall wire or otherwise provide to the Settlement Administrator the Gross Settlement Amount no later than ten (10) business days after the Effective Final Settlement Date.

II. AMENDMENT TO NOTICE OF CLASS ACTION SETTLEMENT (EXHIBIT A)

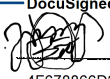
- a. The Notice of Class Action Settlement attached as Exhibit A to the Joint Stipulation and Settlement Agreement shall be amended in accordance with this Addendum.

III. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel execute this Agreement.

Dated: 5/2/2024

MANUEL BALUX OCH

DocuSigned by:

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Dated: _____

PEDRO GARCIA ALFEREZ

ADDENDUM TO JOINT STIPULATION AND SETTLEMENT AGREEMENT

Subject to final approval by the Court, this Addendum to the Parties' Joint Stipulation and Settlement Agreement is made between Plaintiffs Manuel Balux Och and Pedro Garcia Alferez (hereinafter "Plaintiffs") on behalf of themselves and the Class and Defendant Sac ProFloors (hereinafter "Defendant") (collectively Plaintiffs and Defendant are referred to in this Agreement as the "Parties").

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b. Section III, Paragraph 63(M)(i) shall be amended to read as follows:

i. **Funding the Settlement:** Defendant shall wire or otherwise provide to the Settlement Administrator the Gross Settlement Amount no later than ten (10) business days after the Effective Final Settlement Date.

II. AMENDMENT TO NOTICE OF CLASS ACTION SETTLEMENT (EXHIBIT A)

a. The Notice of Class Action Settlement attached as Exhibit A to the Joint Stipulation and Settlement Agreement shall be amended in accordance with this Addendum.

III. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel execute this Agreement.

Dated: _____

MANUEL BALUX OCH

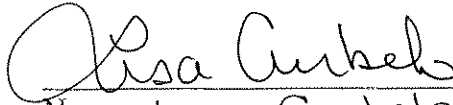
Dated: 5/2/2024

PEDRO GARCIA ALFEREZ

DocuSigned by:
Pedro Garcia
6C8ECD71E32F427...

Dated: 4/24/24

SAC PROFLOORS

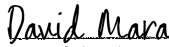


Name: Lisa Corbello
Title: CFO

Dated: 5/2/2024

MARA LAW FIRM, PC

DocuSigned by:



~~David Mara~~, Esq.

Jill Vecchi, Esq.

Attorneys for Plaintiffs, on behalf of themselves, and
the Settlement Class

Dated: 5/2/2024

**LAWYERS FOR EMPLOYEE AND
CONSUMER RIGHTS**



Peter Horton, Esq.

Attorneys for Plaintiffs, on behalf of themselves, and
the Settlement Class

Dated: _____

MELMED LAW GROUP P.C.

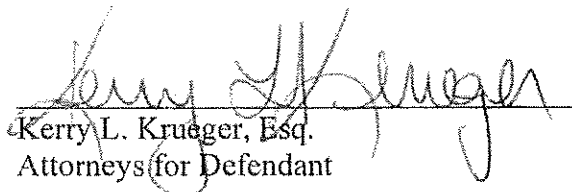
Jonathan Melmed, Esq.

Laura Supanich

Attorneys for Plaintiffs, on behalf of themselves, and
the Settlement Class

Dated: _____

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



Kerry L. Krueger, Esq.

Attorneys for Defendant

Dated: _____

SAC PROFLOORS

Name:

Title:

Dated: _____

MARA LAW FIRM, PC

David Mara, Esq.

Jill Vecchi, Esq.

Attorneys for Plaintiffs, on behalf of themselves, and
the Settlement Class

Dated: _____

**LAWYERS FOR EMPLOYEE AND
CONSUMER RIGHTS**

Peter Horton, Esq.

Attorneys for Plaintiffs, on behalf of themselves, and
the Settlement Class

Dated: May 2, 2024

MELMED LAW GROUP P.C.



Jonathan Melmed, Esq.

Laura Supanich

Attorneys for Plaintiffs, on behalf of themselves, and
the Settlement Class

Dated: _____

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

Kerry L. Krueger, Esq.

Attorneys for Defendant

Exhibit 2

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



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Phone: (619) 234-2833
Fax: (619) 234-4048

MaraLawFirm.com

April 13, 2023

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

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

TO: California Labor and Workforce Development Agency; SAC ProFloors

*Manuel Balux Och, on behalf of himself, others similarly situated, and the general public v. SAC
ProFloors*

Factual Statement and Theories of Labor Code Violations

Manuel Balux Och was formerly employed by SAC ProFloors ("SAC") as a non-exempt hourly employee working out of SAC's location in Livermore, California. Mr. Balux Och worked for SAC as a floor installer until his employment with SAC ended on or around February 7, 2023.

Mr. Balux Och gives notice of his intent to file a lawsuit for violations of the Private Attorneys General Act of 2004 ("PAGA") for SAC's failure to comply with California's wage and hour requirements on behalf of himself and all hourly, non-exempt employees who performed flooring installations and/or repairs for SAC in the State of California.

SAC provides services to multi-family residences including flooring installation and repairs in both their residential and communal areas. SAC's services include extended hours, same day installations, and weekend installations. In furtherance of these services, SAC employs hourly, non-exempt employees, such as Mr. Balux Och, in California.

I. SAC Fails to Pay All Straight Time Wages Owed

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

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

SAC has a continuous policy of not paying Mr. Balux Och and similarly aggrieved employees for all hours worked in that SAC has not paid for all the time Mr. Balux Och and similarly aggrieved employees worked throughout the day, including, but not limited to rounding, before “shifts” start, after “shifts” end, during meal periods, and/or any other time in the day when the employees were performing work tasks, subject to the control of SAC and/or otherwise had work duties that went unpaid.

SAC fails to keep accurate time records of Mr. Balux Och’s and aggrieved employees’ time. Instead of having employees record their hours worked, SAC has supervisors record time for the employees they supervise. This leads to employees having inaccurate times recorded and less recorded hours than they actually work. As such, Mr. Balux Och and the aggrieved employees are not paid for all of the hours they work and are owed additional wages.

Additionally, SAC has had a continuous policy of not paying Mr. Balux Och and the aggrieved employees for all hours worked in that SAC continuously and consistently clocked Mr. Balux Och and the aggrieved employees out for a thirty (30) minute meal period and/or otherwise recorded a meal period, even though Mr. Balux Och and the aggrieved employees work through their meal periods and/or were unable to take meal periods. Thus, SAC shaves/steals earned wages from Mr. Balux Och and the aggrieved employees every day they work without a meal period and have time deducted.

Likewise, Mr. Balux Och and the aggrieved employees are informed and believe and thereon allege that SAC breached the legal duty to pay full wages to Mr. Balux Och by deducting a portion of the wages earned by Mr. Balux Och and the aggrieved employees when they worked through their meal periods and/or when SAC recorded a meal period for Mr. Balux Och and the aggrieved employees when no meal period was taken. Specifically, Mr. Balux Och and the aggrieved employees worked through their meal periods to satisfy their demanding work duties imposed by SAC, thereby denying them the right to be completely free from employer control under California law.

Alternatively, Mr. Balux Och and the aggrieved employees are not paid wages at the agreed upon or statutory minimum wage for all hours worked. SAC pays Mr. Balux Och and aggrieved employees on a piece-rate basis, which compensates based on the job (*i.e.* employees are only paid when they complete a flooring installation). SAC failed to separately compensate Mr. Balux Och and the aggrieved employees for nonproductive time and/or rest periods, which violates *California Labor Code* sections 1194, 1197, 221, and 223. As such, Mr. Balux Och and the aggrieved employees are not paid for all hours worked.

SAC’s unlawful piece rate compensation plan violates California’s “no borrowing rule.” Rest periods are considered hours worked and must be compensated. However, SAC’s piece-rate plan

fails to separately compensate for rest periods and/or nonproductive time. Under the California minimum wage law, employees must also be compensated for each hour worked at either the legal minimum wage or the contractual hourly rate, and compliance cannot be determined by averaging hourly compensation. Here, SAC “borrows” from Mr. Balux Och’s and the aggrieved employee’s piece-rate earnings to supplement their hourly pay in order to satisfy their minimum wage obligations. Averaging of all wages paid under a piece rate plan, within a particular pay period, in order to determine whether the employer complied with its minimum wage obligations is not permitted under these circumstances, for to do so would result in the employer paying the employees less than the contract rate for those activities which the piece rate plan requires payment of a specified amount equal to or greater than the minimum wage, in violation of *California Labor Code* sections 221 - 223.

SAC committed the acts alleged herein knowingly and willfully, with the wrongful and deliberate intention of injuring Mr. Balux Och and the aggrieved employees. SAC acted with malice or in conscious disregard of Mr. Balux Och’s and the aggrieved employees’ rights.

These claims are on behalf of Mr. Balux Och and all hourly, non-exempt employees who performed flooring installations and/or repairs for SAC in the State of California.

Mr. Balux Och, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE). This includes each of the following, as set forth in *California Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 221, 222, 224, 1194, and 1197

II. SAC Fails to Pay All Overtime Wages Owed

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

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

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

SAC has a continuous policy of not paying Mr. Balux Och and similarly aggrieved employees for all hours worked in that SAC has not paid for all the time Mr. Balux Och and similarly aggrieved

employees worked throughout the day, including, but not limited to rounding, before “shifts” start, after “shifts” end, during meal periods, and/or any other time in the day when the employees were performing work tasks, subject to the control of SAC and/or otherwise had work duties that went unpaid. Because Mr. Balux Och and the aggrieved employees work shifts lasting over eight (8) hours, these unpaid hours would qualify for the overtime rate.

SAC fails to keep accurate time records of Mr. Balux Och’s and aggrieved employees’ time. Instead of having employees record their hours worked, SAC has supervisors record time for the employees they supervise. This leads to employees having inaccurate times recorded and less recorded hours than they actually work. As such, Mr. Balux Och and the aggrieved employees are not paid for all of the hours they work and are owed additional wages. Because Mr. Balux Och and the aggrieved employees work shifts lasting over eight (8) hours, these unpaid hours would qualify for the overtime rate.

Additionally, SAC has had a continuous policy of not paying Mr. Balux Och and the aggrieved employees for all hours worked in that SAC continuously and consistently clocked Mr. Balux Och and the aggrieved employees out for a thirty (30) minute meal period and/or otherwise recorded a meal period, even though Mr. Balux Och and the aggrieved employees work through their meal periods and/or were unable to take meal periods. Thus, SAC shaves/steals earned wages from Mr. Balux Och and the aggrieved employees every day they work without a meal period and have time deducted. Because Mr. Balux Och and the aggrieved employees work shifts lasting over eight (8) hours, these unpaid hours would qualify for the overtime rate.

In addition, Mr. Balux Och and the aggrieved employees were deprived of wages for all overtime hours worked because SAC failed to pay Mr. Balux Och and the aggrieved employees at the appropriate regular rate of pay for all overtime hours worked. Specifically, SAC failed to incorporate payment for all hours worked and bonuses employees were paid when calculating employees’ regular rate of pay for purposes of paying overtime compensation. Mr. Balux Och and the aggrieved employees are paid non-discretionary performance bonuses, yet these bonuses were not included in employees’ regular rate of pay.

Alternatively, Mr. Balux Och and the aggrieved employees are not paid wages at the agreed upon or statutory minimum wage for all hours worked. SAC pays Mr. Balux Och and aggrieved employees on a piece-rate basis, which compensates based on the job (*i.e.* employees are only paid when they complete a flooring installation). SAC failed to separately compensate Mr. Balux Och and the aggrieved employees for nonproductive time and/or rest periods, which violates *California Labor Code* sections 1194, 1197, 221, and 223. As such, Mr. Balux Och and the aggrieved employees are not paid for all hours worked. Because Mr. Balux Och and the aggrieved employees work shifts lasting over eight (8) hours, these unpaid hours would qualify for the overtime rate.

In addition to “Regular” and “Overtime” earnings, SAC also compensated Mr. Balux Och and the aggrieved employees with “PERFORMANCE” and “BREAK TIME” payments. All “Regular,” “PERFORMANCE,” and “BREAK TIME” payments should have been factored in Mr. Balux Och’s and the aggrieved employees’ regular rate of pay. SAC’s failure to pay Mr. Balux Och and the aggrieved employees at the appropriate regular rate of pay resulted in Mr. Balux Och and the aggrieved employees not being paid all overtime wages owed to them.

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

These claims are on behalf of Mr. Balux Och and all hourly, non-exempt employees who performed flooring installations and/or repairs for SAC in the State of California.

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

III. SAC Failed to Provide Lawful Meal Periods

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

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

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

Further, SAC instituted a consistent policy/practice of not providing second meal periods to Mr. Balux Och and all aggrieved employees and/or providing compensation in lieu thereof. Specifically, Mr. Balux Och and the aggrieved employees are required to work shifts over ten (10) hours long but never received second meal periods.

In addition, SAC fails to keep accurate records of meal periods. Instead of having employees record their hours worked, including meal period time, SAC has supervisors record time for the employees they supervise. This leads to employees having inaccurate times recorded, including meal period time.

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

These claims are on behalf of Mr. Balux Och and all hourly, non-exempt employees who

performed flooring installations and/or repairs for SAC in the State of California.

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

IV. SAC Failed to Provide Lawful Rest Periods

SAC has had a consistent policy and/or practice of not providing duty free paid ten (10) minute paid rest periods for every four (4) hours worked, or a major fraction thereof, to Mr. Balux Och and the aggrieved employees.

Industrial Welfare Commission Order No. 16-2001 section 11(A) states “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work week period. . . . The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours worked, or major fraction thereof.”

As discussed above, SAC operates an unlawful piece rate compensation plan. Under SAC's piece-rate compensation plan, Mr. Balux Och and the aggrieved employees are not separately compensated for their rest periods, which is required under California law.

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

Additionally, SAC has a continuous policy and practice that fails to provide Mr. Balux Och and the aggrieved employees with rest periods “at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.” Specifically, SAC does not provide Mr. Balux Och and the aggrieved employees with rest periods consisting of ten (10) minutes net rest time, nor does SAC provide them with a rest period per four (4) hours worked or major fraction thereof.

By failing to provide rest periods for every four hours or major fraction thereof worked per day by non-exempt employees, and by failing to provide compensation for these unprovided rest periods, as alleged above, SAC willfully violated the provisions of *California Labor Code* section 226.7 and Industrial Welfare Commission Order No. 16-2001 section 11(A).

These claims are on behalf of Mr. Balux Och and all hourly, non-exempt employees who performed flooring installations and/or repairs for SAC in the State of California.

Mr. Balux Och, as a non-exempt employee who was unlawfully deprived of paid ten-minute rest periods, is an aggrieved employee with standing to bring an action under the PAGA. Mr. Balux

Och has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5 and Industrial Welfare Commission Order No. 16-2001 section 18 for violations of *California Labor Code* section 226.7 and Industrial Welfare Commission Order No. 16-2001 section 11(A).

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

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

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

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

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

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

Mr. Balux Och's employment with SAC was terminated on or about February 7, 2023, yet SAC failed to provide Mr. Balux Och his final wages in accordance with *California Labor Code* sections 201 through 203. Mr. Balux Och did not receive his final paycheck until the next regularly scheduled payday, approximately one week later.

As discussed above, SAC has a continuous policy of not paying Mr. Balux Och and similarly aggrieved employees for all hours worked in that SAC has not paid for all the time Mr. Balux Och and similarly aggrieved employees worked throughout the day, including, but not limited to rounding, before "shifts" start, after "shifts" end, during meal periods, and/or any other time in the day when the employees were performing work tasks, subject to the control of SAC and/or otherwise had work duties that went unpaid. SAC further operate under a piece-rate plan that fails to separately compensate for rest periods and/or nonproductive time. Also, Mr. Balux Och and the aggrieved employees are not relieved of all duties and employer control during their meal periods, and, thus, are owed wages for meal period time during with they are subject to SAC's control and during which they are not free from all work duties. In addition, SAC failed to pay all meal and rest period premiums owed to Mr. Balux Och and the aggrieved employees.

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

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

These claims are on behalf of Mr. Balux Och and all hourly, non-exempt employees who performed flooring installations and/or repairs for SAC in the State of California.

Mr. Balux Och, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each of the following, as set forth in *Labor Code* section 2699.5 for violations of sections 201 through 203.

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

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

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

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

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

SAC knowingly and intentionally did not include the gross wages earned on wage statements. SAC therefore knowingly and intentionally failed to itemize the gross wages earned on Mr. Balux Och's and the aggrieved employees' wage statements.

In every pay period during the period of the relevant statute of limitations, SAC knowingly and intentionally did not itemize the total hours worked on wage statements as *California Labor Code* section 226, subsection (a), requires. In every pay period during the period of the relevant statute of limitations, SAC knowingly and intentionally did not include the total hours worked on wage statements. SAC therefore knowingly and intentionally failed to itemize the total hours worked on Mr. Balux Och's and the aggrieved employees' wage statements. Further, Mr. Balux Och and the aggrieved employees are unable to determine the total hours worked based on the data provided on their wage statements.

As discussed above, SAC has a continuous policy of not paying Mr. Balux Och and similarly aggrieved employees for all hours worked in that SAC has not paid for all the time Mr. Balux Och and similarly aggrieved employees worked throughout the day, including, but not limited to rounding, before "shifts" start, after "shifts" end, during meal periods, and/or any other time in the day when the employees were performing work tasks, subject to the control of SAC and/or otherwise had work duties that went unpaid. SAC further operate under a piece-rate plan that fails to separately compensate for rest periods and/or nonproductive time. Also, Mr. Balux Och and the aggrieved employees are not relieved of all duties and employer control during their meal periods, and, thus, are owed wages for meal period time during which they are subject to SAC's control and during which they are not free from all work duties. In addition, SAC failed to pay all meal and rest period premiums owed to Mr. Balux Och and the aggrieved employees. As SAC knew or had reason to know Mr. Balux Och and the aggrieved employees were owed compensation for this time, SAC knowingly and intentionally failed to comply with *California Labor Code* Section 226, subdivision (a).

Additionally, in every pay period during the period of the relevant statute of limitations, SAC knowingly and intentionally did not accurately itemize the total piece-rate units and the rate at which they were to be paid on wage statements as *California Labor Code* section 226, subsection (a), requires. In every pay period during the period of the relevant statute of limitations, SAC, through its unlawful piece-rate policy, knowingly and intentionally would pay Mr. Balux Och and the aggrieved employees less than what they were promised for each piece-rate unit in order to satisfy its own minimum wage obligations. SAC therefore knowingly and intentionally failed to accurately itemize the total piece-rate units and the rate at which they were to be paid on Mr. Balux Och's and the aggrieved employees' wage statements.

Further, in every pay period during the period of the relevant statute of limitations, SAC knowingly and intentionally did not include all applicable hourly rates on employees' wage statements.

SAC has also failed to correctly provide the name of the legal entity that employs Plaintiff and the aggrieved employees by citing their employer as "SACPROFLOORS." There is no legal entity registered with the California Secretary of State by that name. The closest legal entity registered with the California Secretary of State is "SAC PROFLOORS." Therefore, the legal entity

employing Mr. Balux Och and the aggrieved employees has not been itemized on their wage statements in compliance with *California Labor Code* section 226(a).

In every pay period during the period of the relevant statute of limitations, SAC knowingly and intentionally did not itemize the amount of sick leave available for use on employee's wage statements in violation of *California Labor Code* section 246(i).

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

Further, in addition to any penalties levied upon SAC for its failure to comply with *California Labor Code* section 226 subdivision (a)'s requirement to provide Mr. Balux Och and the aggrieved employees accurate, itemized wage statements, *California Labor Code* section 226.3 assesses additional penalties for the failure to keep the records required in subdivision (a) of Section 226. *California Labor Code* section 226 subdivision (a) requires SAC to maintain records that "accurately shows all of the information required by this subdivision." SAC has violated its statutory duty to maintain records for Mr. Balux Och and the aggrieved employees that contain all of the information under *California Labor Code* section 226(a)(1) through (9).

These claims are on behalf of Mr. Balux Och and all hourly, non-exempt employees who performed flooring installations and/or repairs for SAC in the State of California.

Mr. Balux Och, as a non-exempt employee who SAC failed to provide accurate and itemized wage statements, is an aggrieved employee with standing to bring an action under the PAGA. Mr. Balux Och has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5 for violations of *California Labor Code* section 226 and 226.3.

VII. SAC Failed to Provide Paid Sick Days

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

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

California Labor Code section 246(i) requires that, "[a]n employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement

described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages."

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

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

SAC operates under an absence control policy that counts sick leave taken pursuant to *California Labor Code* section 233 as an unexcused absence. Thus, SAC's sick pay policy punishes employees for use of protected and appropriate sick leave. SAC further failed to provide paid sick days for all hours worked in compliance with these sections.

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

These claims are on behalf of Mr. Balux Och and all hourly, non-exempt employees who performed flooring installations and/or repairs for SAC in the State of California.

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

VIII. SAC Failed to Pay Employees Twice Per Month

Section 204(a) of the *California Labor Code* required SAC to pay Mr. Balux Och and the aggrieved employees twice during each calendar month.

California Labor Code section 226 subdivision (a) provides "[a]ll wages . . . earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month shall be paid for between the 1st and 10th day of the following

month.”

During the relevant time period, SAC intentionally and willfully failed to pay Mr. Balux Och and the aggrieved employees their wages, that were earned and unpaid, twice during each calendar month.

SAC’s failure to pay Mr. Balux Och and the aggrieved employees their wages, that were earned and unpaid, twice during each calendar month, is in violation of *California Labor Code* section 204.

These claims are on behalf of Mr. Balux Och and all hourly, non-exempt employees who performed flooring installations and/or repairs for SAC in the State of California.

Mr. Balux Och, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (“DLSE”). This includes each of the following, as set forth in *California Labor Code* section 2699.5 for violations of section 204.

III. SAC Failed to Pay Employees the Applicable Minimum Wage

Section 1197.1 of the *California Labor Code* states “[a]ny employer or other person acting individually as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties pursuant to Section 203.”

Industrial Welfare Commission Order No. 16-2001 section 4(A) states “[e]very employer shall pay to each employee wages not less than . . . fifteen dollars and fifty cents (\$15.50) per hour for all hours worked, effective January 1, 2023.”

Mr. Balux Och and the aggrieved employees who were employed by SAC during the last year were entitled to be paid the minimum wage for all time worked. By failing to pay for all work performed, as well as illegally deducting a portion of Mr. Balux Och’s and the aggrieved employees’ earned piece-rate commissions, SAC’s compensation to Mr. Balux Och and the aggrieved employees fell below the applicable minimum wage. SAC also pays employees during time that they are not performing bona-fide piece-rate work an hourly rate that is lower than the applicable minimum wage.

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

These claims are on behalf of Mr. Balux Och and all hourly, non-exempt employees who performed flooring installations and/or repairs for SAC in the State of California.

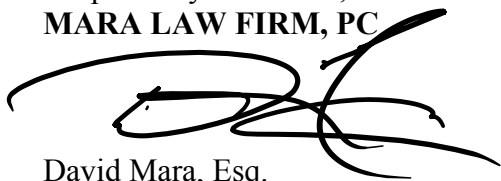
Mr. Balux Och, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE) for violations of *California Labor Code* sections 1194,

1197, 1197.1, 1199, and Industrial Welfare Commission Order No. 16-2001 section 4(A).

IX. Conclusion

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

Respectfully submitted,
MARA LAW FIRM, PC

A handwritten signature in black ink, appearing to read 'David Mara', with a large, stylized flourish extending from the end of the signature.

David Mara, Esq.

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

Lisa Curbelo
1715 De Leon Way,
Livermore, CA 94550
Agent for Service of Process for
Defendant SAC ProFloors
Via Certified Mail

SAC ProFloors
1715 De Leon Way,
Livermore, CA 94550
Via Certified Mail

1 **Case Name:** Manuel Balux Och v. SAC ProFloors

2 **PROOF OF SERVICE**

3 STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

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

5 I am over the age of 18 and not a party to the within action; my business address is:
6 2650 Camino Del Rio N. Suite 205, San Diego, CA 92108

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

8 **NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO LABOR CODE SECTION**
9 **2699.3**

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

11 Lisa Curbelo
12 1715 De Leon Way,
13 Livermore, CA 94550
14 Agent for Service of Process for
Defendant SAC ProFloors
(Via Certified Mail)

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

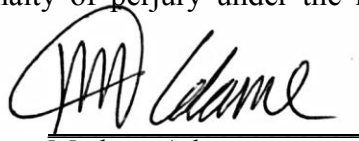
15 SAC ProFloors
16 1715 De Leon Way,
Livermore, CA 94550
(Via Certified Mail)

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

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

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

24 Dated: April 13, 2023

25 
26 Mathew Adame
27
28

Matthew Adame

From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY
<lwdadonotreply@dir.ca.gov>
Sent: Thursday, April 13, 2023 3:57 PM
To: Matthew Adame
Subject: Thank you for submission of your PAGA Case.

4/13/2023

LWDA Case No. LWDA-CM-948390-23
Law Firm : Mara Law Firm, PC
Plaintiff Name : Manuel Balux Och
Employer: SAC ProFloors
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

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

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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

Exhibit 3

CALIFORNIA SUPERIOR COURT, COUNTY OF ALAMEDA
Manuel Balux Och and Pedro Garcia Alferez, on behalf of themselves, all others similarly situated, and on behalf of the general public, Plaintiffs, v. Sac ProFloors, Defendant
Case No. 23CV031860 and Case No. 23CV039543 (“Complaints” or “Action”)

NOTICE OF CLASS ACTION SETTLEMENT

*A court authorized this notice. This is not a solicitation.
This is not a lawsuit against you and you are not being sued.
However, your legal rights are affected by whether you act or don’t act.*

TO: All non-exempt, hourly employees of Sac ProFloors in the State of California from April 25, 2019 through December 15, 2023.

The California Superior Court, County of Alameda has granted preliminary approval to a proposed settlement (“Settlement”) of the above-captioned actions (“Action”). Because your rights may be affected by this Settlement, it is important that you read this Notice of Class Action Settlement (“Notice”) carefully.

The Court has certified the following class for settlement purposes (“Class” or “Class Members”):

All non-exempt, hourly employees of Sac ProFloors in the State of California from April 25, 2019 through December 15, 2023.

The purpose of this Notice is to provide a brief description of the claims alleged in the Action, the key terms of the Settlement, and your rights and options with respect to the Settlement.

YOU MAY BE ENTITLED TO MONEY UNDER THE PROPOSED CLASS ACTION SETTLEMENT. PLEASE READ THIS NOTICE CAREFULLY; IT INFORMS YOU ABOUT YOUR LEGAL RIGHTS.

WHAT INFORMATION IS IN THIS NOTICE

1. Why Have I Received This Notice?	Page 1
2. What Is This Case About?	Page 2
3. Am I A Class Member? Am I An Aggrieved Employee?	Page 2
4. How Does This Class Action Settlement Work?	Page 3
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9. How Does This Settlement Affect My Rights?	Page 5
10. How Much Can I Expect to Receive From This Settlement?	Page 5
11. How Will the Attorneys for the Class and the Class Representatives Be Paid?	Page 7

1. Why Have I Received This Notice?

Sac ProFloors’ (hereinafter referred to as “Defendant”) records indicate that you may be a Class Member. The settlement will resolve all Class Members’ Released Claims, as described in Section No. 9 below, from April 25, 2019 through December 15, 2023 (the “Class Period”).

A Preliminary Approval Hearing was held on [the date of Preliminary Approval], in the California Superior Court, County of Alameda. The Court conditionally certified the Class for settlement purposes only and directed that you receive this Notice.

The Court will hold a Final Fairness Hearing concerning the proposed settlement on [the date of final approval hearing], 2024 at [time a.m./p.m.], before Judge Michael Markman, located at 1221 Oak Street, Oakland, CA 94612, Department 23.

Deleted: Brad Seligman

2. What Is This Case About?

A class action complaint against Defendant was filed in the Alameda County Superior Court on April 25, 2023 (Case No. 23CV031860). The complaint alleged the following causes of action against Defendant: (1) failure to pay all straight time wages; (2) failure to pay all overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to adopt a compliant sick pay/paid time off policy; (6) knowing and intentional failure to comply with itemized employee wage statement provisions; (7) failure to pay all wages at the time of termination of employment; and (8) violation of Unfair Competition Law, on behalf of non-exempt, hourly employees.

A PAGA representative action complaint was filed against Defendant in the Alameda County Superior Court on July 27, 2023 (Case No. 23CV039543). The complaint sought civil penalties under the PAGA in relation to the following alleged violations suffered by allegedly similar aggrieved employees: (1) failure to pay all straight time wages; (2) failure to pay all overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to pay all wages at the time of termination of employment; (6) knowing and intentional failure to comply with itemized employee wage statement provisions; and (7) failure to adopt a compliant sick pay/paid time off policy.

The two cases (Case No. 23CV031860 and 23CV039543) have been consolidated, with Case No. 23CV031860 serving as the lead case.

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

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

3. Am I A Class Member? Am I An Aggrieved Employee?

You are a Class Member if you worked for Defendant in California as a non-exempt, hourly employee at any time from April 25, 2019 through December 15, 2023.

If you worked for Defendant in California as a non-exempt, hourly employee at any time from April 13, 2022 through December 15, 2023, you are also an "Aggrieved Employee" under the settlement.

4. How Does This Class Action Settlement Work?

Plaintiffs Manuel Balux Och and Pedro Garcia Alferez bring this action behalf of themselves and all other similarly situated individuals who worked for Defendant as a non-exempt, hourly employee in California at any time during the Class Period. Plaintiffs and these other individuals comprise a “Class” and are “Class Members.” The settlement of this Action resolves the Released Claims of all Class Members, as defined in the Settlement Agreement and Final Judgment, except for those who exclude themselves from the Class by requesting to be excluded in the manner set forth below.

Plaintiffs and Class Counsel believe the settlement is fair and reasonable. The Court must also review the terms of the settlement and determine if it is fair and reasonable to the Class. The Court file has the settlement documents, which explain the settlement in greater detail. The pleadings and other records in this litigation may be examined online on the Alameda County Superior Court’s website, known as “eCourt Public Portal,” at <https://eportal.alameda.courts.ca.gov>

After arriving at the website, click the “Search” tab at the top of the page, then select the Document Downloads link, enter the case number and click “Submit.” Images of every document filed in the case may be viewed at a minimal charge. You may also view images of every document filed in the case free of charge by using one of the computer terminal kiosks available at each court location that has a facility for civil filings.

5. Who Are the Attorneys Representing the Parties?

Attorneys for Plaintiffs and the Class	Attorneys for Defendant
MARA LAW FIRM, PC David Mara dmara@maralawfirm.com Jill Vecchi jvecchi@maralawfirm.com 2650 Camino Del Rio North, Suite 302 San Diego, California 92108 Telephone: (619) 234-2833 LAWYERS FOR EMPLOYEE AND CONSUMER RIGHTS Peter Horton phorton@lfecr.com 3500 West Olive Avenue, Floor 3 Burbank, California 91505 Telephone: (323) 375-5101 MELMED LAW GROUP P.C. Jonathan Melmed jm@melmedlaw.com Laura Supanich lms@melmedlaw.com 1801 Century Park East, Suite 850 Los Angeles, California 90067 Telephone: (310) 824-3828	KROLOFF, BELCHER, SMART, PERRY & CHRISTOPHERSON, APLC Kerry L. Krueger 7540 Shoreline Drive Stockton, California 95219 Telephone: (209) 478-2000

The Court has decided that Mara Law Firm, PC, Lawyers for Employee and Consumer Rights, and Melmed Law Group P.C. are qualified to represent you and all other Class Members simultaneously.

You do not need to hire your own attorney because Class Counsel is working on your behalf. But, if you want your own attorney, you may hire one at your own cost.

6. What Are My Options?

The purpose of this Notice is to inform you of the proposed settlement and of your options. Each option has its consequences, which you should understand before making your decision. Your rights regarding each option, and the steps you must take to select each option, are summarized below and explained in more detail in this Notice.

Important Note: *Defendants will not retaliate against you in any way for either participating or not participating in this Settlement.*

- **DO NOTHING:** If you do nothing and the Court grants final approval of the Settlement, you will become part of this Class Action and may receive a payment from the Settlement. You will be bound to the release of the Released Class Claims as defined in the Settlement Agreement and the Final Judgment. You will also give up your right to pursue the Released Class Claims as defined in Section No. 9 below.
- **OPT OUT:** If you do not want to participate as a Class Member, you may “opt out,” which will remove you from the Class and this Class Action. If the Court grants final approval of the Settlement, you will not receive a Settlement payment and you will not give up the right to sue Defendant and the Released Parties for the Released Class Claims. If you are an Aggrieved Employee, you will receive a portion of the PAGA, even if you opt-out of the settlement.
- **OBJECT:** You may assert a legal objection to the proposed settlement. If you would like to object, you may not opt out of this case.

7. How Do I Opt Out Or Exclude Myself From This Settlement?

If you do not want to take part in the Settlement, you must mail a written Request for Exclusion to the Settlement Administrator. The written request for exclusion must: (a) state your name, address, telephone number, and social security number or employee identification number; (b) state your intention to exclude yourself from or opt-out of the Settlement; (c) be addressed to the Settlement Administrator at [address]; (d) be signed by you or your lawful representative; and (e) be postmarked no later than [the Response Deadline].

If the Court approves the Settlement at the Final Approval Hearing, the Court will enter a Judgment. If you do not request exclusion from the Settlement, the Judgment will bind you to the terms of the Settlement. If you are an Aggrieved Employee, you will receive a portion of the PAGA Payment, even if you opt-out of the settlement.

8. How Do I Object To The Settlement?

If you are a Class Member who does not opt out of the Settlement, you may object to the Settlement, personally or through an attorney, by submitting your objection in writing, signed, dated, and mailed to the Settlement Administrator postmarked no later than [the Response Deadline]. The objection must state: (a) the case name; (b) your full name, address, and telephone number; (c) the words “Notice of Objection” or “Formal Objection;” (d)

describe, in clear and concise terms, the legal and factual arguments supporting the objection; (e) list identifying witness(es) the objector may call to testify at the Final Approval hearing; and (f) provide true and correct copies of any exhibit(s) the objector intends to offer at the Final Approval hearing. The objection will not be valid if it objects only to the appropriateness of the action or its merits.

Class Members may appear at the Final Approval Hearing, either in person or through the objector's own counsel. If the Court rejects the objection, he/she will receive an Individual Settlement Share payment and will be bound by the terms of the Settlement.

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

If the proposed settlement is approved by the Court, a Final Judgment will be entered by the Court. All Class Members who do not opt out of the Settlement will be bound by the Court's Final Judgment and will release Defendant and the Released Parties¹ from the Released Class Claims:

The Released Class Claims include, for the entire Class Period, all claims that were pled or that could have been pled in the operative class complaint based upon the facts alleged in the Lawsuits including: (1) Failure to Pay All Straight Time Wages; (2) Failure to Pay All Overtime Wages; (3) Failure to Authorize and Permit Rest Periods; (4) Failure to Provide Meal Periods; (5) Failure to Provide Accurate and Complete Wage Statements; (6) Failure to Adopt A Compliant Sick Pay/Paid Time Off Policy; (7) Waiting Time Penalties; (8) Failure to Reimburse Business Expenses; (9) Failure to Timely Pay Wages During Employment; and (10) Violation of Unfair Competition Law based upon violations of the California Labor Code sections set forth herein.

Additionally, the LWDA will be bound by the Final Judgment and will release the Released Parties from the Released PAGA Claims. The Released PAGA Claims include all claims under the California Private Attorney General Act ("PAGA"), Cal. Lab. Code § 2698, *et seq.* to the extent such claims are predicated on claims that were or reasonably could have been alleged based on the claims, facts and/or allegations that were contained in Plaintiff's PAGA Letters.

10. How Much Can I Expect to Receive From This Settlement?

The total maximum amount that Defendant could be required to pay under this Agreement shall be up to but no more than \$942,500 ("Gross Settlement Amount" or "GSA").

A. Deductions from the Settlement

The "Net Settlement Amount" or "NSA" means the portion of the Gross Settlement Amount, available for distribution to Class Members after the deduction of (1) the Class Representative Enhance Payments to the named Plaintiffs in an amount up to \$7,500 each, for prosecution of the Action, risks undertaken for the payment of attorneys' fees and costs, and a general release of all claims; (2) the Settlement Administration Costs to the Settlement Administrator in an amount estimated not to exceed ~~\$10,000~~; (3) a payment of \$50,000 allocated to the PAGA claims; and (4) payment to Class Counsel in an amount not to exceed \$313,852 (33 1/3% of the Gross Settlement Amount) for attorneys' fees and an amount not to exceed \$20,000 for litigation costs. All of these payments are subject to court approval.

Deleted: INSERT

¹ "Released Parties" means Defendant Sac ProFloors, its subsidiaries, d/b/as, and affiliated entities, and each of its past or present officers, directors, employees and agents which could be jointly liable with Defendant for the claims alleged.

B. How Class Member Settlement Payments are Calculated

After deducting the above-referenced items, the remaining Net Settlement Amount, will be proportionately distributed amongst all Class Members who have not opted out. Each Participating Class Member will receive a proportionate share of the Net Settlement Amount that is equal to (i) the number of weeks he or she worked for Defendant, based on the Class Data provided by Defendant, divided by (ii) the total number of weeks worked by all Participating Class Members based on the same Class Data, which is then multiplied by the Net Settlement Amount. One day worked in a given week will be credited as a work week for purposes of this calculation. Therefore, the value of each Class Member's Individual Settlement Share ties directly to the amount of weeks that he or she worked during the Class Period (April 25, 2019 through December 15, 2023).

C. How Aggrieved Employee Settlement Payments are Calculated

If you are an Aggrieved Employee under the settlement, you will also receive a portion of the PAGA Payment. Pursuant to PAGA, the LWDA will receive a payment of \$37,500 (75% of the \$50,000 total PAGA Payment). The remaining \$12,500 is the "Net PAGA Settlement Amount" or "NPSA" and will be proportionately distributed amongst all Aggrieved Employees. Each Aggrieved Employee will receive a proportionate share of the Net PAGA Settlement Amount that is equal to (i) the number of pay periods he or she worked for Defendant, based on the PAGA Data provided by Defendant, divided by (ii) the total number of pay periods worked by all Aggrieved Employees based on the same PAGA data, which is then multiplied by the Net PAGA Settlement Amount. One day worked in a given pay period will be credited as a pay period for purposes of this calculation. Therefore, the value of each Aggrieved Employee's Individual PAGA Settlement Share ties directly to the amount of pay periods that he or she worked during the PAGA Period (April 13, 2022 through December 15, 2023).

D. Your Estimated Settlement Payment

Although your exact share of the Net Settlement Amount as a Class Member cannot be precisely calculated until after the time during which individuals may object or seek exclusion from the Settlement concludes, based upon the calculation above, your approximate share of the Net Settlement Amount, is as follows: \$ [REDACTED], less taxes. This is based on the Class Data which shows you worked [REDACTED] workweeks during the Class Period.

If you are also an Aggrieved Employee, you will receive a share of the Net PAGA Settlement Amount. Based upon the calculation above, your approximate share of the Net PAGA Settlement Amount, is as follows: \$ [REDACTED]. This is based on the PAGA Data which shows you worked [REDACTED] pay periods during the PAGA Period.

E. Tax Treatment of Your Settlement Payments

Forty percent (40%) of each Individual Class Settlement Share is intended to settle each Class Member's claims for unpaid wages (the "Wage Portion"). The Wage Portion will be reduced by applicable payroll tax withholdings and deductions. Defendant's share of legally required payroll taxes for the Wage Portion will be calculated by the Settlement Administrator and paid by Defendants separately from the GSA. The Settlement Administrator will issue an IRS Form W-2 to each Participating Class Member with respect to the Wage Portion of his/her Individual Class Settlement Share.

Sixty percent (60%) of the Individual Class Settlement Share is intended to settle each Class Member's claims for interest and penalties/other payments. The Non-Wage Portion will not be reduced by payroll tax withholding and deductions. The Settlement Administrator will issue to each Participating Class Member an IRS Form 1099 with respect to the Non-Wage Portion of his/her Individual Class Settlement Share.

If you are an Aggrieved Employee, your Individual PAGA Settlement Share will be apportioned as 100% penalties. This will not be reduced by payroll tax withholding and deductions. The Settlement Administrator will issue to each Aggrieved Employee an IRS Form 1099 with respect to his/her Individual PAGA Settlement Share.

F. When Will You Receive Your Settlement Check?

If you do not request to be excluded from the settlement, you should receive your settlement check approximately a month and a half after the settlement becomes final. The settlement becomes final when the settlement can no longer be appealed, or, if there are no objectors and no plaintiffs in intervention at the time the Court grants final approval of the settlement, the date the Court enters judgment granting final approval of the settlement. As such, if there are no objections to the settlement, you should receive your settlement check approximately a month and a half after the date of the Final Fairness Hearing, listed in Section 1 of this notice.

If you move after receiving this notice, please contact the Settlement Administrator to update your address. You can contact the Settlement Administrator by calling [INSERT]. You may also update your contact information by calling Class Counsel listed in Section 5 of this notice. Please refer to the *Sac ProFloors* settlement when calling the Settlement Administrator or Class Counsel.

G. What Happens If You Don't Cash Your Check?

It is strongly recommended that upon receipt of your settlement check, you immediately cash it or cash it before the 180-day void date shown on each check. If any checks remain uncashed or not deposited by the expiration of the 180-day period, the Settlement Administrator will pay over the amount represented by the check to Legal Aid at Work.

11. How Will the Attorneys for the Class and the Class Representatives Be Paid?

The attorneys for Plaintiffs and the Class will be paid from the Gross Settlement Amount. Subject to Court approval, the attorneys for Plaintiffs and the Class shall be paid an amount not to exceed 33 1/3% of the Gross Settlement Amount (\$313,852) for attorney fees and \$20,000 for litigation costs.

Defendant has paid all of their own attorneys' fees and costs.

Plaintiffs will also be paid, subject to Court approval, an amount not to exceed \$7,500 each, as an enhancement for the initiation of and prosecution of this case, the risks undertaken for the payment of costs in the event this case had been lost, and a general release of all claims.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact Class Counsel listed above, or the Settlement Administrator at the telephone number listed below, toll free. You can also obtain documents related to this case and this settlement by visiting [\[administrator website\]](#), a website maintained by the Settlement Administrator. Please refer to the *Sac ProFloors* Class Action Settlement.

This Notice does not contain all of the terms of the proposed settlement or all of the details of these proceedings. For more detailed information, the pleadings and other records in this litigation may be examined online on the Alameda County Superior Court's website, known as "eCourt Public Portal," at <https://eportal.alameda.courts.ca.gov>

After arriving at the website, click the "Search" tab at the top of the page, then select the Document Downloads link, enter the case number and click "Submit." Images of every document filed in the case may be viewed at a

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minimal charge. You may also view images of every document filed in the case free of charge by using one of the computer terminal kiosks available at each court location that has a facility for civil filings. You may also contact Plaintiff's counsel, whose contact information is above, and they will provide you with a copy of the settlement documents or case documents free of charge.

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

Exhibit 4

CALIFORNIA SUPERIOR COURT, COUNTY OF ALAMEDA
Manuel Balux Och and Pedro Garcia Alferez, on behalf of themselves, all others similarly situated, and on
behalf of the general public, Plaintiffs, v. Sac ProFloors, Defendant
Case No. 23CV031860 and Case No. 23CV039543 (“Complaints” or “Action”)

NOTICE OF CLASS ACTION SETTLEMENT

*A court authorized this notice. This is not a solicitation.
This is not a lawsuit against you and you are not being sued.
However, your legal rights are affected by whether you act or don’t act.*

TO: All non-exempt, hourly employees of Sac ProFloors in the State of California from April 25, 2019 through December 15, 2023.

The California Superior Court, County of Alameda has granted preliminary approval to a proposed settlement (“Settlement”) of the above-captioned actions (“Action”). Because your rights may be affected by this Settlement, it is important that you read this Notice of Class Action Settlement (“Notice”) carefully.

The Court has certified the following class for settlement purposes (“Class” or “Class Members”):

All non-exempt, hourly employees of Sac ProFloors in the State of California from April 25, 2019 through December 15, 2023.

The purpose of this Notice is to provide a brief description of the claims alleged in the Action, the key terms of the Settlement, and your rights and options with respect to the Settlement.

**YOU MAY BE ENTITLED TO MONEY UNDER THE PROPOSED CLASS ACTION SETTLEMENT.
PLEASE READ THIS NOTICE CAREFULLY; IT INFORMS YOU ABOUT YOUR LEGAL RIGHTS.**

WHAT INFORMATION IS IN THIS NOTICE

1. Why Have I Received This Notice?	Page 1
2. What Is This Case About?	Page 2
3. Am I A Class Member? Am I An Aggrieved Employee?	Page 2
4. How Does This Class Action Settlement Work?	Page 3
5. Who Are the Attorneys Representing the Parties?	Page 3
6. What Are My Options?	Page 4
7. How Do I Opt Out or Exclude Myself From This Settlement?	Page 4
8. How Do I Object to the Settlement?	Page 4
9. How Does This Settlement Affect My Rights?	Page 5
10. How Much Can I Expect to Receive From This Settlement?	Page 5
11. How Will the Attorneys for the Class and the Class Representatives Be Paid?	Page 7

1. Why Have I Received This Notice?

Sac ProFloors’ (hereinafter referred to as “Defendant”) records indicate that you may be a Class Member. The settlement will resolve all Class Members’ Released Claims, as described in Section No. 9 below, from April 25, 2019 through December 15, 2023 (the “Class Period”).

A Preliminary Approval Hearing was held on [the date of Preliminary Approval], in the California Superior Court, County of Alameda. The Court conditionally certified the Class for settlement purposes only and directed that you receive this Notice.

The Court will hold a Final Fairness Hearing concerning the proposed settlement on [the date of final approval hearing], 2024 at [time a.m./p.m.], before Judge Michael Markman, located at 1221 Oak Street, Oakland, CA 94612, Department 23.

2. What Is This Case About?

A class action complaint against Defendant was filed in the Alameda County Superior Court on April 25, 2023 (Case No. 23CV031860). The complaint alleged the following causes of action against Defendant: (1) failure to pay all straight time wages; (2) failure to pay all overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to adopt a compliant sick pay/paid time off policy; (6) knowing and intentional failure to comply with itemized employee wage statement provisions; (7) failure to pay all wages at the time of termination of employment; and (8) violation of Unfair Competition Law, on behalf of non-exempt, hourly employees.

A PAGA representative action complaint was filed against Defendant in the Alameda County Superior Court on July 27, 2023 (Case No. 23CV039543). The complaint sought civil penalties under the PAGA in relation to the following alleged violations suffered by allegedly similar aggrieved employees: (1) failure to pay all straight time wages; (2) failure to pay all overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to pay all wages at the time of termination of employment; (6) knowing and intentional failure to comply with itemized employee wage statement provisions; and (7) failure to adopt a compliant sick pay/paid time off policy.

The two cases (Case No. 23CV031860 and 23CV039543) have been consolidated, with Case No. 23CV031860 serving as the lead case.

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

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

3. Am I A Class Member? Am I An Aggrieved Employee?

You are a Class Member if you worked for Defendant in California as a non-exempt, hourly employee at any time from April 25, 2019 through December 15, 2023.

If you worked for Defendant in California as a non-exempt, hourly employee at any time from April 13, 2022 through December 15, 2023, you are also an "Aggrieved Employee" under the settlement.

4. How Does This Class Action Settlement Work?

Plaintiffs Manuel Balux Och and Pedro Garcia Alferez bring this action behalf of themselves and all other similarly situated individuals who worked for Defendant as a non-exempt, hourly employee in California at any time during the Class Period. Plaintiffs and these other individuals comprise a “Class” and are “Class Members.” The settlement of this Action resolves the Released Claims of all Class Members, as defined in the Settlement Agreement and Final Judgment, except for those who exclude themselves from the Class by requesting to be excluded in the manner set forth below.

Plaintiffs and Class Counsel believe the settlement is fair and reasonable. The Court must also review the terms of the settlement and determine if it is fair and reasonable to the Class. The Court file has the settlement documents, which explain the settlement in greater detail. The pleadings and other records in this litigation may be examined online on the Alameda County Superior Court’s website, known as “eCourt Public Portal,” at <https://eportal.alameda.courts.ca.gov>

After arriving at the website, click the “Search” tab at the top of the page, then select the Document Downloads link, enter the case number and click “Submit.” Images of every document filed in the case may be viewed at a minimal charge. You may also view images of every document filed in the case free of charge by using one of the computer terminal kiosks available at each court location that has a facility for civil filings.

5. Who Are the Attorneys Representing the Parties?

Attorneys for Plaintiffs and the Class	Attorneys for Defendant
MARA LAW FIRM, PC David Mara dmara@maralawfirm.com Jill Vecchi jvecchi@maralawfirm.com 2650 Camino Del Rio North, Suite 302 San Diego, California 92108 Telephone: (619) 234-2833 LAWYERS FOR EMPLOYEE AND CONSUMER RIGHTS Peter Horton phorton@lfecr.com 3500 West Olive Avenue, Floor 3 Burbank, California 91505 Telephone: (323) 375-5101 MELMED LAW GROUP P.C. Jonathan Melmed jm@melmedlaw.com Laura Supanich lms@melmedlaw.com 1801 Century Park East, Suite 850 Los Angeles, California 90067 Telephone: (310) 824-3828	KROLOFF, BELCHER, SMART, PERRY & CHRISTOPHERSON, APLC Kerry L. Krueger 7540 Shoreline Drive Stockton, California 95219 Telephone: (209) 478-2000

The Court has decided that Mara Law Firm, PC, Lawyers for Employee and Consumer Rights, and Melmed Law Group P.C. are qualified to represent you and all other Class Members simultaneously.

You do not need to hire your own attorney because Class Counsel is working on your behalf. But, if you want your own attorney, you may hire one at your own cost.

6. *What Are My Options?*

The purpose of this Notice is to inform you of the proposed settlement and of your options. Each option has its consequences, which you should understand before making your decision. Your rights regarding each option, and the steps you must take to select each option, are summarized below and explained in more detail in this Notice.

Important Note: *Defendants will not retaliate against you in any way for either participating or not participating in this Settlement.*

- **DO NOTHING:** If you do nothing and the Court grants final approval of the Settlement, you will become part of this Class Action and may receive a payment from the Settlement. You will be bound to the release of the Released Class Claims as defined in the Settlement Agreement and the Final Judgment. You will also give up your right to pursue the Released Class Claims as defined in Section No. 9 below.
- **OPT OUT:** If you do not want to participate as a Class Member, you may “opt out,” which will remove you from the Class and this Class Action. If the Court grants final approval of the Settlement, you will not receive a Settlement payment and you will not give up the right to sue Defendant and the Released Parties for the Released Class Claims. If you are an Aggrieved Employee, you will receive a portion of the PAGA, even if you opt-out of the settlement.
- **OBJECT:** You may assert a legal objection to the proposed settlement. If you would like to object, you may not opt out of this case.

7. *How Do I Opt Out Or Exclude Myself From This Settlement?*

If you do not want to take part in the Settlement, you must mail a written Request for Exclusion to the Settlement Administrator. The written request for exclusion must: (a) state your name, address, telephone number, and social security number or employee identification number; (b) state your intention to exclude yourself from or opt-out of the Settlement; (c) be addressed to the Settlement Administrator at [address]; (d) be signed by you or your lawful representative; and (e) be postmarked no later than [the Response Deadline].

If the Court approves the Settlement at the Final Approval Hearing, the Court will enter a Judgment. If you do not request exclusion from the Settlement, the Judgment will bind you to the terms of the Settlement. If you are an Aggrieved Employee, you will receive a portion of the PAGA Payment, even if you opt-out of the settlement.

8. *How Do I Object To The Settlement?*

If you are a Class Member who does not opt out of the Settlement, you may object to the Settlement, personally or through an attorney, by submitting your objection in writing, signed, dated, and mailed to the Settlement Administrator postmarked no later than [the Response Deadline]. The objection must state: (a) the case name; (b) your full name, address, and telephone number; (c) the words “Notice of Objection” or “Formal Objection;” (d)

describe, in clear and concise terms, the legal and factual arguments supporting the objection; (e) list identifying witness(es) the objector may call to testify at the Final Approval hearing; and (f) provide true and correct copies of any exhibit(s) the objector intends to offer at the Final Approval hearing. The objection will not be valid if it objects only to the appropriateness of the action or its merits.

Class Members may appear at the Final Approval Hearing, either in person or through the objector's own counsel. If the Court rejects the objection, he/she will receive an Individual Settlement Share payment and will be bound by the terms of the Settlement.

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

If the proposed settlement is approved by the Court, a Final Judgment will be entered by the Court. All Class Members who do not opt out of the Settlement will be bound by the Court's Final Judgment and will release Defendant and the Released Parties¹ from the Released Class Claims:

The Released Class Claims include, for the entire Class Period, all claims that were pled or that could have been pled in the operative class complaint based upon the facts alleged in the Lawsuits including: (1) Failure to Pay All Straight Time Wages; (2) Failure to Pay All Overtime Wages; (3) Failure to Authorize and Permit Rest Periods; (4) Failure to Provide Meal Periods; (5) Failure to Provide Accurate and Complete Wage Statements; (6) Failure to Adopt A Compliant Sick Pay/Paid Time Off Policy; (7) Waiting Time Penalties; (8) Failure to Reimburse Business Expenses; (9) Failure to Timely Pay Wages During Employment; and (10) Violation of Unfair Competition Law based upon violations of the California Labor Code sections set forth herein.

Additionally, the LWDA will be bound by the Final Judgment and will release the Released Parties from the Released PAGA Claims. The Released PAGA Claims include all claims under the California Private Attorney General Act ("PAGA"), Cal. Lab. Code § 2698, *et seq.* to the extent such claims are predicated on claims that were or reasonably could have been alleged based on the claims, facts and/or allegations that were contained in Plaintiff's PAGA Letters.

10. *How Much Can I Expect to Receive From This Settlement?*

The total maximum amount that Defendant could be required to pay under this Agreement shall be up to but no more than \$942,500 ("Gross Settlement Amount" or "GSA").

A. Deductions from the Settlement

The "Net Settlement Amount" or "NSA" means the portion of the Gross Settlement Amount, available for distribution to Class Members after the deduction of (1) the Class Representative Enhance Payments to the named Plaintiffs in an amount up to \$7,500 each, for prosecution of the Action, risks undertaken for the payment of attorneys' fees and costs, and a general release of all claims; (2) the Settlement Administration Costs to the Settlement Administrator in an amount estimated not to exceed \$10,000; (3) a payment of \$50,000 allocated to the PAGA claims; and (4) payment to Class Counsel in an amount not to exceed \$313,852 (33 1/3% of the Gross Settlement Amount) for attorneys' fees and an amount not to exceed \$20,000 for litigation costs. All of these payments are subject to court approval.

¹ "Released Parties" means Defendant Sac ProFloors, its subsidiaries, d/b/as, and affiliated entities, and each of its past or present officers, directors, employees and agents which could be jointly liable with Defendant for the claims alleged.

B. How Class Member Settlement Payments are Calculated

After deducting the above-referenced items, the remaining Net Settlement Amount, will be proportionately distributed amongst all Class Members who have not opted out. Each Participating Class Member will receive a proportionate share of the Net Settlement Amount that is equal to (i) the number of weeks he or she worked for Defendant, based on the Class Data provided by Defendant, divided by (ii) the total number of weeks worked by all Participating Class Members based on the same Class Data, which is then multiplied by the Net Settlement Amount. One day worked in a given week will be credited as a work week for purposes of this calculation. Therefore, the value of each Class Member's Individual Settlement Share ties directly to the amount of weeks that he or she worked during the Class Period (April 25, 2019 through December 15, 2023).

C. How Aggrieved Employee Settlement Payments are Calculated

If you are an Aggrieved Employee under the settlement, you will also receive a portion of the PAGA Payment. Pursuant to PAGA, the LWDA will receive a payment of \$37,500 (75% of the \$50,000 total PAGA Payment). The remaining \$12,500 is the "Net PAGA Settlement Amount" or "NPSA" and will be proportionately distributed amongst all Aggrieved Employees. Each Aggrieved Employee will receive a proportionate share of the Net PAGA Settlement Amount that is equal to (i) the number of pay periods he or she worked for Defendant, based on the PAGA Data provided by Defendant, divided by (ii) the total number of pay periods worked by all Aggrieved Employees based on the same PAGA data, which is then multiplied by the Net PAGA Settlement Amount. One day worked in a given pay period will be credited as a pay period for purposes of this calculation. Therefore, the value of each Aggrieved Employee's Individual PAGA Settlement Share ties directly to the amount of pay periods that he or she worked during the PAGA Period (April 13, 2022 through December 15, 2023).

D. Your Estimated Settlement Payment

Although your exact share of the Net Settlement Amount as a Class Member cannot be precisely calculated until after the time during which individuals may object or seek exclusion from the Settlement concludes, based upon the calculation above, your approximate share of the Net Settlement Amount, is as follows: \$ [REDACTED], less taxes. This is based on the Class Data which shows you worked [REDACTED] workweeks during the Class Period.

If you are also an Aggrieved Employee, you will receive a share of the Net PAGA Settlement Amount. Based upon the calculation above, your approximate share of the Net PAGA Settlement Amount, is as follows: \$ [REDACTED]. This is based on the PAGA Data which shows you worked [REDACTED] pay periods during the PAGA Period.

E. Tax Treatment of Your Settlement Payments

Forty percent (40%) of each Individual Class Settlement Share is intended to settle each Class Member's claims for unpaid wages (the "Wage Portion"). The Wage Portion will be reduced by applicable payroll tax withholdings and deductions. Defendant's share of legally required payroll taxes for the Wage Portion will be calculated by the Settlement Administrator and paid by Defendants separately from the GSA. The Settlement Administrator will issue an IRS Form W-2 to each Participating Class Member with respect to the Wage Portion of his/her Individual Class Settlement Share.

Sixty percent (60%) of the Individual Class Settlement Share is intended to settle each Class Member's claims for interest and penalties/other payments. The Non-Wage Portion will not be reduced by payroll tax withholding and deductions. The Settlement Administrator will issue to each Participating Class Member an IRS Form 1099 with respect to the Non-Wage Portion of his/her Individual Class Settlement Share.

If you are an Aggrieved Employee, your Individual PAGA Settlement Share will be apportioned as 100% penalties. This will not be reduced by payroll tax withholding and deductions. The Settlement Administrator will issue to each Aggrieved Employee an IRS Form 1099 with respect to his/her Individual PAGA Settlement Share.

F. When Will You Receive Your Settlement Check?

If you do not request to be excluded from the settlement, you should receive your settlement check approximately a month and a half after the settlement becomes final. The settlement becomes final when the settlement can no longer be appealed, or, if there are no objectors and no plaintiffs in intervention at the time the Court grants final approval of the settlement, the date the Court enters judgment granting final approval of the settlement. As such, if there are no objections to the settlement, you should receive your settlement check approximately a month and a half after the date of the Final Fairness Hearing, listed in Section 1 of this notice.

If you move after receiving this notice, please contact the Settlement Administrator to update your address. You can contact the Settlement Administrator by calling [INSERT]. You may also update your contact information by calling Class Counsel listed in Section 5 of this notice. Please refer to the *Sac ProFloors* settlement when calling the Settlement Administrator or Class Counsel.

G. What Happens If You Don't Cash Your Check?

It is strongly recommended that upon receipt of your settlement check, you immediately cash it or cash it before the 180-day void date shown on each check. If any checks remain uncashed or not deposited by the expiration of the 180-day period, the Settlement Administrator will pay over the amount represented by the check to Legal Aid at Work.

11. *How Will the Attorneys for the Class and the Class Representatives Be Paid?*

The attorneys for Plaintiffs and the Class will be paid from the Gross Settlement Amount. Subject to Court approval, the attorneys for Plaintiffs and the Class shall be paid an amount not to exceed 33 1/3% of the Gross Settlement Amount (\$313,852) for attorney fees and \$20,000 for litigation costs.

Defendant has paid all of their own attorneys' fees and costs.

Plaintiffs will also be paid, subject to Court approval, an amount not to exceed \$7,500 each, as an enhancement for the initiation of and prosecution of this case, the risks undertaken for the payment of costs in the event this case had been lost, and a general release of all claims.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact Class Counsel listed above, or the Settlement Administrator at the telephone number listed below, toll free. You can also obtain documents related to this case and this settlement by visiting [administrator website], a website maintained by the Settlement Administrator. Please refer to the *Sac ProFloors* Class Action Settlement.

This Notice does not contain all of the terms of the proposed settlement or all of the details of these proceedings. For more detailed information, the pleadings and other records in this litigation may be examined online on the Alameda County Superior Court's website, known as "eCourt Public Portal," at <https://eportal.alameda.courts.ca.gov>

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minimal charge. You may also view images of every document filed in the case free of charge by using one of the computer terminal kiosks available at each court location that has a facility for civil filings. You may also contact Plaintiff's counsel, whose contact information is above, and they will provide you with a copy of the settlement documents or case documents free of charge.

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

Exhibit 5

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

MANUEL BALUX OCH and PEDRO
GARCIA ALFEREZ on behalf of
themselves, all others similarly situated, and
on behalf of the general public,

Plaintiffs,

v.

SAC PROFLOORS; and DOES 1-100,

Defendants.

Case No. 23CV031860
(Consolidated with Case No. 23CV039543)

[Assigned for All Purposes to the
Hon. *Michael Markman*; Dept. 23]

Deleted: Tara Desautels

**REVISED [PROPOSED] ORDER
GRANTING PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
AND PAGA ACTION SETTLEMENT,
CONDITIONAL CERTIFICATION,
APPROVAL OF CLASS NOTICE,
SETTING OF FINAL APPROVAL
HEARING DATE**

Date: *May 14*, 2024
Time: 2:30 p.m.
Reservation ID: 457084238219

Deleted: April 17

Action File: April 25, 2023
Trial Date: None Set

1 **I. RECITALS**

2 This action is currently pending before this Court as a putative class action and
3 representative action (the “Action”). Plaintiffs Manuel Balux Och and Pedro Garcia Alferez have
4 applied to this Court for an order preliminarily approving the settlement of the Action in
5 accordance with Joint Stipulation and Settlement Agreement (the “Agreement”), which together
6 with the exhibit annexed thereto, sets forth the terms and conditions for a proposed settlement and
7 entry of judgment upon the terms and conditions set forth therein. The Court has read and
8 considered the Memorandum of Points and Authorities in support of Plaintiffs’ Motion for
9 Preliminary Approval of Class and PAGA Action Settlement, Conditional Certification, Approval
10 of Class Notice, Setting of Final Approval Hearing Date and the declarations submitted therewith.
11 For purposes of this Order, the Court adopts all defined terms as set forth in the Agreement.

12 **II. FINDINGS**

13 After review and consideration of the Agreement and Plaintiffs’ motion for preliminary
14 approval and the papers in support thereof, the Court hereby finds and orders as follows:

15 1. The Agreement falls within the range of reasonableness meriting possible final
16 approval.

17 2. The certification of the Class solely for purposes of settlement is appropriate in that:
18 (1) the Class Members are ascertainable and so numerous that joinder of all Class Members is
19 impracticable; (2) there are questions of law and fact common to the Class which predominate
20 over any individual questions; (3) Plaintiffs’ claims are typical of the claims of the Class; (4)
21 Plaintiffs and their Counsel have fairly and adequately represented and protected the interests of
22 the Class; and (5) a class action, and class-wide resolution of the action via class settlement
23 procedures is superior to other available methods for the fair and efficient adjudication of the
24 controversy.

25 3. The Agreement, and the obligations of the Parties as set forth therein, is fair,
26 reasonable, and is an adequate settlement of this case and is in the best interests of the Class in
27 light of the factual, legal, practical, and procedural considerations raised by this case.

28 4. Plaintiffs do not have any conflicts that would preclude them from serving as Class

Representative, and their appointment comports with the requirements of due process.

5. Class Counsel does not have any conflicts that would preclude them from acting as Class Counsel, and they meet the requirements for appointment as Class Counsel and the requirements of due process.

6. The notice of proposed class action settlement attached as Exhibit A to the Agreement complies with due process because the notice of proposed class action settlement is reasonably calculated to adequately apprise Class Members of: (i) the pending lawsuit; (ii) the terms of the proposed Agreement; and (iii) their rights, including the right to either participate in the settlement, exclude themselves from the settlement, or object to the settlement. Plaintiffs' proposed plan for class notice and settlement administration is the best notice practicable under the circumstances.

III. ORDER

The Court having considered the papers submitted in support of the motion for preliminary approval, HEREBY ORDERS THE FOLLOWING:

1. The Court finds on a preliminary basis that the provisions of the Agreement are fair, just, reasonable, and adequate and, therefore, meet the requirements for preliminary approval.

2. The following Class is conditionally certified for purposes of settlement only: "All non-exempt, hourly employees of Defendant in the State of California from April 25, 2019 through December 15, 2023."

3. The Agreement provides for the following release as to Participating Class Members,¹ which is hereby approved conditionally: "The Released Class Claims include, for the entire Class Period, all claims that were pled or that could have been pled in the operative class complaint based upon the facts alleged in the Lawsuits including: (1) Failure to Pay All Straight Time Wages; (2) Failure to Pay All Overtime Wages; (3) Failure to Authorize and Permit Rest Periods and Pay for Missed Rest Periods; (4) Failure to Provide Meal Periods and Pay for Missed Meal Periods; (5) Failure to Provide Accurate and Complete Wage Statements; (6) Failure to

¹ A Participating Class Member is a Class Member who did not submit a valid and timely request to exclude themselves from the settlement.

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1 Adopt A Compliant Sick Pay/Paid Time Off Policy; (7) Waiting Time Penalties; (8) Failure to
2 Reimburse Business Expenses; (9) Failure to Timely Pay Wages During Employment; and (10)
3 Violation of Unfair Competition Law based upon violations of the California Labor Code sections
4 set forth herein.” The Class Period is April 25, 2019, through December 15, 2023.

5 4. This settlement also releases claims under the Private Attorneys General Act of
6 2004 (“PAGA”). These claims are asserted on behalf of Aggrieved Employees defined as: “All
7 non-exempt, hourly employees of Defendant in the State of California from April 13, 2022 through
8 December 15, 2023.” Aggrieved Employees may not request to be excluded from the PAGA
9 portion of the settlement, including the Released PAGA Claims. All Aggrieved Employees will
10 receive a portion of the PAGA Payment.

11 5. The Agreement provides for the following release as to Aggrieved Employees,
12 which is hereby approved conditionally: “The Released PAGA Claims include, for the entire
13 PAGA Period, any and all claims belonging to the State of California, the LWDA, and Plaintiff
14 (as representative of the State of California, the LWDA, and the general public) under the
15 California Private Attorney General Act (“PAGA”), Cal. Lab. Code § 2698, *et seq.* to the extent
16 such claims are predicated on claims that were or reasonably could have been alleged based on the
17 claims, facts and/or allegations that were contained in Plaintiff’s PAGA Letters.” The PAGA
18 Period is April 13, 2022 through December 15, 2023.

19 6. The settlement appears to be fair, adequate and reasonable to the Class. The
20 settlement falls within the range of reasonableness and appears to be presumptively valid, subject
21 only to any objections that may be raised at the final approval hearing and final approval by this
22 Court.

23 7. Plaintiffs Manuel Balux Och and Pedro Garcia Alferez are conditionally approved
24 as the Class Representatives for the Class.

25 8. The Court acknowledges the request for an incentive payment of \$7,500 each to
26 Plaintiffs Manuel Balux Och and Pedro Garcia Alferez for their service as class representatives
27 which will be decided at the time of Final Approval.

28 9. Mara Law Firm, PC; Lawyers for Employee and Consumer Rights; and Melmed

1 Law Group P.C. are conditionally approved as Class Counsel for the Class.

2 10. The Court acknowledges the request for awards of up to \$314,135 in attorneys' fees
3 and up to \$20,000 in actual costs payable to Class Counsel which will be decided at the time of
4 Final Approval.

5 11. A final approval hearing on the question of whether the settlement, attorneys' fees
6 and costs to Class Counsel, and the Class Representative Service Payment should be finally
7 approved as fair, reasonable and adequate as to Class Members is scheduled in Department 23 on
8 the date and time set forth in the Implementation Schedule below.

9 12. The Court confirms APEX Class Action Administration as the Settlement
10 Administrator.

11 13. The proposed payment of up to \$10,000 in costs to APEX Class Action
12 Administration for its services as the Settlement Administrator is conditionally approved.

13 14. The Agreement provides from the Gross Settlement Fund a PAGA Payment of
14 \$50,000 (75% of which shall be paid to the Labor and Workforce Development Agency, and 25%
15 of which shall be distributable to PAGA Aggrieved Employees).

16 15. The Court approves, as to form and content, ~~the~~ Notice of Class Action Settlement
17 in substantially the form attached as Exhibit 4 to the ~~Declaration of Jill Vecchi, Esq., in Support~~
18 ~~of Plaintiffs' Motion for Preliminary Approval~~. The Court approves the procedure for Class
19 Members to participate in, to opt out of, and to object to, the settlement as set forth in the notice.

20 16. The Court directs the mailing of the notice of class action settlement by first class
21 mail to Class Members in English and Spanish languages in accordance with the Implementation
22 Schedule below. The Court finds the dates selected for the mailing and distribution of the notice,
23 as set forth in the Implementation Schedule, meet the requirements of due process and provide the
24 best notice practicable under the circumstances and shall constitute due and sufficient notice to all
25 persons entitled thereto.

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1 **IV. IMPLEMENTATION SCHEDULE**

2 The Court orders the following Implementation Schedule for further proceedings:

3 4	Deadline for Defendant to submit Class Data to Settlement Administrator	May 29 , 2024 [10 business days from the preliminary approval order]
6 7	Deadline for Settlement Administrator to Mail Class Notices to Class Members	June 12 , 2024 [10 business days from receipt of the Class and PAGA Data]
9 10	Deadline for Settlement Administrator to Set Up Settlement Website	June 12 , 2024
11 12	Deadline for Class Members to Postmark Requests for Exclusion, Objections, or Disputes ("Response Deadline")	August 12 , 2024 [60 days from mailing]
14 15	Deadline for Class Counsel to file a Motion for Final Approval	August 20 , 2024 [16 court days prior to the final approval hearing]
17 18	Deadline to Provide the Court with the Settlement Administrator's Declaration Outlining Requests for Exclusion, Objections, and Disputes	August 20 , 2024 [16 court days prior to the final approval hearing]
20 21	Final Approval Hearing and Final Approval	September 12 , 2024, at 10:00 a.m.

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23 **IT IS SO ORDERED.**

24 Dated: _____, 2024

25 By _____
26 Honorable ~~Michael Markman~~
27 Alameda County Superior Court Judge

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Exhibit 6