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JUDICIAL COUNCIL OF CALIFORNIA

CHAIR OF THE JUDICIAL COUNCIL

JAIDYN HOLMES, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

SPIRIT HALLOWEEN SUPERSTORES LLC; SPENCER GIFTS LLC; and DOES 1 through 20, inclusive,

Defendants.

VANESSA RUELAS SIERRA, as an individual and on behalf of all others similarly situated,

Plaintiff,

vs.

SPENCER GIFTS LLC, a Delaware limited liability company; and DOES 1 through 50, inclusive,

Defendants.

Case No. JCCP5401

DECLARATION OF KRISTEN M. AGNEW IN SUPPORT OF MOTION TO APPROVE PAGA SETTLEMENT AGREEMENT UNDER CALIFORNIA LABOR CODE § 2698 ET SEQ.

Date: December 8, 2026
Time: 11:00 a.m.
Dept: 6

Los Angeles County Superior Court Case No.: 24STCV09324 (filed April 15, 2024)

Kern County Superior Court Case No.: BCV-23-101673 (filed May 30, 2023)

RICHARD GONZALEZ, on behalf of himself and current and former aggrieved employees Plaintiff, v. SPIRIT HALLOWEEN SUPERSTORES LLC; and DOES 1 to 100, inclusive, Defendants.	Los Angeles County Superior Court Case No.: 24STCV04406 (filed February 22, 2024)
ELISA HILAIRE, individually and on behalf of all similarly situated individuals, Plaintiff, v. SPENCER GIFTS, LLC, a Delaware Limited Liability Company; SPIRIT HALLOWEEN SUPERSTORES, LLC, a Delaware Limited Liability Company; BARRY SUSSON, an individual; and Does 1-10, inclusive; Defendants.	San Diego County Superior Court Case No.: 37-2024-00019642 (filed April 26, 2024)
THOMAS WHALEN, individually and on behalf of all others similarly situated; Plaintiff, v. SPIRIT HALLOWEEN SUPERSTORES LLC, a Delaware limited liability company; and DOES 1 through 50, Defendants.	Los Angeles County Superior Court Case No.: 23STCV21612 (filed September 7, 2023)

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Attorneys for Plaintiff Elisa Hilaire, individually,
and on behalf of all others similarly situated.

I, Kristen M. Agnew, hereby declare as follows:

1. I am an attorney at law duly licensed to practice before all courts in the State of California. I am an attorney with Diversity Law Group, P.C., counsel of record for Plaintiff Vanessa Sierra ("Plaintiff Sierra") in the matter of *Vanessa Ruelas Sierra v. Spencer Gifts LLC*, Kern County Superior Court Case No. BCV-23-101673 ("*Sierra* Action"). Based on my personal knowledge, I assert the facts set forth herein and, if called as a witness, I could and would competently testify thereto.

PROCEDURAL HISTORY OF THE *SIERRA* ACTION

2. I am one of the primary attorneys on the *Sierra* Action. PAGA Counsel has zealously represented the interests of Aggrieved Employees and the State.

3. On May 22, 2023, Plaintiff Sierra submitted written notice to the LWDA and Spencer Gifts LLC ("Spencer Gifts") alleging that Spencer Gifts engaged in a pattern and practice of failing to include all nondiscretionary incentive wages in the regular rate of pay used to calculate: (i) overtime wages, in violation of Labor Code sections 201, 202, 203, 510, 558, 1194, 1197, and 1197.1; (ii) meal and rest period premiums, in violation of Labor Code sections 201, 202, 203, 226.7, and 512; and (iii) sick pay, in violation of Labor Code sections 201, 202, 203, and 246. The notice further alleged that Spencer Gifts failed to provide accurate itemized wage statements, in violation of Labor Code section 226. Attached hereto as **Exhibit 2** is a true and correct copy of the Sierra PAGA Notice.

4. On May 30, 2023, Plaintiff Sierra commenced the *Sierra* Action against Spencer Gifts. In the operative First Amended Complaint, Plaintiff Sierra alleges representative PAGA claims predicated on the same Labor Code violations identified in the Sierra PAGA Notice. Attached hereto as **Exhibit 3** is a true and correct copy of the First Amended Complaint in the *Sierra* Action.

5. On November 7, 2023, the Court issued an order compelling the arbitration of Plaintiff Sierra's individual claims and staying the *Sierra* Action as to the non-individual representative claims pending the outcome of arbitration.

6. Consistent with the order and the terms of the arbitration agreement, on January 3, 2024, Plaintiff Sierra submitted a demand for arbitration with the National Arbitration and Mediation

(NAM)(the "*Sierra* Arbitration"). In the demand for arbitration, Plaintiff Sierra alleged individual claims for violation of Labor Code sections 201, 202, 203, 226, 246 *et. seq.*, 510, 558, 1194, 1197, and 1197.1. Plaintiff also alleged claims for pregnancy discrimination, wrongful termination in violation of public policy and intentional infliction of emotional distress.

7. Plaintiff Sierra and Spencer Gifts exchanged initial disclosures in the *Sierra* Arbitration. The disclosures included the names of percipient witnesses, relevant documents, and damages computations. I reviewed this information to evaluate the parties' respective positions and identify subjects for further discovery.

8. On May 30, 2024, Plaintiff Sierra propounded Requests for Production of Documents (Set One) and Special Interrogatories (Set One). Among other subjects, the discovery sought documents and information concerning Spencer Gifts' overtime, meal and rest period, and sick pay policies; its practices for calculating the regular rate of pay; and its incentive compensation plans. On or about July 16, 2024, Spencer Gifts served responses and produced responsive documents, including the written Monthly Store Manager Incentive plan. The plan conditioned incentive payments on employees satisfying specified eligibility requirements and reserved to Spencer Gifts the authority to modify the program, make final decisions concerning its administration, and adjust amounts otherwise calculated under predetermined schedules when unusual circumstances arose.

9. In or around September 2024, the Parties agreed to participate in a global mediation of the *Sierra* Action and the following related matters: *Whalen v. Spirit Halloween Superstores LLC*, Los Angeles County Superior Court Case No. 23STCV21612 (the "*Whalen* Action"); *Gonzalez v. Spirit Halloween Superstores LLC*, Los Angeles County Superior Court Case No. 24STCV04406 (the "*Gonzalez* Action"); and *Hilaire v. Spencer Gifts, LLC, et al.*, San Diego County Superior Court Case No. 37-2024-00019642 (the "*Hilaire* Action") (collectively, the "Actions"). The Parties also agreed to mediate Plaintiff Sierra's individual claims alleged in the *Sierra* Arbitration.

10. Prior to mediation, Spirit and Spencer Gifts produced time and payroll records for 3,171 and 653 aggrieved employees, respectively. The data for Spirit covered the period of September 5, 2022 through December 14, 2024. The data for Spencer Gifts covered the period of May 22, 2022,

through February 1, 2025. Plaintiffs retained an expert data scientist with prior class action litigation experience to analyze the time and payroll data. An extrapolation of the data through July 21, 2025, yielded an estimated total of 121,868 pay periods.

11. On July 21, 2025, the Parties participated in a full day of mediation with Jason Marsili, a respected wage and hour mediator. Although the Actions did not resolve that day, the Parties continued settlement negotiations through Mr. Marsili. On September 16, 2025, the Parties accepted a mediator's proposal to resolve the Actions.

12. The Parties thereafter negotiated and finalized the terms of the PAGA Settlement Agreement, which was fully executed on February 17, 2026. These negotiations were conducted at arm's length and informed by the formal and informal discovery exchanged by the Parties. Attached hereto as **Exhibit 1** is a true and correct copy of the PAGA Settlement Agreement.

13. Plaintiff Sierra and Spencer Gifts also entered into a separate Confidential Settlement Agreement and Release. Under that agreement, Spencer Gifts agreed to pay Plaintiff Sierra $25,000.00 in exchange for a release of her individual claims asserted in the *Sierra* Arbitration, including claims arising from the alleged miscalculation of the regular rate of pay and pregnancy discrimination under FEHA. This payment resolves Plaintiff Sierra's individual claims and does not constitute an incentive or service award for her participation as a PAGA representative. To promote judicial economy and administrative efficiency, Plaintiff Sierra and Spencer Gifts stipulated to dismiss the *Sierra* Arbitration without prejudice pending Court approval of the PAGA Settlement Agreement.

14. On December 31, 2025, the Chair of the Judicial Council granted plaintiff Jaidyn Holmes' uncontested Petition to Coordinate the matters of: (i) *Jaidyn Holmes v. Spirit Halloween Superstores LLC*, Los Angeles County Superior Court Case No. 24STCV09324 ("*Holmes* Action"); (ii) the *Sierra* Action; (iii) the *Whalen* Action; (iv) the *Gonzalez* Action; and (v) the *Hilaire* Action (collectively, "Coordinated Actions"). The Coordinated Actions were immediately stayed pending assignment of a coordination trial judge in Los Angeles County Superior Court.

15. The PAGA Settlement Agreement does not call for judgment to be entered in *Holmes*.

SUMMARY OF THE MONETARY TERMS OF THE SETTLEMENT

16. The current Action is being settled on behalf of "Aggrieved Employees." For purposes of the Settlement, "Aggrieved Employees" are defined as "all current and former nonexempt employees employed by Defendants in California during the PAGA Period." *See* Settlement Agreement § 1.4. The PAGA Period is May 22, 2022, through and including July 21, 2025. *See id*. at § 1.21. Based on information provided by Defendants, I understand that there are approximately 3,900 Aggrieved Employees who collectively worked approximately 121,868 PAGA Pay Periods—– that is a pay period during which an Aggrieved Employee worked for at least one day during the PAGA Period. *See id*. at §§ 1.20, 9.

17. Under the Settlement Agreement, Defendants will pay a non-reversionary Gross Settlement Amount of $1,600,000.00 on a non-reversionary basis. *See* Settlement Agreement §§ 1.9, 4.1. The Agreement's escalator provision requires a pro rata increase in the Gross Settlement Amount if the total number of PAGA Pay Periods exceeds 134,055, unless Defendants elect to end the PAGA Period on the date that threshold is reached. *See id.* at § 9. Using Defendants' estimate of 121,868 PAGA Pay Periods, the $1,600,000 Gross Settlement Amount represents approximately $13.13 per PAGA Pay Period.

18. Defendants do not object to a request by PAGA Counsel for an award of attorneys' fees in the amount of $560,000.00 (*i.e.* 35% of the Gross Settlement Amount), and reimbursement for actual litigation costs in the amount up to $50,000.00 subject to Court approval. *See* Settlement Agreement § 4.2(a). However, PAGA Counsel is requesting an award of PAGA Counsel Expenses in the amount of $46,751.94, subject to Court approval, consisting of $10,715.89 incurred by Diversity Law Group, P.C., $10,341.20 incurred by Justice for Workers, $16,770.83 incurred by Lavi & Ebrahimian, $5,776.52 incurred by King & Siegel LLP; and $3,147.50 incurred by Barahmand Law Group. Any portion of the PAGA Counsel Expenses and/or PAGA Counsel Fees that is not approved by the Court shall become part of the Net Settlement Amount. *See id.*

19. The Settlement provides for payment of the fees and expenses reasonably incurred by the Settlement Administrator. *See* Settlement Agreement § 4.2(b). The Parties selected Phoenix Class

Action Administration Solutions ("Phoenix") to administer the Settlement, including preparing and mailing Settlement Notices, calculating Individual PAGA Payments, issuing checks, and preparing required tax reports. *See id.* §§ 1.2, 1.3, 6.3. Based on the composition of the workforce, Defendants have determined that a Spanish translation of the notice will not be required. Phoenix's estimated Administrator Expenses are $14,000.00. *See id.* Any portion of the requested Administrator Expenses that the Court does not approve will become part of the Net Settlement Amount. *See id.* § 4.2 (b). Based on my experience with other class action and PAGA settlements, I believe these estimated expenses are competitive, fair, and reasonable in light of the scope of services required.

ESTIMATED PAYMENTS TO THE LWDA & AGGRIEVED EMPLOYEES

20. The balance of the Gross Settlement Amount remaining after deduction of the approved PAGA Counsel Fees, PAGA Counsel Expenses, and Administrator Expenses (the "Net Settlement Amount"), will be available for distribution to the LWDA and Aggrieved Employees. *See* Settlement Agreement §§ 1.14, 4.2(d). Assuming that the Court awards the requested PAGA Counsel Fees ($560,000.00), PAGA Counsel Expenses ($46,751.94), and Administrator Expenses ($14,000.00), the Net Settlement Amount will total $979,248.06.

21. Seventy-five percent (75%) of the Net Settlement Amount, or approximately $734,436.05, will be paid to the LWDA for PAGA penalties ("LWDA PAGA Payment"). The remaining twenty-five percent (25%), or approximately $244,812.01, will be distributed to Aggrieved Employees on a pro rata basis based on the number of PAGA Pay Periods worked by each Aggrieved Employee during the PAGA Period. *See* Settlement Agreement § 4.2(d).

22. Individual PAGA Payments will be allocated and treated as 100% penalties, with no deductions or withholdings, and shall be reported by the Administrator on IRS 1099 Forms. *See* Settlement Agreement § 4.2(e).

23. Settlement checks shall remain negotiable for 180 days from the date of issuance. Upon expiration of that 180-day period, the Settlement Administrator shall remit any unclaimed funds to the *cy pres* recipient, Legal Aid at Work. *See* Settlement Agreement § 7.6. Legal Aid at Work is a nonprofit that provides free legal services to low-wage workers, which aligns its mission with the

interests of the aggrieved employees and the purposes of PAGA. Neither I nor Diversity Law Group has any relationship with Legal Aid at Work.

THE RANGE OF POTENTIAL PENALTIES

24. By their nature, PAGA civil penalties are difficult to value. At the time the Parties negotiated the Settlement, Defendants represented that there were 121,868 pay periods in which an Aggrieved Employee worked for at least one day during the PAGA Period. Assuming Plaintiffs established a violation supporting a $100 default penalty in each of those pay periods, I calculated theoretical exposure of $12,186,800 under that model. The $1,600,000 Gross Settlement Amount represents approximately 13.1% of that theoretical exposure and provides a substantial recovery in light of the risks, uncertainties, expense, and delay associated with continued litigation.

25. That calculation does not account for the likelihood of prevailing on the underlying claims, establishing violations across all 121,868 pay periods, or obtaining an unreduced penalty award. Even assuming Plaintiffs prevailed on liability, I recognized a substantial risk that Defendants could establish grounds for reducing PAGA penalties under former Labor Code section 2699(e)(2), which permits a reduction where the maximum award would be unjust, arbitrary and oppressive, or confiscatory under the circumstances.

26. Defendants denied, and continue to deny, Plaintiffs' allegations and contend that they complied with California law at all relevant times.

27. Plaintiff Sierra alleges that Spencer Gifts underpaid overtime wages, meal and rest period premiums, and paid sick leave by excluding nondiscretionary incentives, including the Monthly Store Manager Incentive, from the applicable calculations. The regular rate theory depended on establishing that the incentives were nondiscretionary and improperly excluded from calculations that resulted in actual underpayments.

28. Spencer Gifts maintains that incentive payments depended on employees satisfying eligibility requirements and that it retained authority to modify the program, make final administrative decisions, and adjust amounts otherwise calculated under predetermined schedules when unusual circumstances arose. Plaintiff Sierra maintained that these provisions did not establish the discretion

necessary to exclude the incentives. The discretionary-bonus exclusion requires discretion over both the fact and amount of payment at or near the end of the relevant period, without a prior agreement or promise creating an expectation of payment. *See* 29 C.F.R. § 778.211(a)–(c). Plaintiff Sierra would rely on the plan's preannounced formulas and eligibility conditions to establish that employees expected payment upon satisfying those conditions. Nevertheless, further discovery concerning the plan's administration would have been necessary to evaluate Spencer Gifts' asserted discretion and its defenses.

29. I also recognized that an allegedly improper regular rate calculation may not automatically establish an underpayment in every pay period. As argued by Spencer Gifts, Plaintiff Sierra still needed to establish that overtime wages, meal or rest period premiums, or paid sick leave were owed and underpaid. For example, recovery based on underpaid overtime required proof that an employee worked overtime for which the incentive should have increased the applicable rate. Recovery based on underpaid meal or rest period premiums similarly required establishing an entitlement to premium pay and a shortfall in the amount paid. Spencer Gifts would dispute those underlying obligations and the employees and pay periods affected. Resolving these disputes would have required additional discovery, payroll analysis, expert testimony, and other evidence concerning the relevant practices and employees' experiences.

30. The meal period claims also presented evidentiary disputes. Time records showing missed, late, or short meal periods raise a rebuttable presumption of meal period violations. Spencer Gifts could seek to rebut that presumption with evidence that employees received compliant meal periods but voluntarily chose to work, or that appropriate premium compensation was paid. *Donohue v. AMN Services, LLC*, 11 Cal.5th 58, 74–77 (2021). I therefore considered the risk that Spencer Gifts could rebut some apparent violations and reduce the number of pay periods supporting recovery.

31. Plaintiff Sierra also alleges that Spencer Gifts' failure to use the proper regular rate resulted in inaccurate itemized wage statements in violation of Labor Code section 226(a). She further asserts derivative claims under Labor Code sections 201–203 on behalf of aggrieved employees who allegedly separated from employment without receiving all wages owed. Both theories depended on

establishing the underlying regular rate violations. In assessing these derivative claims, I therefore considered the risks concerning whether the incentives were nondiscretionary and whether their exclusion resulted in underpayments.

32. Continued litigation would also have required substantial additional time and expense and could have involved dispositive motions, trial, post-trial proceedings, and appeals. Those proceedings would have delayed any recovery and introduced further uncertainty concerning both liability and the amount of recoverable penalties.

33. In evaluating the Settlement, I therefore considered both the theoretical exposure under the $100 per pay period model and the potential recovery after accounting for the risks of proving the claims and obtaining an unreduced penalty award. Based on those considerations, I considered a valuation of $10 per pay period to be a reasonable benchmark for settlement purposes. The Gross Settlement Amount exceeds the benchmark by approximately 31.29%.

ATTORNEY QUALIFICATIONS

34. PAGA Counsel has a great deal of experience in wage and hour class action litigation. Diversity Law Group has been approved as class counsel in a number of wage and hour class actions and have extensive litigation experience.

35. My qualifications are as follows: I was the 2003 recipient of the Spelman Presidential Scholarship to Emory University School of Law. During law school, I was a summer associate at the law firm of Sonnenschein, Nath and Rosenthal, and clerked with the Atlanta office of the Equal Employment Opportunity Commission. I received my J.D. from Emory University in 2006 and was admitted to the California Bar in December 2006. Following law school, I was an associate at Sonnenschein from September 2006 to May 2009.

36. Since 2009, my primary area of practice has been employment litigation. I have practiced law at two pre-eminent employment defense firms. From May 2009 to June 2011, I was an associate at Ogletree, Deakins, Nash, Smoak & Stewart, P.C. I was also an associate, and then senior associate, in the labor and employment practice group of Seyfarth Shaw, LLP from June 2011 to May 2016. At both Ogletree and Seyfarth, I represented a wide array of fortune 500 companies in

employment litigation in both state and federal courts, as well as before government agencies, including the California Department of Labor. My practice included the defense of single plaintiff and multi-plaintiff lawsuits involving claims under the California Fair Employment and Housing Act, the California Labor Code and the Fair Labor Standards Act. I also handled a number of wage and hour class actions.

37. While at Ogletree and Seyfarth, I served as the lead associate on a number of wage and hour class actions, including *Martha Cardenas v. Gold's Gym*, Los Angeles County Superior Court Case No. BC445112; *Nathaniel Werner v. Crown Equipment Corporation*, Los Angeles County Superior Court Case No. BC439428; *Christopher Williams v. Allstate Insurance Co.*, Los Angeles County Superior Court Case No. BC382577; *Hwang v. Caltech*, Los Angeles County Superior Court Case No. BC464894; *Melissa Roberts v. Zale Delaware, Inc*., Los Angeles Superior Court Case No. BC523610; *Michael Oliver v. Konica Minolta Business Solutions U.S.A., Inc.*, Santa Clara County Superior Court Case No. 114-CV-263183; *Tessa Hodge v. Zale Delaware, Inc., d/b/a Piercing Pagoda*, San Bernardino Superior Court Case No CIVVS1301632; *Warren v. Paychex, Inc.*, N.D. Cal. Case No. 3:10-cv-02006; *Tapia v. Zale Delaware Inc. et al*, S.D. Cal. Case No. 3:13-cv-01565; and *Benjamin Burgess et al v. Tesoro Refining and Marketing Company et al*, C.D. Cal. Case No. 2:10-cv-05870.

38. I also second chaired two jury trials where I represented the prevailing defendant. Both cases involved employees who brought claims against their former employers pursuant to the Fair Employment & Housing Act. The cases are: *Jeff Cowell v. Eaton Aerospace LLC et al*, Los Angeles County Superior Court Case No. BC401543; and *Richard Gulden v. Pratt & Whitney Rocketdyne Inc. et al.*, Los Angeles County Superior Court Case No. BC468909.

39. In June 2016, I joined Diversity Law Group, P.C. where I spend most of my time handling employment cases. I primarily represent employees.

40. I have been approved as class counsel in numerous wage/hour class actions that have been granted class certification and final approval, including: *Antonio Becerra-Mata v. PSC Industrial Outsourcing, LP*, San Benito County Superior Court Case No. CU-15-00030; *Kosal So v.*

Owens-Brockway Glass Container, Inc., Los Angeles County Superior Court Case No. BC608609; *Sarah Rodriguez v. Manpower, Inc.*, Santa Clara County Superior Court Case No. 1-16-CV-294904; *Shannon Sanchez v. American Para Professional Systems, Inc.*, Santa Clara County Superior Court Case No. 17CV306751; *Foaad Hanna v. Equinix, LLC*, Santa Clara County Superior Court Case No. 18CV339365; *Alicia Harris v. 24 Seven LLC*, Los Angeles County Superior Court Case No. BC720144; *Mary Della Maggiora v. Watsonville Community* Hospital, Santa Cruz Superior Court Case No. 18CV00191; *Michael Randolph v. Pacific Racing Association*, Alameda County Superior Court Case No. RG18908139; *Cody Wirbick v. Sundt Construction, Inc.*, U.S. District Court for the Eastern District of California Case No. 2:19-cv-02067-MCE-CKD; *Jose Vasquez Ruiz v. Perdue Foods, LLC*, Sonoma County Superior Court Case No. SCV 264649; *Delmer Wood III v. Reeve Trucking Company Inc.*, San Joaquin Superior Court Case No. STK-CV-UOE-2018-0004414; *Eric Chavez v. Converse, Inc.,* U.S. District Court for the Northern District of California Case No. 15-cv-03746-NC; *Jharett Siron v. Raypak, Inc.*, Ventura County Superior Court Case No. 56-2019-00527959-CU-OE-VTA; *Prexxie Pascual and Arturo Fonseca v. Satellite Healthcare, Inc.*, Santa Clara Superior Court Case No. 19CV345211; and *Markham v. Quik Stop Markets, Inc.,* Santa Clara Superior Court Case No. 19CV341582.

41. I was lead trial counsel on two bench trials, in which the Plaintiff were the prevailing party. The cases are: *Esteban Palomino v. Northrop Grumman Systems Corporation*, Santa Clara County Superior Court Case No. 19CV345534; and *Jose Delgado v. Taylor Farms California, Inc.*, Monterey County Superior Court Case No. 18CV001381.

ATTORNEYS FEES & LITIGATION COSTS

42. To date, I have incurred approximately 95.20 hours in connection with the litigation of this lawsuit. Attached hereto as **Exhibit 4** is a summary of the hours I have incurred to date.

43. As of October 1, 2026, my hourly rate in class and representative actions is $900. Accordingly, the total lodestar for my hours will be approximately $85,680 (95.20 hours x $900.00). I have been approved at an hourly rate of $800 in the matters of *Robert Jordan v. Mondelez Global, LLC*, San Bernardino County Superior Court Case No. CIVSB2202758; *Alexis Tristan v. American*

Homes 4 Rent, L.P., Los Angeles County Superior Court Case No. 23STCV17006; and *Jose Valencia v. Sentinel Transportation, LLC*, Santa Barbara Superior Court Case No. 22CV00951; *In re Humano Wage and Hour Cases*, Judicial Council Coordination Proceeding Case No. 5240; and *Justin Bui v. The Ranch Steakhouse and Saloon, Inc. and RGB Systems, Inc.*, Santa Clara Superior Court Case No. 24CV439149.

44. At the time the Parties negotiated the Settlement Agreement, I did not have a final tally of the litigation costs incurred to date. As such, the Parties included a maximum amount that could be attributed to costs under the settlement. To date, Diversity Law Group has incurred costs in the amount of $10,715.89 for litigation related expenses. Attached hereto as **Exhibit 5** is a true and correct copy of the cost report.

45. Diversity Law Group prosecuted this matter entirely on a contingent basis and advanced the costs of litigation without any assurance of reimbursement. We committed substantial attorney time and firm resources to the case without receiving compensation as the work was performed. An unsuccessful outcome could have left us uncompensated for that work and unable to recover the litigation expenses advanced. Diversity Law Group bore the financial burden of funding the litigation throughout its pendency, while devoting time and resources that otherwise could have been used on other matters. Our willingness to undertake these commitments enabled Plaintiff Sierra to pursue her claims without paying attorneys' fees or funding litigation costs as the case progressed.

46. PAGA Counsel will divide any fee award resulting from the litigation and settlement of the Actions as follows: 52% to Diversity Law Group, King & Siegel and Barahmand Law Group; and 48% to Justice for Workers and Lavi & Ebrahimian. The 52% allocated to Diversity Law Group, King & Siegel and Barahmand Law Group will be further subdivided as follows: 65% to Diversity Law Group; 17.5% to King & Siegel; and 17.5% Barahmand Law Group. The remaining 48% allocated to Justice for Workers and Lavi & Ebrahimian will be further subdivided 50% to Justice for Workers and 50% to Lavi & Ebrahimian. Plaintiffs received full written disclosure of the foregoing fee-sharing arrangement, including the identities of the participating law firms and the terms of the division, and consented in writing to that arrangement.

47. Consistent with this, PAGA Counsel is requesting an award of attorneys' fees in the amount of $560,000.00, broken down as $189,280 to Diversity Law Group, $50,960.00 to King & Siegel LLP, $50,960.00 Barahmand Law Group, $134,400 to Justice for Workers, P.C., and $134,400 to Lavi & Ebrahimian. Thirty-five percent of the amount awarded to Diversity Law Group will be allocated to Polaris Law Group. Plaintiff Sierra received full written disclosure of the foregoing fee-sharing arrangement, including the identities of the participating law firms and the terms of the division, and consented in writing to that arrangement.

INDIVIDUAL SETTLEMENT AGREEMENTS

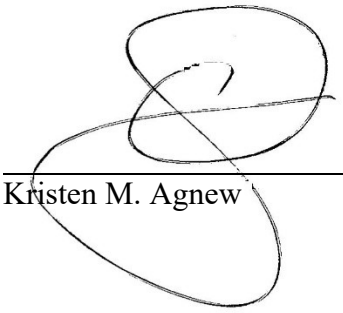
48. Plaintiff Sierra, Plaintiff Whalen, Plaintiff Gonzalez, and Plaintiff Hilaire each entered into a separate Confidential Settlement Agreement and Release. Under the agreements, Plaintiffs will each receive $25,000.00 in exchange for a release of their individual claims. This payments resolve their individual claims and do not constitute an incentive or service award for their participation as a PAGA representative.

NOTICE TO LWDA

49. Concurrently with the filing of the Motion to Approve PAGA Settlement, my office uploaded the Motion, Agreement, and proposed order to the LWDA's website. Attached hereto as **Exhibit 6** is a true and correct copy of the submission confirmations.

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

Executed on November 2, 2026 at Los Angeles, California.



Kristen M. Agnew

EXHIBIT 1

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement ("Agreement" or "Settlement") is made by and between Plaintiff Vanessa Ruelas Seirra ("Plaintiff Sierra"), Plaintiff Thomas Whalen ("Plaintiff Whalen"), Plaintiff Richard Gonzalez ("Plaintiff Gonzalez"), and Plaintiff Elisa Hilaire ("Plaintiff Hilaire") (collectively, "Plaintiffs"), on one hand, and Defendant Spencer Gifts, LLC ("Spencer Gifts") and Spirit Halloween Superstores LLC ("Spirit") (collectively, "Defendants"), on the other hand. The Agreement refers to Plaintiffs and Defendants collectively as the "Parties," or individually as "Party."

1. DEFINITIONS

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

1.1. "Actions" collectively means Plaintiff's lawsuits titled: (1) *Vanessa Ruelas Sierra v. Spencer Gifts LLC*, Kern County Superior Court Case No. BCV-23-101673 ("*Sierra* Action"); (2) *Thomas Whalen v. Spirit Halloween Superstores LLC*, Los Angeles County Superior Court Case No. 23STCV21612 ("*Whalen* Action"); (3) *Richard Gonzalez v. Spirit Halloween Superstores LLC*, Los Angeles County Superior Court Case No. 24STCV04406 ("*Gonzalez* Action"); and (4) *Elisa Hilaire v. Spencer Gifts, LLC, et al.*, San Diego County Superior Court Case No. 37-2024-00019642 ("*Hilaire* Action"). The Actions are included in Judicial Council Coordination Proceeding No. JCCP 5401.

1.2. "Administrator" or "Settlement Administrator" means Phoenix Class Action Administration Solutions, the neutral entity the Parties have agreed to appoint to administer the Settlement.

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

1.4. "Aggrieved Employees" means all current and former nonexempt employees employed by Defendants in California during the PAGA Period.

1.5. "Approval Hearing" means the Court's hearing on the motion for approval of the Settlement to determine whether to approve and implement the terms of this Agreement and enter the Judgment.

1.6. "Aggrieved Employee Address Search" means the Administrator's investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces.

1.7. "Defense Counsel" means Jackson Lewis P.C. and its attorneys, including Adam Siegel.

1.8. "Effective Date" means the date by when both of the following have occurred: (a) the Court enters an order and Judgment approving the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) the day after the last date by which a notice of appeal, writ or other appellate proceeding to the applicable Court of Appeal of the order and judgment approving this Settlement may be timely filed and none is filed (i.e., 61 days from the date of entry of the Judgment); (b) if an appeal, writ, or other appellate proceeding is filed, and the appeal is finally disposed of by ruling, dismissal, denial, or in any other manner that confirms the validity of the order and Judgment, the day after the last date for filing a request for further review of the order and Judgment approving this Settlement passes, and no further review is requested; or (c) if an appeal, writ, or other appellate proceeding is filed and the Judgment is affirmed and further review of the Judgment is requested, the day after the review is finally resolved and the Judgment approving the Settlement is affirmed.

1.9. "Gross Settlement Amount" means One Million Six Hundred Thousand Dollars and Zero Cents ($1,600,000) which is the total amount to be paid by Defendants as set forth in this Agreement. Under no condition will Defendants be required to pay more than the Gross Settlement Amount except as provided in Section 9 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, LWDA PAGA Payment, PAGA Counsel Fees, PAGA Counsel Expenses, and Administrator Expenses, all as approved by the Court. Any amounts not approved by the Court shall be added to the Net Settlement Amount to be distributed to the LWDA and Aggrieved Employees, and shall not be grounds to object to or terminate the Settlement. The Gross Settlement Amount is an all-in amount without any reversion to Defendants, with no claim forms required.

1.10. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of twenty five percent (25%) of the Net Settlement Amount, as calculated by the Settlement Administrator and based on the number of PAGA Pay Periods worked during the PAGA Period.

1.11. "Judgment" means a written order and judgment approving this Settlement and incorporating by reference the terms and conditions of this Settlement.

1.12. "LWDA" means the California Labor and Workforce Development Agency.

1.13. "LWDA PAGA Payment" means the seventy-five percent (75%) of the Net Settlement Amount, to be paid to the LWDA, as calculated by the Settlement Administrator, under Labor Code section 2699(i).

1.14. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: PAGA Counsel Fees, PAGA Counsel Expenses, and Administrator Expenses.

1.15. "PAGA" means the California Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*

1.16. "PAGA Counsel" means Larry W. Lee and Kristen M. Agnew of Diversity Law Group, P.C.; William L. Sung and Tiffany L. Luu of Justice for Workers; Joseph Lavi and Vincent C. Granberry of Lavi & Ebrahimian; Elliot J. Siegel of King & Siegel LLP; and Navid Barahmand of Barahmand Law Group.

1.17. "PAGA Counsel Fees" and "PAGA Counsel Expenses" mean the amounts to be paid to PAGA Counsel for fees and expenses, respectively, as approved by the Court, to compensate PAGA Counsel for their legal work in connection with the Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses billed in connection with the Action.

1.18. "PAGA Data" means Aggrieved Employee identifying information in Defendants' possession including the Aggrieved Employee's name, employee ID number, last-known mailing address, Social Security number, email address (if known and available to Defendants), and number of PAGA Pay Periods.

1.19. "PAGA Notices" means Plaintiff Sierra's letter dated May 22, 2023 ("Sierra PAGA Notice"), Plaintiff Whalen's letter dated September 5, 2023 ("Whalen PAGA Notice"), Plaintiff Gonzalez's letter dated December 18, 2023 ("Gonzalez PAGA Notice"), and Plaintiff Hilaire's letter dated April 26, 2024 ("Hilaire PAGA Notice"), providing notice to the LWDA of potential Labor Code violations.

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

1.21. "PAGA Period" means the period from May 22, 2022 through and including July 21, 2025.

1.22. "PAGA Representatives" means Plaintiff Sierra, Plaintiff Whalen, Plaintiff Gonzalez, and Plaintiff Hilaire.

1.23. "Released PAGA Claims" means the PAGA claims alleged in the operative complaints in the Actions, or that reasonably could have been based on the facts stated in the operative complaints in the Actions and in the PAGA Notices, including all PAGA claims seeking civil penalties premised upon: (1) failure to pay minimum wages, (2) failure to pay overtime wages, in violation of Labor Code sections 510, 558, 1194, 1197 and 1197.1, (3) failure to pay sick pay wages at the regular rate of pay, in violation of Labor Code sections 201, 202, 203, 246; (4) failure to provide meal and rest periods or pay premiums in lieu thereof at the regular rate of pay, in violation of Labor Code sections 226.7 and 512; (5) failure to provide

accurate itemized wage statements, in violation of Labor Code section 226(a), (6) failure to timely pay all earned wages during employment, in violation of Labor Code section 204, (7) failure to timely pay all earned wage at time of separation, in violation of Labor Code sections 201, 202 and 203, and (8) failure to reimburse necessary business expenses in violation of Labor Code section 2802.

1.24. "Released Parties" shall mean Defendants and their respective parents, subsidiaries, directors, owners, shareholders, officers, and attorneys, past and present, and each of them acting in concert with the foregoing.

1.25. "Settlement Notice" means the NOTICE OF PAGA SETTLEMENT, as approved by the Court and in substantially the same form as that attached as **Exhibit A** and incorporated by reference into this Agreement.

2. RECITALS

2.1. On May 22, 2023, Plaintiff Sierra submitted the Sierra PAGA Notice to the LWDA alleging that Spencer Gifts violated Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 233, 246, 512, 510, 558, 1194, 1197, and 1197.1, pursuant to Labor Code section 2699.

2.2. On May 30, 2023, Plaintiff Sierra initiated the *Sierra* Action against Spencer Gifts. On July 26, 2023, Plaintiff Sierra filed the First Amended Class and Representative Action Complaint in the *Sierra* Action. In the First Amended Complaint, Plaintiff Sierra alleged class and representative PAGA claims predicated on Spencer Gifts alleged failure to (i) incorporate all non-discretionary incentive wages in the regular rate of pay used to calculate and pay overtime wages, in violation of Labor Code sections 201, 202, 203, 510, 558, 1194, 1197 and 1197.1; (ii) incorporate all non-discretionary incentive wages in the regular rate of pay used to calculate and pay meal/rest period premiums, in violation of Labor Code sections 201, 202, 203, 226.7 and 512; (iii) incorporate all non-discretionary incentive wages in the regular rate of pay used to calculate and pay sick pay wages, in violation of Labor Code sections 201, 202, 203, and 246; and (iv) provide accurate itemized wage statements, in violation of Labor Code section 226.

2.3. On November 7, 2023, the Court compelled Plaintiff Sierra's individual claims to arbitration, dismissed the class allegations, and stayed the representative PAGA claims pending completion of arbitration.

2.4. On September 5, 2023, Plaintiff Whalen submitted the Whalen PAGA Notice to the LWDA alleging that Spirit violated 201, 202, 203, 204, 210, 226, 226.7, 256, 510, 512, 516, 558, 1174, 1194, 1197, 1197.1, 1198, and 2802.

2.5. On September 5, 2023, Plaintiff Whalen initiated the *Whalen* Action against Spirit. On November 13, 2023, Plaintiff Whalen filed the First Amended Class and

Representative Action Complaint in the *Whalen* Action, alleging class and representative PAGA claims for (1) Minimum Wage Violations; (2) Overtime Wage Violations; (3) Meal Period Violations; (4) Rest Period Violations; (5) Wage Statement Penalties; (6) Waiting Time Penalties; (7) Failure to Reimburse Necessary Business Expenses; (8) Unfair Competition; and (9) Civil Penalties under the California Private Attorneys General Act.

2.6. On March 13, 2024, the Los Angeles Superior Court granted Spirit's Motion to Compel Arbitration in the *Whalen* Action and ordered Plaintiff Whalen to submit his claims to binding arbitration and staying the action.

2.7. On December 18, 2023, Plaintiff Gonzalez submitted the Gonzalez PAGA Notice to the LWDA alleging that Spirit failed to comply with their obligations under the labor code California Labor Code by (1) failing to pay the minimum wage rate of pay for all hours worked; (2) failing to pay overtime for overtime hours work; (3) failing to pay meal period premiums at the regular rate of pay; (4) failing to pay rest period premiums at the regular rate of pay; (5) failing to timely pay earned wages during employment; (6) failing to provide accurate wage statements; (7) and failing to timely pay final wages in violation of Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, and the IWC Wage Orders.

2.8. On April 26, 2024, Plaintiff Hilaire submitted the Hilaire PAGA Notice to the LWDA alleging that Spencer Gifts and Spirit Halloween failed to comply with their obligations under the labor code California Labor Code by (1-2) failing to provide minimum and overtime compensation; (3-4) failing to provide rest and meal breaks; (5) failing to provide and maintain complete and accurate wage statements; and (6) failing to reimburse employees for business expenditures in violation of Labor Code §§ 201, 202, 203, 204, 226, 226.3, 226.7, 510, 512, 432, 558, 1182.12, 1174, 1194, 1194.2, 1197, 1197.1, 1198,3 1401, and 2802.

2.9. The Parties agreed to participate in a global mediation of the Actions.

2.10. On July 21, 2025, the Parties attended an all-day mediation with Jason Marsili, a respected wage and hour mediator. Prior to mediation, Plaintiffs obtained sufficient documents and information to sufficiently investigate the claims such that Plaintiffs' investigation was sufficient to satisfy the criteria for court approval under PAGA. The Actions did not resolve at mediation.

2.11. Following the mediation, the Parties continued to discuss settlement proposals through Jason Marsili.

2.12. On September 16, 2025, the Parties accepted a mediator's proposal from Jason Marsili that would resolve the Actions.

2.13. Defendants deny, and continue to deny, Plaintiffs' claims and deny any failure to comply with the law, and deny any and all liability for the claims alleged in the Actions.

2.14. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendants that the claims in the Actions or PAGA Notices have merit or that Defendants bear any liability to Plaintiffs or the Aggrieved Employees on those claims or any other claims, or as an admission by Plaintiffs that Defendants' defenses in the Actions have merit. If for any reason the Settlement does not become effective, Defendants reserve all available defenses to the claims in the Action.

3. RELATED ACTIONS

3.1. *Holmes* Action. The Parties acknowledge and agree that the Settlement, including Defendants' obligation to pay the Gross Settlement Amount, is expressly contingent upon the matter of *Jaidyn Holmes v. Spencer Gifts LLC, et al.*, Los Angeles County Superior Court Case No. 24STCV09324, included in Judicial Council Coordination Proceeding No. JCCP 5401, being compelled to arbitration. The *Holmes* action is not, and shall not be deemed to be, in privity with this Agreement or subject to its terms.

4. MONETARY TERMS

4.1. The Gross Settlement Amount. Defendants agree to pay, on a non-reversionary basis, the Gross Settlement Amount as set forth here, in consideration for Plaintiffs, the LWDA, and Aggrieved Employees' promises, representations, and obligations set forth in this Agreement. The Parties agree there are no circumstances that would require Defendants to pay any amount greater than the Gross Settlement Amount in connection with this Agreement, except as provided in Section 9 below. In the event this Agreement is canceled, rescinded, terminated, voided or nullified, however that may occur as permitted herein, or the Settlement is barred by operation of law, invalidated, or ordered not to be carried out by a court of competent jurisdiction, Defendants shall have no obligation to pay any of the Gross Settlement Amount and the Parties will return to their original respective positions, unless otherwise agreed upon in writing. Further, in that event, nothing in this Agreement, the negotiations leading to this Settlement, nor any papers prepared in connection with this Agreement shall be admissible in any proceeding for any purpose whatsoever.

4.2. Payments from the Gross Settlement Amount. The Administrator will make the following payments from the Gross Settlement Amount, in the amounts specified by the Court in its order granting final approval of the Settlement.

(a) To PAGA Counsel. A PAGA Counsel Fees payment of not more than thirty-five percent (35%) of the Gross Settlement Amount, which is currently estimated to be $560,000 and a PAGA Counsel Expense payment of not more than $50,000.00. Defendants will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiffs and/or PAGA Counsel will file a motion for PAGA Counsel Fees and PAGA Counsel Expenses concurrently with their motion for court approval of the Settlement. Any amounts not approved by

the Court shall be added to the Net Settlement Amount to be distributed to the LWDA and Aggrieved Employees, and shall not be grounds to object to or terminate the Settlement. The Administrator will pay the PAGA Counsel Fees and PAGA Counsel Expenses using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees and/or PAGA Counsel Expenses and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these payments.

(b) To the Administrator. An Administrator Expenses payment not to exceed $16,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administrator Expenses is less or the Court approves payment less than $ 16,000.00, the Administrator will retain the remainder in the Net Settlement Amount for distribution to the LWDA and Aggrieved Employees.

(c) To the LWDA and Aggrieved Employees. PAGA Penalties in the amount of the Net Settlement Amount, with seventy-five percent (75%) (currently estimated to total $730,000.00) allocated to the LWDA, and twenty-five (25%) (currently estimated to total $243,500.00) allocated to Aggrieved Employees.

(d) Calculation of Individual PAGA Payments. Using the PAGA Data, the Administrator will divide twenty-five (25%) of the Net Settlement Amount (currently estimated to total $243,500.00) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period. To calculate the Individual PAGA Payment, that value will then be multiplied by the number of PAGA Pay Periods that each respective Aggrieved Employee worked during the PAGA Period. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

(e) Tax Treatment of Individual PAGA Payments. Individual PAGA Payments shall be allocated and treated as 100% penalties, with no deductions or withholdings, and shall be reported by the Administrator on IRS 1099 Forms. No payroll taxes shall be assessed against Defendants for the Individual PAGA Payments.

(f) Misc. The payment of Individual PAGA Payments shall not obligate Defendants to confer any additional benefits or make any additional payments to Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. MOTION FOR SETTLEMENT APPROVAL.

5.1. Preparation of Motion. Within forty-five (45) calendar days after execution of this Agreement, Plaintiffs shall file with the Court a Motion for Order Granting PAGA Settlement Approval ("Motion") and supporting papers in the *Sierra* Action, which shall include this Settlement Agreement and which shall comply with all applicable rules for such Motion.

5.2. Submission to LWDA. Plaintiffs shall submit this Agreement and a copy of the Motion to the LWDA, prior to or concurrently with the filing of the Motion in court.

5.3. Cooperation in Court Approval. The Parties and their counsel will cooperate with each other and use their best efforts to implement the Settlement and obtain court approval of the Settlement. If the Parties disagree on any aspect of the proposed Motion and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant approval or conditions approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

6. THE ADMINISTRATOR

6.1. Selection of Administrator. The Parties have jointly selected Phoenix Class Action Administration Solutions to serve as Administrator. The Administrator's duties will include preparing, printing, and mailing the Settlement Notice to all Aggrieved Employees; conducting a National Change of Address search to update Aggrieved Employee addresses before mailing the Settlement Notices; re-mailing Settlement Notices that are returned to the Aggrieved Employee's new address; setting up a toll-free telephone number and email and a fax number to receive communications from Aggrieved Employees; receiving, reviewing, and resolving inquiries from Aggrieved Employees; providing the Parties with status reports about the delivery of Settlement Notices; calculating Individual PAGA Payments; issuing the checks to effectuate the payments due under the Settlement; issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

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

6.3. Administrator Duties. The Administrator will be responsible for establishing a qualified settlement fund and issuing payments and appropriate tax forms to Aggrieved Employees, the LWDA, Plaintiff Sierra, Plaintiff Gonzalez, Plaintiff Whalen, Plaintiff Hilaire and PAGA Counsel, pursuant to this Settlement Agreement and as approved by the Court. Administrator Expenses shall include all costs of administering the settlement, including, but not limited to, all tax document preparation, custodial fees, and accounting fees incurred by the Administrator; all costs and fees associated with preparing, issuing and mailing any and all notices and other correspondence to Aggrieved Employees; all costs and fees associated with communicating with Aggrieved Employees, PAGA Counsel, and Defendants' Counsel; all costs and fees associated with computing, processing, reviewing, and paying payments to Aggrieved

Employees; costs and fees associated with preparing any tax returns and any other filings required by any governmental taxing authority or agency; costs and fees associated with preparing any declarations and/or reports relating to administration of the Settlement; and any other cost and fees incurred and/or charged by the Administrator in connection with the execution of its duties under this Agreement. Administrator Expenses shall be paid from the Settlement Fund and are currently estimated to be $16,000.00.

7. SETTLEMENT FUNDING & PAYMENTS FROM THE GROSS SETTLEMENT AMOUNT

7.1. PAGA Data. Within five (5) business days after the Effective Date, Defendants shall provide the Settlement Administrator with the PAGA Data for purposes of preparing and mailing Settlement Notices to Aggrieved Employees. The PAGA Data shall not be shared with either Plaintiffs or PAGA Counsel, unless expressly approved by Defendants and Defense Counsel. To protect PAGA Members' privacy rights, the Administrator must maintain the PAGA Data in confidence, using the PAGA Data only for purposes of this Settlement and for no other purpose.

7.2. Funding Timeline. Defendants shall pay the Gross Settlement Amount to the QSF established by the Administrator within five (5) business days after the Effective Date.

7.3. Deadline to Mail Checks. Within fifteen (15) business days after Defendants fund the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administrator Expenses payment, the PAGA Counsel Fees payment, and the PAGA Counsel Expenses payment.

7.4. Mailing of Individual PAGA Payments. The Administrator will issue each Aggrieved Employee one check for his or her Individual PAGA Payment along with the Settlement Notice. Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address or Social Security number of the Aggrieved Employee involved, and will then perform a single re-mailing.

7.5. No Right to Object or Exclude. Aggrieved Employees are not permitted to object to or opt out of the Settlement.

7.6. Uncashed Checks. The checks reflecting payment of the Individual PAGA Payments will remain negotiable for 180 days. After the 180 day-period, the Administrator shall remit any unclaimed funds to the following *cy pres* recipient: Legal Aid at Work. The Administrator shall direct such funds in compliance with California Code of Civil Procedure section 84, or as otherwise directed by the Court.

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8. RELEASE OF CLAIMS.

As a material part of this Agreement, upon Defendants' payment of the Gross Settlement Amount, Plaintiff Siera, Plaintiff Gonzalez, Plaintiff Whalen, Plaintiff Hilaire, the Aggrieved Employees, and the LWDA shall release the Released PAGA Claims against all Released Parties. The applicable time period for the Released PAGA Claims shall be the PAGA Period. For clarity, the Released PAGA Claims shall not include, and do not release, any Aggrieved Employees' claims for wages or statutory penalties.

9. ESCALATOR CLAUSE.

Based on their records, Defendants estimate that, at the time of mediation, there were 121,868 PAGA Pay Periods. If the total number of PAGA Pay Periods as of the end of the PAGA Period exceeds the above figure by greater than 10% (exceeds 134,055), then the Gross Settlement Amount shall increase pro rata based on the number of additional PAGA Pay Periods above 10% (i.e., if the number of PAGA Pay Periods is 11% greater than the above figure, then the Gross Settlement Amount shall increase by 1%). Alternatively, Defendants will have the option to end the PAGA Period on the date by which the number of pay periods reaches 134,055, so as not to trigger an increase to the Gross Settlement Amount. Should Defendants elect to end the PAGA Period on a date within the escalator clause allowance, Defendants shall provide a declaration attesting to the number of pay periods so that actual number can be verified no later than 14 calendar days in advance of the PAGA approval hearing

10. ADDITIONAL PROVISIONS

10.1. Duty to Cooperate. If the Court does not approve the Settlement or requires any material change to the Settlement (including, but not limited to, the scope of release), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain approval. The Court's decision to award less than the amounts requested for PAGA Counsel Fees, PAGA Counsel Expenses and/or Administrator Expenses shall not constitute a material modification to the Agreement within the meaning of this paragraph.

10.2. Continuing Jurisdiction of the Court. The Parties agree that, after entry of the approval order and Judgment, the Court will retain jurisdiction over the Parties, the *Sierra* Action, and the Settlement under C.C.P. section 664.6 solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law. If any party brings an action to enforce this Agreement, the prevailing party shall be entitled to its/her/his reasonable attorneys' fees and costs, including expert witness fees.

10.3. Waiver of the Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, the Parties, their respective counsel, and Aggrieved Employees, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an Aggrieved Employee appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount. In the event that the Court reduces or does not approve the requested PAGA Counsel Fees and/or PAGA Expenses Payment, PAGA Counsel reserves their right to appeal such order; however, Plaintiff and/or PAGA Counsel will not request or demand an increase to the Gross Settlement Amount on that basis.

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

10.5. No Admission of Liability or PAGA Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Actions or PAGA Notices have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendants' defenses in the Actions have merit. The Settlement, this Agreement and the Parties' willingness to settle the Actions and PAGA Notices will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

10.6. No Publicity. Plaintiffs and PAGA Counsel will not contact the media about the Settlement or respond to any inquiries by the media regarding the Settlement, other than to state that the matter was amicably settled, and the Court did not find Defendants liable. Plaintiffs and their respective counsel also will not post any information about the Settlement on social media or their firms' websites. Nevertheless, nothing in this clause is intended to limit PAGA Counsel carrying out their duties as attorneys for the Aggrieved Employees and the State of California, including without limitation, communicating the terms of this Settlement to Aggrieved Employees, the LWDA and the State of California.

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

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

10.9. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

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

10.11. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed either by the Parties or their successors-in-interest or counsel for all Parties.

10.12. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the Parties and their respective heirs, trustees, executors, administrators, predecessors, successors, affiliates, agents, and assigns.

10.13. Applicable Law. All terms of this Settlement Agreement will be governed by and interpreted according to the laws of the State of California.

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

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

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

AGREED TO BY PLAINTIFFS AS TO FORM AND CONTENT:

Dated: 1/6/2026

Signed by:
43EFBBF23D054AA...

Plaintiff Vanessa Ruelas Sierra

Dated: _____

_____

Plaintiff Thomas Whalen

Dated: _____

_____

Plaintiff Richard Gonzalez

Dated: _____

_____

Plaintiff Elisa Hilaire

Dated: _____

_____

By: _____

Title: _____

Defendant Spencer Gifts, LLC

Dated: _____

_____

By: _____

Title: _____

Defendant Spirit Halloween Superstores LLC

ADDITIONAL SIGNATURES ON NEXT PAGE

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

AGREED TO BY PLAINTIFFS AS TO FORM AND CONTENT:

Dated:_____

Plaintiff Vanessa Ruelas Sierra

Dated:_____

Plaintiff Thomas Whalen

Dated: 01/05/2026

Plaintiff Richard Gonzalez

Dated:_____

Plaintiff Elisa Hilaire

Dated:_____

By: _____

Title:_____

Defendant Spencer Gifts, LLC

Dated:_____

By: _____

Title:_____

Defendant Spirit Halloween Superstores LLC

ADDITIONAL SIGNATURES ON NEXT PAGE

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AGREED TO BY PLAINTIFFS AS TO FORM AND CONTENT:

Dated:_____

Plaintiff Vanessa Ruelas Sierra

Dated: 01 / 21 / 2026

Plaintiff Thomas Whalen

Dated:_____

Plaintiff Richard Gonzalez

Dated:_____

Plaintiff Elisa Hilaire

Dated:_____

By: _____

Title:_____

Defendant Spencer Gifts, LLC

Dated:_____

By: _____

Title:_____

Defendant Spirit Halloween Superstores LLC

ADDITIONAL SIGNATURES ON NEXT PAGE

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AGREED TO BY PLAINTIFFS AS TO FORM AND CONTENT:

Dated: _____

Plaintiff Vanessa Ruelas Sierra

Dated: _____

Plaintiff Thomas Whalen

Dated: _____

Plaintiff Richard Gonzalez

Dated: 01/07/2026

Plaintiff Elisa Hilaire

Dated: 2/12/26

By: Kevin W. Mahoney

Title: SVP/CC

Defendant Spencer Gifts, LLC

Dated: 2/12/26

By: SVP/CC KEVIN W. MAHONEY

Title: SVP/CC

Defendant Spirit Halloween Superstores LLC

ADDITIONAL SIGNATURES ON NEXT PAGE

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APPROVED AS TO FORM ONLY BY COUNSEL:

Dated: January 6, 2026 **DIVERSITY LAW GROUP, APC**

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Attorneys for Plaintiff Richard Gonzalez

Dated: _____ **JUSTICE FOR WORKERS, P.C.**

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Attorneys for Plaintiff Thomas Whalen

Dated: _____ **KING AND SIEGEL, LLP**

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Dated: 01/06/2026 **LAVI & EBRAHIMIAN, LLP**

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Dated: _____ **JACKSON LEWIS P.C.**

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APPROVED AS TO FORM ONLY BY COUNSEL:

Dated:_____ **DIVERSITY LAW GROUP, APC**

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Kristen Agnew, Esq.
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Dated:_____ **LAVI & EBRAHIMIAN, LLP**

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Attorneys for Plaintiff Richard Gonzalez

Dated: January 20, 2026 **JUSTICE FOR WORKERS, P.C.**

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Dated: _____ **KING AND SIEGEL, LLP**

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Dated: _____ **BARAHMAND LAW GROUP**

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Navid Barahmand, Esq.
Attorneys for Plaintiff Elisa Hilaire

Dated: _____ **JACKSON LEWIS P.C.**

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Adam Siegel, Esq.
Attorneys for Defendants Spencer Gifts, LLC and Spirit Halloween Superstores LLC

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APPROVED AS TO FORM ONLY BY COUNSEL:

Dated: _____

DIVERSITY LAW GROUP, APC

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Larry Lee, Esq.
Kristen Agnew, Esq.
Attorneys for Plaintiff Vanessa Ruelas Sierra

Dated: _____

LAVI & EBRAHIMIAN, LLP

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Joseph Lavi, Esq.
Vincent C. Granberry, Esq.
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Alexander J. Aroeste, Esq.
Attorneys for Plaintiff Richard Gonzalez

Dated: _____

JUSTICE FOR WORKERS, P.C.

_____

William C Sung, Esq.
Tiffany L. Luu, Esq.
Attorneys for Plaintiff Thomas Whalen

Dated: 01/05/2026

KING AND SIEGEL, LLP

Elliot Siegel
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Elliot J. Seigel, Esq.
Attorneys for Plaintiff Elisa Hilaire

Dated: 01/05/2026

BARAHMAND LAW GROUP

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Navid Barahmand, Esq.
Attorneys for Plaintiff Elisa Hilaire

Dated: 02/17/2026

JACKSON LEWIS P.C.

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Adam Siegel, Esq.
Attorneys for Defendants Spencer Gifts, LLC and Spirit Halloween Superstores LLC

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EXHIBIT A

[PROPOSED NOTICE OF PAGA SETTLEMENT]

Re: *Thomas Whalen v. Spirt Halloween Superstores LLC*
Los Angeles County Superior Court Case No. 23STCV21612

Dear [Employee]:

Enclosed please find your settlement check in connection with the resolution of the matters entitled *Vanessa Ruelas Sierra v. Spencer Gifts LLC*, pending in Kern County Superior Court Case No. BCV-23-101673; *Thomas Whalen v. Spirit Halloween Superstores LLC*, Los Angeles County Superior Court Case No. 23STCV21612; *Richard Gonzalez v. Spirit Halloween Superstores LLC*, Los Angeles County Superior Court Case No. 24STCV04406; and *Elisa Hilaire v. Spencer Gifts, LLC, et al.*, San Diego County Superior Court Case No. 37-2024-00019642 (collectively, the "Actions"). The Actions are included in Judicial Council Coordination Proceeding No. JCCP 5401. You are receiving this payment as an "Aggrieved Employee" under the settlement approved by the Court. Please cash or deposit the check no later than [Check Cashing Deadline] or it will be voided.

This payment represents your share of the settlement proceeds allocated to Aggrieved Employees. The settlement resolves any claims for civil penalties that you may have under Labor Code section 2698 *et. seq.* ("PAGA") against Spencer Gifts, LLC and Spirit Halloween Superstores LLC (collectively, the "Company") relating to the Company's: (1) failure to pay minimum wages, (2) failure to pay overtime wages, in violation of Labor Code sections 510, 558, 1194, 1197 and 1197.1, (3) failure to pay sick pay wages at the regular rate of pay, in violation of Labor Code sections 201, 202, 203, 246; (4) failure to provide meal and rest periods or pay premiums in lieu thereof at the regular rate of pay, in violation of Labor Code sections 226.7 and 512; (5) failure to provide accurate itemized wage statements, in violation of Labor Code section 226(a), (6) failure to timely pay all earned wages during employment, in violation of Labor Code section 204, (7) failure to timely pay all earned wage at time of separation, in violation of Labor Code sections 201, 202 and 203, and (8) failure to reimburse necessary business expenses in violation of Labor Code section 2802. The settlement covers the period of May 22, 2022 through and including July 21, 2025. The settlement does not release or otherwise impact any Aggrieved Employees' claims for wages or statutory penalties

You do not need to take any further action to receive this payment. Cashing or depositing the enclosed check will not affect your rights in any way other than to acknowledge receipt of your share of the settlement.

If you have any questions about this payment, you may contact the Settlement Administrator at:

EXHIBIT 2

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VANESSA RUELAS SIERRA
c/o DIVERSITY LAW GROUP, P.C.
515 S. FIGUEROA ST., SUITE 1250
LOS ANGELES, CALIFORNIA 90071
TELEPHONE (213) 488-6555
FACSIMILE (213) 488-6554

May 22, 2023

VIA ON-LINE FILING AND CERTIFIED MAIL TO EMPLOYER

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

Re: *Vanessa Ruelas Sierra v. Spencer Gifts LLC*

To Whom It May Concern:

This correspondence shall constitute written notice under Labor Code section 2699.3 of my claims against my former employer, Spencer Gifts LLC (the "Company"). Specifically, I allege that the Company:

1. Violated Labor Code §§ 201-204, 510, 558, 1194, 1197, 1197.1 by not paying proper overtime wages to me and other similarly situated aggrieved employees. Specifically, throughout our employment with the Company, non-exempt employees and I earned non-discretionary remuneration, including, but not limited to, incentives and awards. As these items are non-discretionary forms of remuneration, they should have been included in the regular rate of pay for purposes of paying me and other employees our overtime wages. However, whenever the Company paid me and other employees our overtime wages during periods in which we earned such non-discretionary remuneration, the overtime wages were not paid at 1.5 time the regular rate of pay but rather were paid at 1.5 times our base rate of pay. Further as a result of such violations, the Company violated Labor Code §§ 201-203 by not paying employees all of their wages upon separation of employment due to the underpaid wages and Labor Code § 226(a) as the net/gross wages earned and hours worked shown on the wage statements were inaccurate due to the wage violations set forth above.

2. Violated Labor Code §§ 201-203, 233 and 246 by failing to pay me and all similarly situated aggrieved employees sick pay at the regular rate of pay as the Company failed to include non-discretionary remuneration, including, but not limited to, incentives and awards, into the regular rate of pay for sick pay wages. Further, as a result of such violations, the Company violated Labor Code § 226 as the wage statements failed to accurately identify the accurate rates of pay and gross/net wages earned.

3. Violated Labor Code §§ 226.7 and 512 by failing to pay me and other similarly situated aggrieved employees our meal and rest period premium pay at our regular rates of pay as required by these provisions. Labor Code § 226.7(c) states that "the employer shall pay the employee one additional hour of pay at the employee's **regular rate** of compensation for each workday that the meal or rest or recovery period is not provided." Throughout our employment with the Company, other non-exempt employees and I earned non-discretionary remuneration, including, but not limited to, incentives and awards. As these items are non-discretionary forms of

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remuneration, they should have been included in the regular rate of pay for purposes of paying me and other employees our meal and rest period premium pay. However, whenever the Company paid me and other employees our meal and rest period premium pay during periods in which we earned this non-discretionary remuneration, the meal and rest period premium was always paid at our base rate of pay. Further as a result of such violations, the Company violated Labor Code §§ 201-203 by not paying employees all of their wages upon separation of employment due to the underpaid meal and rest break premiums and Labor Code § 226 by failing to accurately identifying the accurate rate of pay, and gross and net wages earned.

The address for the Company is:

Spencer Gifts LLC
6826 Black Horse Pike
Egg Harbor Township, NJ 08234-4197

Please contact my attorneys at the address/telephone number listed above if you have any questions regarding this matter.

Sincerely,

DocuSigned by:
43EFBBF23D054AA...

Vanessa Ruelas Sierra

cc: Spencer Gifts LLC (by certified mail)

EXHIBIT 3

ELECTRONICALLY FILED
7/26/2023 2:36 PM
Kern County Superior Court
By Vanessa Castro, Deputy

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Attorneys for Plaintiff and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF KERN

VANESSA RUELAS SIERRA, as an individual and on behalf of all others similarly situated,

Plaintiff,

vs.

SPENCER GIFTS LLC, a Delaware limited liability company; and DOES 1 through 50, inclusive,

Defendants.

Case No.: BCV-23-101673

FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT:

(1) VIOLATION OF LABOR CODE §§ 510, 558, 1194, 1197, AND 1197.1;
(2) VIOLATION OF LABOR CODE §§ 226.7 AND 512;
(3) VIOLATION OF LABOR CODE §§ 201-203
(4) VIOLATION OF LABOR CODE § 226(a); AND
(5) VIOLATION OF BUSINESS AND PROFESSIONS CODE §17200, *ET SEQ.;*
(6) VIOLATION OF LABOR CODE § 2698, *ET SEQ*.

DEMAND OVER $25,000.00

Plaintiff Vanessa Ruelas Sierra ("Plaintiff") hereby submits this First Amended Class and Representative Action ("Complaint") against Defendant Spencer Gifts LLC ("Defendant") and Does 1 through 50 (collectively, "Defendants"), on behalf of herself and all other similarly situated current and former employees of Defendant for penalties and/or damages under the California Labor Code and restitution for unfair business practices in violation of Business and Professions Code section 17200, *et seq*., as follows:

INTRODUCTION

1. This class and representative action complaint is within the Court's jurisdiction under California Labor Code sections 201, 202, 203, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, and 2698, *et seq.*, the applicable Wage Orders of the California Industrial Welfare Commission ("IWC"), and the Unfair Competition Law, codified at Business and Professions Code section 17200, *et seq*. (the "UCL").

2. This Complaint challenges systemic illegal employment practices resulting in violations of the California Labor Code and Business and Professions Code against individuals who worked for Defendants.

3. Plaintiff is informed and believes, and based thereon alleges, that Defendants, jointly and severally, have acted intentionally and with deliberate indifference and conscious disregard to the rights of all employees by: (a) failing to incorporate all non-discretionary incentive wages in the regular rate of pay used to calculate and pay overtime wages, in violation of Labor Code sections 201, 202, 203, 510, 558, 1194, 1197 and 1197.1; (b) failing to incorporate all non-discretionary incentive wages in the regular rate of pay used to calculate and pay meal/rest period premiums, in violation of Labor Code sections 201, 202, 203, 226.7 and 512; (c) failing to incorporate all non-discretionary incentive wages in the regular rate of pay used to calculate and pay sick pay wages, in violation of Labor Code sections 201, 202, 203, and 246; and (d) failing to provide accurate itemized wage statements, in violation of Labor Code section 226.

4. Plaintiff is informed and believes, and based thereon alleges, that Defendants have engaged in, among other things a system of willful violations of the California Labor Code,

Business and Professions Code, and the applicable IWC Wage Orders, by creating and maintaining policies, practices, and customs that knowingly deny employees the above stated rights and benefits.

5. The policies, practices and customs of defendants described above and below have resulted in unjust enrichment of Defendant and an unfair business advantage over businesses that routinely adhere to the strictures of the California Labor Code and the California Business and Professions Code.

JURISDICTION AND VENUE

6. The Court has jurisdiction over the violations of the California Labor Code sections 201, 202, 203, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, and 2698, *et seq.*, the applicable IWC Wage Orders, and the UCL.

7. Venue is proper in Kern County, because Plaintiff worked for Defendant in Bakersfield, California.

PARTIES

8. Plaintiff was employed by Defendant as a Store Manager from approximately October 2019, to on or about April 27, 2023. During her employment with Defendant, Plaintiff worked as a non-exempt employee.

9. Plaintiff was and is the victim of the policies, practices, and customs of Defendant complained of in this action in ways that have deprived her of the rights guaranteed by California Labor Code sections 201, 202, 203, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, and 2698, *et seq.*, the applicable IWC Wage Orders, and the UCL.

10. Plaintiff is informed and believes, and based thereon alleges, that Defendant Spencer Gifts LLC maintains operations and does business in the State of California, including in Kern County, California. Plaintiff is informed and believes, and based thereon alleges, that Defendant operates as a retail store.

11. Plaintiff is informed and believes, and based thereon alleges, that at all times herein mentioned Does 1 through 50, are and were corporations, business entities, individuals, and

partnerships, licensed to do business and actually doing business in the State of California. As such and based upon all the facts and circumstances incident to Defendants' business, Defendants are subject to the California Labor Code, the IWC Wage Orders, and the UCL.

12. Plaintiff does not know the true names or capacities, whether individual, partner or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason, said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this Complaint when the true names and capacities are known. Plaintiff is informed and believes and based thereon alleges that each of said fictitious defendants was responsible in some way for the matters alleged herein and proximately caused Plaintiff and members of the general public and class to be subject to the illegal employment practices, wrongs and injuries complained of herein.

13. At all times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter alleged to have been done by the named Defendant; and furthermore, Defendants, and each of them, were the agents, servants, and employees of each of the other defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting within the course and scope of said agency and employment.

14. Plaintiff is informed and believes, and based thereon alleges, that at all times material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or joint venturer of, or working in concert with each of the other co-Defendants and was acting within the course and scope of such agency, employment, joint venture, or concerted activity. To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting Defendants.

15. At all times herein mentioned, Defendants, and each of them, were members of, and engaged in, a joint venture, partnership, and common enterprise, and acting within the course and scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

16. At all times herein mentioned, the acts and omissions of various Defendants, and each of them, concurred and contributed to the various acts and omissions of each and all of the other Defendants in proximately causing the injuries and damages as herein alleged. At all times

herein mentioned, Defendants, and each of them, ratified each and every act or omission complained of herein. At all times herein mentioned, Defendants, and each of them, aided and abetted the acts and omissions of each and all of the other Defendants in proximately causing the damages as herein alleged.

CLASS ACTION ALLEGATIONS

17. **Definition**: The named individual Plaintiff seeks class certification, pursuant to California Code of Civil Procedure section 382, Plaintiff proposes the following classes (together, the "Class" or "Class Members"):

a. All current and former non-exempt employees of Defendant in the State of California who worked overtime and earned non-discretionary incentive compensation during the same workweek, at any time from May 30, 2019, to the present (the "Overtime Regular Rate Class");

b. All current and former non-exempt employees of Defendant in the State of California who earned a meal/rest period premium and non-discretionary incentive compensation during the same workweek, at any time from May 30, 2019, to the present (the "Meal/Rest Period Regular Rate Class"); and

c. All former non-exempt employees of Defendant in the State of California who earned non-discretionary incentive compensation and sick pay during the same workweek, and whose employment ended at any time from May 30, 2020 through the present (the "Sick Pay Regular Rate Class").

d. All current and former non-exempt employees of Defendant in the State of

18. **Numerosity and Ascertainability**: The members of the Class are so numerous that joinder of all members would be impractical, if not impossible. The identity of the members of the Class is readily ascertainable by review of Defendant's records, including payroll records.

19. **Adequacy of Representation**: The named Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the Class defined above. Plaintiff's attorneys are ready, willing, and able to fully and adequately represent the Class and the

individual Plaintiff. Plaintiff's attorneys have prosecuted and settled wage-and-hour class actions in the past and currently have a number of wage-and-hour class actions pending in California state and federal courts.

20. Defendant uniformly administered a corporate policy and practice of: (a) failing to incorporate all non-discretionary incentive wages in the regular rate of pay used to calculate and pay overtime wages, in violation of Labor Code sections 201, 202, 203, 510, 558, 1194, 1197 and 1197.1; (b) failing to incorporate all non-discretionary incentive wages in the regular rate of pay used to calculate and pay meal/rest period premiums, in violation of Labor Code sections 201, 202, 203, 226.7 and 512; (c) failing to incorporate all non-discretionary incentive wages in the regular rate of pay used to calculate and pay sick pay wages, in violation of Labor Code sections 201, 202, 203, and 246; (d) failing to provide accurate itemized wage statements, in violation of Labor Code section 226; and (e) engaging in Unfair Business Practices in violation of the UCL, the California Labor Code and the applicable IWC Wage Orders.

21. Plaintiff is informed and believes, and based thereon alleges, that Defendant had a consistent and uniform policy, practice, and procedure of willfully failing to comply with Labor Code sections 201, 202, 203, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, the applicable IWC Wage Orders, and the UCL.

22. **Common Question of Law and Fact**: There are predominant common questions of law and fact and a community of interest amongst Plaintiff and the claims of the Class concerning Defendant's policy and practice of: (a) failing to incorporate all non-discretionary incentive wages in the regular rate of pay used to calculate and pay overtime wages, in violation of Labor Code sections 201, 202, 203, 510, 558, 1194, 1197 and 1197.1; (b) failing to incorporate all non-discretionary incentive wages in the regular rate of pay used to calculate and pay meal/rest period premiums, in violation of Labor Code sections 201, 202, 203, 226.7 and 512; (c) failing to incorporate all non-discretionary incentive wages in the regular rate of pay used to calculate and pay sick pay wages, in violation of Labor Code sections 201, 202, 203, and 246; (d) failing to provide accurate itemized wage statements, in violation of Labor Code section 226; and (e)

engaging in Unfair Business Practices in violation of the UCL, the California Labor Code and the applicable IWC Wage Orders.

23. **Typicality**: The claims of Plaintiff are typical of the claims of all members of the Class in that Plaintiff has suffered the harms alleged in this Complaint in a similar and typical manner as the Class Members. As with other non-exempt employees of Defendant, Plaintiff earned non-discretionary incentive compensation, including, but not limited to, incentives and awards. As these items are non-discretionary forms of remuneration, they should have been included in the regular rate of pay for the purpose of paying Plaintiff overtime wages, meal and rest period premiums and sick pay. However, during workweeks when Plaintiff earned overtime and non-discretionary incentives, Defendant failed to include the non-discretionary incentives in the calculation of the regular rate for the purposes of paying overtime wages. Rather, Defendant paid the overtime wages at 1.5 times Plaintiff's base rate of pay, instead of the correct, higher regular rate of pay. To date, Plaintiff has yet to receive the full amount of overtime wages owed to her, within the deadlines set forth in Labor Code sections 201, 202 and 203. As such, Plaintiff is owed waiting time penalties.

24. Relatedly, Defendant failed to pay meal and rest period premium compensation at the correct regular rate of pay. During workweeks when Plaintiff earned non-discretionary incentive compensation and meal/rest period premiums, the non-discretionary incentive pay should have been factored into the regular rate of pay. However, Defendant paid the meal and rest period premiums at Plaintiff's base rate of pay. To date, Plaintiff has yet to receive the full amount meal and rest period premiums owed to her, within the deadlines set forth in Labor Code sections 201, 202 and 203. As such, Plaintiff is owed waiting time penalties.

25. Defendant also failed to pay sick pay wages at the correct regular rate of pay. During workweeks when Plaintiff earned non-discretionary incentive compensation and sick pay wages, the non-discretionary incentive pay should have been factored into the regular rate of pay. However, Defendant paid the sick pay wages at Plaintiff's base rate of pay. To date, Plaintiff has yet to receive the full amount of sick pay wages owed to her, within the deadlines set forth in Labor

Code sections 201, 202 and 203. As such, Plaintiff is owed waiting time penalties.

26. As a result of the underpayment of wages alleged above, the wage statements issued to Plaintiff violated Labor Code section 226. More specifically, the wage statements displayed inaccurate rates of pay and net/gross wages earned. Therefore, Plaintiff is a member of the Class and has suffered the alleged violations of Labor Code sections 201, 202, 203, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, the applicable IWC Wage Orders, and the UCL.

27. The California Labor Code upon which Plaintiff bases these claims are broadly remedial in nature. These laws and labor standards serve an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment.

28. The nature of this action and the format of laws available to Plaintiff and members of the Class identified herein make the class action format a particularly efficient and appropriate procedure to redress the wrongs alleged herein. If each employee were required to file an individual lawsuit, the corporate defendants would necessarily gain an unconscionable advantage since it would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Requiring each class member to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damage to their careers at subsequent employment.

29. The prosecution of separate actions by the individual class members, even if possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect to individual class members against the Defendants and which would establish potentially incompatible standards of conduct for the Defendants, and/or (b) adjudications with respect to individual class members which would, as a practical matter, be dispositive of the interest of the other class members not parties to the adjudications or which would substantially impair or impede the ability of the class members to protect their interests. Further, the claims of the individual

members of the class are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses.

30. Such a pattern, practice, and uniform administration of corporate policy regarding illegal employee compensation described herein is unlawful and creates an entitlement to recovery by Plaintiff and the Class identified herein, in a civil action, for unpaid wages, including interest thereon, applicable penalties, reasonable attorneys' fees, and costs of suit according to the mandate of California Labor Code sections 218.5, 226, 558, 1194, and Code of Civil Procedure section 1021.5.

31. Proof of a common business practice or factual pattern, which the named Plaintiff experienced and is representative of, will establish the right of each of the members of the Class to recovery on the causes of action alleged herein.

32. The Class is commonly entitled to a specific fund with respect to the compensation illegally and unfairly retained by Defendants. The Class is commonly entitled to restitution of those funds being improperly withheld by Defendants. This action is brought for the benefit of the entire Class and will result in the creation of a common fund.

FIRST CAUSE OF ACTION

VIOLATION OF LABOR CODE §§ 510, 558, 1194, 1197, and 1197.1

(BY PLAINTIFF AND THE OVERTIME REGULAR RATE CLASS AGAINST ALL DEFENDANTS)

33. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

34. This cause of action is brought pursuant to Labor Code sections 510, 558, 1194, 1197 and 1197.1, which require an employer to pay employees overtime at a rate of one and one-half the employee's regular rate of pay for any work in excess of eight hours in a workday or 40 hours in a workweek.

35. As a pattern and practice, Defendant paid Plaintiff and Overtime Regular Rate Class Members overtime wages based on the incorrect regular rate of pay. During workweeks when

employees worked overtime and earned non-discretionary incentive pay, including without limitation, incentives and awards, Defendant failed to properly calculate the regular rate of pay for purposes of paying overtime. Specifically, Defendant failed to incorporate the non-discretionary incentives into the calculation of the regular rate of pay. As a result of such policy and practice, Defendant underpaid overtime wages to Plaintiff and Overtime Regular Rate Class Members and thus owe additional overtime wages.

36. Plaintiff is informed and believes and based thereon alleges that Defendant willfully failed to pay Plaintiff and the Overtime Regular Rate Class wages due and owing to them. Defendant's willful and intentional failure to provide wages due and owing to separated Overtime Regular Rate Class Members resulted in continued payment of wages up to thirty (30) days from the time the wages are due. Therefore, all members of the Overtime Regular Rate Class who have separated from employment are entitled to compensation as per Labor Code section 203.

37. Such a pattern, practice, and uniform administration of corporate policy regarding illegal employee compensation as described herein is unlawful and creates an entitlement to recovery by Plaintiff and the Overtime Regular Rate Class in a civil action, for the unpaid balance of the full amount of damages owed, including interest thereon, penalties, attorneys' fees, and costs of suit according to the mandate of California Labor Code sections 201, 202, 203, 510, 558, 1194, 1197, and 1197.1.

SECOND CAUSE OF ACTION

VIOLATION OF LABOR CODE § 226.7 AND 512

(BY PLAINTIFF AND THE MEAL/REST PERIOD REGULAR RATE CLASS AGAINST ALL DEFENDANTS)

38. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

39. At all relevant times, Defendant failed in its affirmative obligation to ensure that Plaintiff and Meal/Rest Period Regular Rate Class Members had the opportunity to take and were provided with off-duty meal and rest periods in accordance with the mandates of the California Labor Code and the applicable IWC Wage Order.

40. Pursuant to Labor Code section 226.7, for each workday that a meal or rest period is not provided, employees are entitled to one additional hour of pay at the employee's regular rate of pay. Defendant, however, paid meal and rest period premium wages at an employee's base hourly rate of pay, which did not include non-discretionary incentive pay, including without limitation, incentives and awards. As such, Plaintiff and the Meal/Rest Period Regular Rate Class are owed additional meal and rest period premiums based on the correct, higher regular rate of pay.

41. Plaintiff is informed and believes and based thereon alleges that Defendant willfully failed to pay Plaintiff and the Meal/Rest Period Regular Rate Class wages due and owing to them. Defendant's willful and intentional failure to provide wages due and owing to separated Meal/Rest Period Regular Rate Class Members resulted in continued payment of wages up to thirty (30) days from the time the wages are due. Therefore, all members of the Meal/Rest Period Regular Rate Class who have separated from employment are entitled to compensation as per Labor Code section 203.

42. Such a pattern, practice, and uniform administration of corporate policy as described herein is unlawful and creates an entitlement to recovery by Plaintiff and Meal/Rest Period Regular Rate Class Members, in a civil action, for the unpaid balance of the premium compensation pursuant to Labor Code section 226.7, and the applicable IWC Wage Order, including interest thereon, penalties, including penalties pursuant to Labor Code sections 201-203, 226.7, and 512, reasonable attorneys' fees, and costs of suit.

THIRD CAUSE OF ACTION

VIOLATION OF LABOR CODE §§ 201-203

(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)

43. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

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

45. Labor Code section 201 provides if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. Labor Code section 202 provides that an employee is entitled to receive all unpaid wages no later than 72 hours after an employee quits his or her employment, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

46. Labor Code section 246 provides that an employee is entitled to receive sick time pay. The employer shall calculate paid sick leave by using one of two calculations: (1) "Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek;" or (2) "Paid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

47. Whenever Defendant paid Plaintiff and Sick Pay Regular Rate Class Members sick pay pursuant to California Labor Code section 246, Defendant did so at the incorrect rate of pay. Plaintiff and Sick Pay Regular Rate Class Members earned non-discretionary incentive remuneration, including without limitation, incentives and awards, thereby increasing their regular rates of pay to amounts that were higher than their base rates of pay. However, whenever sick pay was paid to Plaintiff and Sick Pay Regular Rate Class Members, it was paid only at their base rates of pay, rather than the higher regular rates of pay, as required under Labor Code section 246.

48. Plaintiff is informed and believes and based thereon alleges that Defendant willfully failed to pay Plaintiff and the Sick Pay Regular Rate Class wages due and owing to them. Defendant's willful and intentional failure to provide wages due and owing to Sick Pay Regular Rate Class Members resulted in continued payment of wages up to thirty (30) days from the time the wages are due. Therefore, Sick Pay Regular Rate Class Members are entitled to compensation as per Labor Code section 203.

49. Defendant willfully failed to pay Plaintiff, Sick Pay Regular Rate Class Members, separated Overtime Regular Rate Class Members, and separated Meal/Rest Period Regular Rate

Class Members all their wages due, as alleged hereinabove and hereinafter, upon the termination of their employment within the times prescribed by Labor Code sections 201 and 202 and are therefore subject to a waiting time penalty. Plaintiff, Sick Pay Regular Rate Class Members, separated Overtime Regular Rate Class Members, and separated Meal/Rest Period Regular Rate Class Members are entitled to recover from Defendant the statutory penalty for each day they were not paid at their regular hourly rate of pay, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

FOURTH CAUSE OF ACTION

VIOLATION OF LABOR CODE § 226(a)

(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)

50. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

51. Defendant, as a matter of policy and practice, did not provide accurate wage statements to Plaintiff and the Class, in violation of Labor Code section 226(a).

52. As a result of Defendant's failure to pay proper wages and meal/rest break premiums, as identified above, the wage statements issued to Plaintiff and Class Members failed to identify the correct gross wages earned, net wages earned, and correct hourly rates of pay, in violation of Labor Code section 226(a).

53. Such a pattern, practice and uniform administration of corporate policy as described herein is unlawful and creates an entitlement to recovery by the Plaintiff and the Class identified herein, in a civil action, for all damages or penalties pursuant to Labor Code section 226, including interest thereon, attorneys' fees, and costs of suit according to the mandate of California Labor Code section 226.

FIFTH CAUSE OF ACTION

VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200, *ET SEQ.*

(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)

54. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

55. Defendant has engaged and continue to engage in unfair and unlawful business practices in California by practicing, employing, and utilizing the employment practices outlined above, including by: (a) failing to incorporate all non-discretionary incentive wages in the regular rate of pay used to calculate and pay overtime wages, in violation of Labor Code sections 201, 202, 203, 510, 558, 1194, 1197 and 1197.1; (b) failing to incorporate all non-discretionary incentive wages in the regular rate of pay used to calculate and pay meal/rest period premiums, in violation of Labor Code sections 201, 202, 203, 226.7 and 512; and (c) failing to incorporate all non-discretionary incentive wages in the regular rate of pay used to calculate and pay sick pay wages, in violation of Labor Code sections 201, 202, 203, and 246.

56. Defendant's utilization of such unfair and unlawful business practices constitutes unfair and unlawful competition and provides an unfair advantage over Defendant's competitors.

57. Plaintiff seeks, individually and on behalf of other members of the Class similarly situated, full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by the Defendant by means of the unfair practices complained of herein.

58. Plaintiff is informed and believes, and based thereon alleges, that at all times herein mentioned Defendant has engaged in unlawful, deceptive and unfair business practices, as proscribed by California Business & Professions Code section 17200, *et seq*., including those set forth herein above thereby depriving Plaintiff and other Class Members the minimum working standards and conditions due to them under the California laws as specifically described therein.

SIXTH CAUSE OF ACTION

VIOLATION OF LABOR CODE § 2698, *ET SEQ.*

(BY PLAINTIFF, ON BEHALF OF THE STATE OF CALIFORNIA AND AGGRIEVED EMPLOYEES, AGAINST ALL DEFENDANTS)

59. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

60. Plaintiff brings this cause of action as a proxy for the State of California and in this capacity, seeks penalties on behalf of all Aggrieved Employees from May 22, 2022, through the

present, for Defendant's violations of Labor Code §§ 201, 202, 203, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, and the applicable IWC Wage Order, arising from Defendant's policy and practice of: (a) failing to incorporate all non-discretionary incentive wages in the regular rate of pay used to calculate and pay overtime wages, in violation of Labor Code sections 201, 202, 203, 510, 558, 1194, 1197 and 1197.1; (b) failing to incorporate all non-discretionary incentive wages in the regular rate of pay used to calculate and pay meal/rest period premiums, in violation of Labor Code sections 201, 202, 203, 226.7 and 512; (c) failing to incorporate all non-discretionary incentive wages in the regular rate of pay used to calculate and pay sick pay wages, in violation of Labor Code sections 201, 202, 203, and 246; and (d) failing to provide accurate itemized wage statements, in violation of Labor Code section 226.

61. 35. As a pattern and practice, Defendant paid Plaintiff and other Aggrieved Employees overtime wages based on the incorrect regular rate of pay. During workweeks when employees worked overtime and earned non-discretionary incentive pay, including without limitation, incentives and awards, Defendant failed to properly calculate the regular rate of pay for purposes of paying overtime. Specifically, Defendant failed to incorporate the non-discretionary incentives into the calculation of the regular rate of pay. As a result of such policy and practice, Defendant underpaid overtime wages to Plaintiff and other Aggrieved Employees and thus owe additional overtime wages.

62. Relatedly, as a pattern and practice, Defendant paid Plaintiff and other Aggrieved Employees meal and rest period premium compensation based on the incorrect regular rate of pay. Pursuant to Labor Code section 226.7, for each workday that a meal or rest period is not provided, employees are entitled to one additional hour of pay at the employee's regular rate of pay. Defendant, however, paid meal and rest period premium wages at an employee's base hourly rate of pay, which did not include non-discretionary incentive pay, including without limitation, incentives and awards. As such, Plaintiff and other Aggrieved Employees are owed additional meal and rest period premiums based on the correct, higher regular rate of pay.

63. Additionally, whenever Defendant paid Plaintiff and other Aggrieved Employees

sick pay pursuant to California Labor Code section 246, Defendant did so at the incorrect rate of pay. Plaintiff and other Aggrieved Employees earned non-discretionary incentive remuneration, including without limitation, incentives and awards, thereby increasing their regular rates of pay to amounts that were higher than their base rates of pay. However, whenever sick pay was paid to Plaintiff and other Aggrieved Employees, it was paid only at their base rates of pay, rather than the higher regular rates of pay, as required under Labor Code section 246.

64. As a result of Defendant's failure to pay proper wages and meal/rest break premiums, as identified above, the wage statements issued to Plaintiff and other Aggrieved Employees failed to identify the correct gross wages earned, net wages earned, and correct hourly rates of pay, in violation of Labor Code section 226(a).

65. On or about May 22, 2023, Plaintiff sent written notice to the California Labor & Workforce Development Agency ("LWDA") of Defendant's violations of Labor Code sections 201, 202, 203, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, and the applicable IWC Wage Order, pursuant to Labor Code section 2698, *et seq*., the Private Attorneys General Act ("PAGA"). To date, the LWDA has not responded to Plaintiff's written notice.

66. As such, pursuant to Labor Code section 2699(a), Plaintiff seeks recovery of any and all applicable civil penalties for Defendant's violation of Labor Code sections 201, 202, 203, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, and the applicable IWC Wage Order for the time period described above, on behalf of himself and other Aggrieved Employees.

PRAYER FOR RELIEF

1. WHEREFORE, Plaintiff prays for judgment for himself and all others on whose behalf this suit is brought against Defendants, jointly and severally, as follows:

2. For an order certifying the proposed class;

3. For an order appointing Plaintiff as the class representative as described herein;

4. For an order appointing Counsel for Plaintiff as Class Counsel;

5. Upon the First Cause of Action, for damages and/or penalties pursuant to California Labor Code sections 510, 558, 1194, 1197, and 1197.1, and for costs and attorneys' fees;

6. Upon the Second Cause of Action, for damages and/or penalties pursuant to California Labor Code sections 226.7 and 512, and for costs and attorneys' fees;

7. Upon the Third Cause of Action, for damages and/or penalties pursuant to California Labor Code sections 201, 202, 203, and for costs and attorneys' fees;

8. Upon the Fourth Cause of Action, for damages and/or penalties pursuant to California Labor Code section 226, and for costs and attorneys' fees;

9. Upon the Fifth Cause of Action, for restitution to Plaintiff and other similarly affected members of the general public of all funds unlawfully acquired by Defendant by means of any acts or practices declared by this Court to be in violation of Business & Professions Code section 17200, *et seq.*, and for costs and attorneys' fees;

10. Upon the Sixth Cause of Action, for civil penalties and/or damages pursuant to California Labor Code section 2698, *et seq.*, and for interest, costs and attorneys' fees; and

11. On all causes of action, for attorneys' fees and costs as provided by California Labor Code sections 218.5, 226, 1194 and 2699, and Code of Civil Procedure section 1021.5; and

12. For such other and further relief the Court may deem just and proper.

DATED: July 26, 2023

DIVERSITY LAW GROUP, P.C.

By: _____

Larry W. Lee
Kristen M. Agnew
Nicholas Rosenthal
Attorneys for Plaintiff and the Class

PROOF OF SERVICE

(Code of Civil Procedure Sections 1013a, 2015.5)

STATE OF CALIFORNIA]
]ss.
COUNTY OF LOS ANGELES]

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite 1250, Los Angeles, California 90071.

On July 26, 2023, I served the following document(s) described as: **FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** on the interested parties in this action as follows:

Adam Y. Siegel
Adam.Siegel@jacksonlewis.com
Sean Choi
Sean.Choi@jacksonlewis.com
JACKSON LEWIS P.C.
725 South Figueroa Street, Suite 2500
Los Angeles, California 90017-5408
Attorneys for Defendant
SPENCER GIFTS LLC

__X__ BY ELECTRONIC SERVICE: Based on a court order I caused the above-entitled document(s) to be served through the Odyssey eFileCA E-Filing System at the website www.california.tylerhost.net, addressed to all parties appearing on the electronic service list for the above-entitled case. The service transmission was reported as complete and a copy of the filing receipt/confirmation will be filed, deposited, or maintained with the original document(s) in this office.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on July 26, 2023, at Los Angeles, California.

Erika Mejia

EXHIBIT 4

Kristen M. Agnew Time and Task Chart
Vanessa Ruelas Sierra v. Spencer Gifts LLC
Kern County Superior Court Case No. BCV-23-101673

Time	Description of Work
3.40	Review intake materials; conduct legal research and analysis regarding potential theories of liability and anticipated defenses; confer with co-counsel regarding initial case assessment.
2.20	Draft PAGA Notice and class action complaint.
6.00	Meet and confer with defense counsel regarding Defendant's arbitration agreement; research and analyze grounds for opposing arbitration; confer with co-counsel regarding the same.
1.50	Meet and confer with defense counsel regarding a stipulated stay pending the California Supreme Court's decision in *Adolph v. Uber Technologies, Inc.*; draft stipulation regarding the same.
.90	Prepare first amended representative action complaint.
4.30	Review and analyze Defendant's motion to compel arbitration; research grounds to oppose stay of non-individual PAGA claims pending completion of arbitration.
8.10	Draft and finalize opposition to Defendant's motion to compel arbitration.
3.60	Review and analyze Defendant's reply in support of motion to compel arbitration; conduct additional legal research regarding the issues raised in the reply.
1.70	Prepare for and attend hearing on Defendant's motion to compel arbitration.
3.80	Review procedures and requirements for initiating arbitration with NAM; prepare demand for arbitration and related submission materials.
1.10	Meet and confer with defense counsel regarding selection of arbitrator; research the backgrounds and qualifications of proposed arbitrators.
2.30	Meet and confer with defense counsel regarding initial status conference; attend initial status conference.
2.90	Meet and confer with defense counsel regarding the joint discovery plan; draft the plan; review Defendant's proposed revisions and finalize the plan for submission.
3.50	Draft initial disclosures; gather and review documents concerning Plaintiff's employment with Defendant; confer with client regarding disclosures.
1.40	Review and analyze Defendant's initial disclosures; prepare outline of topics of further discovery.
2.30	Draft requests for production of documents (set one) and special interrogatories (set one).
4.10	Review and analyze Defendant's responses to initial written discovery; review and respond to meet and confer correspondence regarding same.
2.20	Confer with co-counsel regarding global mediation of *Ruelas*, *Whalen*, *Gonzalez*, and *Hilaire*; review key pleadings and assess the procedural posture of the related matters.
.90	Meet and confer with defense counsel regarding continuance of arbitration hearing; draft and finalize joint stipulation to continue arbitration hearing and status conference.
1.40	Confer with co-counsel regarding data needed for global mediation; review and revise mediation data request.

Time	Description of Work
1.70	Review and analyze timekeeping and payroll data; review expert's damages report; confer with co-counsel and the expert regarding the penalty analysis.
3.40	Review and revise global mediation statement; research and analyze relevant legal and factual issues.
7.20	Prepare for and attend the July 21, 2025 global mediation; analyze the risks and potential outcomes of continued litigation.
1.90	Confer with the mediator and co-counsel regarding post-mediation settlement negotiations.
2.60	Draft requests for production of documents (set two); and PMK deposition notice.
1.80	Review petition to coordinate the *Holmes*, *Ruelas*, *Whalen*, *Gonzalez*, and *Hilaire* matters; confer with co-counsel regarding the appropriate strategic response.
1.00	Review and analyze the terms of the mediator's proposal; confer with co-counsel regarding the same.
.80	Confer with co-counsel regarding non-opposition of petition to coordinate; prepare notice of non-opposition.
2.50	Prepare for and appear at November 21, 2025 petition for coordination.
4.40	Draft PAGA Settlement Agreement; confer with co-counsel regarding revisions.
3.80	Draft stipulation for approval of the PAGA Settlement Agreement and supporting attorney declaration; confer with co-counsel regarding revisions; finalize stipulation for filing.
6.50	Draft motion for approval of PAGA Settlement Agreement and supporting declarations; confer with co-counsel regarding revisions.
95.20	**TOTAL**

EXHIBIT 5

DIVERSITY LAW GROUP

Invoice

Diversity Law Group

515 South Figueroa Street, Suite 1250, Los Angeles, California, 90071

lwlee@diversitylaw.com

Invoice #: 10587

Invoice Date: 10/13/2026

Terms: Upon Receipt

Due Date: 10/13/2026

PO #:

Invoice Total: $10,715.89

Payment Applied: $0.00

Total Due: $10,715.89

Summary - Ruelas Sierra, Vanessa v. Spencer Gifts LLC - CA (18102.001)

Type	Description	Amount ($)
Expenses		10715.89

Subtotal:	$10,715.89
Discount:	$0.00
Subtotal after Discount:	$10,715.89
Taxable Subtotal:	$10,715.89
Tax:	$0.00
Total:	$10,715.89

Details - Ruelas Sierra, Vanessa v. Spencer Gifts LLC - CA (18102.001)

Expenses

Date	Category	Expense Code	Description	Amount ($)
05/22/2023		Court fees	LWDALWDA	75.00
05/30/2023		Court fees	Odyssey - - ComplaintOdyssey - -	1481.66

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			Complaint	
05/31/2023		Photocopies	PhotocopiesPhotocopies	0.50
05/31/2023		Postage	PostagePostage	13.70
06/08/2023		Attorney Service	Attorney Service - Complaint Service	54.33
06/14/2023		Court fees	Odyssey - POS of SummonsOdyssey - POS of Summons	3.60
07/26/2023		Court fees	Odyssey - FACOdyssey - FAC	3.60
10/25/2023		Court fees	Odyssey - Oppo to MTC Arbitration	3.60
12/31/2023		Photocopies	PhotocopiesPhotocopies	14.50
12/31/2023		Postage	PostagePostage	5.10
01/03/2024		Arbitrators/mediators	NAM - Demand for ArbitrationNAM - Demand for Arbitration	325.00
01/31/2024		Postage	PostagePostage	2.31
03/19/2024		Court fees	Odyssey - Notice of Change in Attorney	3.60
07/23/2024		Court fees	Odyssey - Joint CMSOdyssey - Joint CMS	3.60
08/06/2024		Court fees	Odyssey - Stip to cont CMCOdyssey - Stip to cont CMC	24.20
08/07/2024		Court fees	Odyssey - NOEOdyssey - NOE	3.60
01/15/2025	Court Fees		Odyssey - Stip to Cont Status Conference	24.20
06/12/2025	Court Fees		Odyssey - Stip to Cont Status Conference	24.20

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Payment Applied: $0.00

Total Due: $10,715.89

			(Envelope Number: 19702251)	
06/20/2025	E121 Arbitrators/mediators		Marsili Mediation Inc.	3600.00
07/11/2025	Expert Fees		AttorneyTalk Mediation Analysis	4547.79
07/21/2025	E111 Meals		Meal	27.99
10/01/2025	Attorney Service		ACE - Notice of Non Oppo	234.75
10/23/2025	Court Fees		ACE EFiling - Joint Stip to Cont Status Conference (Filing ID: 13133962 Envelope No: 25KN00009555)	22.45
01/14/2026	Court Fees		ACE EFiling - NOE (Filing ID: 13625470 Envelope No: 26KN00048391)	15.25
03/20/2026	Court Fees		ACE EFiling - NOE (Filing ID: 14060180 Envelope No: 26KN00085379)	15.25
03/31/2026	Photocopies		Photocopies	2.25
03/31/2026	Postage and delivery		Postage	1.03
04/23/2026	Court Fees		ACE EFiling - NOE (Filing ID: 14299204 Envelope No: 26KN00105152)	15.25
04/30/2026	Photocopies		Photocopies	2.25
04/30/2026	Postage and delivery		Postage	1.03
08/14/2026	Court Fees		ACE EFiling - Est Motion for PAGA Fees	77.20
10/12/2026	Photocopies		Photocopies	1.25
10/12/2026	Postage and delivery		Postage	6.33

DIVERSITY LAW GROUP

Invoice

Invoice #: 10587

Invoice Date: 10/13/2026

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Due Date: 10/13/2026

PO #:

Invoice Total: $10,715.89

Payment Applied: $0.00

Total Due: $10,715.89

Diversity Law Group

515 South Figueroa Street, Suite 1250, Los Angeles, California, 90071

lwlee@diversitylaw.com

10/13/2026	Court Fees		Motion for PAGA Fees	79.52
			Subtotal:	$10,715.89
			Total:	$10,715.89

EXHIBIT 6