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ESPARZA RODRIGUEZ

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

VERONICA ESPARZA RODRIGUEZ,
individually, and on behalf of all others similarly
situated,

Plaintiff,

vs.

WELLNESS INNOVATION GROUP
INCORPORATED, a California corporation;
and DOES 1 through 10, inclusive,

Defendants.

Case No.: 23CV001695

COMPLEX CLASS AND REPRESENTATIVE
ACTION

[Hon. Thomas W. Wills Dept. 15]

**DECLARATION OF KANE MOON IN
SUPPORT OF PLAINTIFF'S MOTION FOR
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT**

*[Filed with Plaintiff's Notice of Motion and
Memorandum of Points and Authorities, the
Declaration of Plaintiff Veronica Esparza
Rodriguez, Declaration of Lluvia Islas, and
[Proposed] Order and Judgment]*

FINAL APPROVAL HEARING

Date: November 8, 2024
Time: 8:30 a.m.
Dept.: 15

1 **DECLARATION OF KANE MOON**

2 I, KANE MOON, declare as follows:

3 1. I am an attorney at law duly licensed to practice as such before all Courts of the State of
4 California and am one of the attorneys of record for Plaintiff Veronica Esparza Rodriguez and the putative
5 Class.

6 2. I have personal knowledge of the matters set forth herein and could competently testify to the
7 facts described herein.

8 **CASE BACKGROUND**

9 3. This is a complex wage and hour class action and PAGA representative action brought by
10 Plaintiff Veronica Esparza Rodriguez (“Plaintiff”) against Wellness Innovation Group Incorporated
11 (“Defendant”). Plaintiff seeks to represent a class of non-exempt, hourly-paid employees who worked for
12 Defendant in California during the period from May 25, 2019, to November 29, 2023, for various
13 violations of the California Labor Code. Defendant is a subsidiary of Lowell Farms Inc., a publicly traded,
14 vertically integrated cannabis company. Plaintiff was hired as a quality control employee, though Plaintiff
15 helped throughout different departments. Plaintiff worked from approximately 2019 to March 2023.
16 Plaintiff was paid on an hourly basis, and during her employment, Plaintiff and other class members
17 typically worked 5 days per workweek, and sometimes in excess of 8 hours each workday. Plaintiff was
18 classified as non-exempt during the entirety of her employment and was subjected to the same unlawful
19 labor practices as her coworkers.

20 4. Plaintiff’s claim for unpaid wages stems from Defendant’s failure to pay Plaintiff and the
21 putative class for off-the-clock work. Additionally, Plaintiff alleged that Defendant failed to maintain any
22 meal period and rest break policies. Furthermore, Plaintiff alleged that Defendant failed to reimburse
23 employees for their purchase of protective gear. In addition to the foregoing claims, Plaintiff brings
24 derivative claims against Defendant for waiting time penalties, wage statement violations, unfair business
25 practices, and PAGA.

26 5. Because of Defendant’s alleged violations of various provisions of the Labor Code, Plaintiff
27 filed this class and representative action on May 25, 2023, which, in its amended form, alleges that
28 Defendant systematically: (1) failed to pay minimum and straight time wages, (2) failed to pay overtime

compensation, (3) failed to provide meal periods and pay meal period premiums, (4) failed to authorize and permit rest periods and pay rest period premiums, (5) failed to indemnify necessary business expenses (6) failed to timely pay wages at termination, (7) failed to provide accurate itemized wage statements, (8) engaged in unfair business practices, and (9) violated civil penalty provisions recoverable as PAGA penalties pursuant to Labor Code section 2698 *et seq.*

6. Defendant ardently opposes the merits of this case and denies Plaintiff's factual allegations. Defendant maintained that it complied with all of its meal and rest period obligations. Defendant argued that everyone in fact had an opportunity to take uninterrupted meal and rest periods to which they were entitled, and any violation was the product of employees' choice to take a late or short meal or rest break. Defendant argued that Plaintiff and the putative class members were paid all wages owed, and that the alleged necessary business expenses were not reasonably incurred. As for off the clock work, Defendant maintained that employees were not required to wait in line to clock-in, COVID screenings lasted seconds and any time spent undergoing a screening or trying to clock-in was not reasonably compensable. Moreover, to the extent that Plaintiff received wage statements that were allegedly inaccurate, Defendant asserted that Plaintiff suffered no actual damage or harm as a result. (*See, e.g., Angeles v. U.S. Airways, Inc.* (N.D. Cal. Feb. 19, 2013) No. C 12-05860 CRB, 2013 WL 622032, at *10 ["A plaintiff must adequately plead an injury arising from an employer's failure to provide full and accurate wage statements, and the omission of the required information alone is not sufficient."].) With respect to Plaintiff's claim for waiting time penalties, Defendant alleged that their good-faith belief that they paid all wages precluded the imposition of waiting time penalties since Plaintiff could not prove that Defendant alleged failure to pay all final wages at the time of separation was "willful." (*See, e.g., Pedroza v. PetSmart, Inc.* (C.D. Cal. June 14, 2012) No. ED CV 11-298 GHK (DTBx), 2012 WL 9506073, *5.) For these reasons, Defendant claimed that they did not engage in any unfair business practices and denied liability under PAGA. Defendant also maintained that Plaintiff's claims were improper for class treatment.

DISCOVERY AND INVESTIGATION

7. Plaintiff and Defendant (the “Parties”) agreed to mediate the instant action and participated in private mediation with Jeffrey Ross, Esq., on November 29, 2023. To facilitate an effective mediation, the

1 Parties agreed on and adhered to a protocol for exchanging documents and information before the
2 mediation. Defendant produced a sample of time and pay records for Class Members, as well as policy
3 manuals in effect during the statutory period, and additional documents. Defendant also provided
4 information regarding the total number of current and former employees in their informal discovery
5 responses.

6 8. After reviewing the time and pay records, and policies related to Defendant's wage and hour
7 policies and practices, Plaintiff's expert analyzed the time and pay records, and Class Counsel was able
8 to evaluate the probability of class certification, success on the merits, and Defendant's maximum
9 monetary exposure for all claims. Class Counsel reviewed these records and prepared a damage analysis
10 prior to mediation. Class Counsel also investigated the applicable law regarding the claims and defenses
11 asserted in the litigation. Moreover, Class Counsel retained an expert to analyze the records produced.
12 Thus, Plaintiff and her counsel's familiarity with the facts of the case and the legal issues raised by the
13 pleadings allowed me to act intelligently in negotiating the settlement.

14 SETTLEMENT NEGOTIATIONS

15 9. On November 29, 2023, the Parties participated in private mediation with professional neutral
16 mediator Jeffrey Ross Esq. The settlement negotiations were at arm's length and, although conducted in a
17 professional manner, were adversarial. The Parties went into the mediation willing to explore the potential
18 for a settlement of the dispute, but each side was also prepared to litigate their position through trial and
19 appeal if a settlement had not been reached. After extensive negotiations and discussions regarding the
20 strengths and weaknesses of Plaintiff's claims and Defendant's defenses, a settlement was reached by the
21 Parties, the material terms of which are encompassed within the First Amended Joint Stipulation of Class
22 Action and PAGA Settlement ("Settlement"), a true and correct copy of which is attached as **Exhibit 1** to
23 this declaration.

24 10. To the best of my knowledge, I am not aware of any individual, representative, or class
25 action in this jurisdiction, or any other court or jurisdiction, asserting claims similar to those asserted
26 in this action on behalf of a class or group of individuals who would also be members of the putative
27 Class, as defined in this matter. I have come to this conclusion after a reasonable inquiry and review
28 of the California Labor and Workforce Development Agency's (the "LWDA") PAGA Case Search

1 website, this Court's case search website, and other information reasonably available online.
2 Additionally, Defendant have not indicated there is any related case pending. As such, I am unable
3 to name any case, the nature of any claims asserted in such case, or the definition of a class of parties
4 on whose behalf any action was brought that would overlap with the putative Class, as defined in
5 this matter, or would otherwise be extinguished or adversely affected by approval of this Settlement
6 Agreement.

7 11. In compliance with Labor Code section 2699, subdivision (l)(2), Class Counsel have
8 submitted the proposed Settlement Agreement to the California Labor and Workforce Development
9 Agency (the "LWDA"), and a true and correct copy of the email confirmation of submission is attached
10 hereto as **Exhibit 2**. A true and correct copy of Plaintiff's original notice of Labor Code violations sent
11 to Defendant and the LWDA is attached hereto as **Exhibit 3**. The PAGA administrative exhaustion
12 period has since expired, and the LWDA did not indicate its intent to investigate the allegations.

13 12. Class Members will not be required to submit a claim to receive their Settlement Payment.
14 (Settlement Agreement, ¶ 26(f).) Each Settlement Class Member will be paid a pro-rata share of the Net
15 Settlement Amount (less the PAGA Settlement to the LWDA), as calculated by the Settlement
16 Administrator. (*Id.* at ¶ 26(i).) Each Aggrieved Employee will be paid a pro-rata share of the Aggrieved
17 Employees' PAGA Settlement Payment, as calculated by the Settlement Administrator minus PAGA
18 Settlement Payments to the LWDA. (*Id.* at ¶ 26(j).)

19 13. The Settlement Agreement includes class representative Service Payment subject to Court
20 approval, and in exchange for a general release, Defendant will not object to Class Counsel's application
21 for an additional payment of up to \$7,500.00 to Plaintiff for service as a Class Representative. (*Id.* at ¶
22 26(n).) It is understood that the Service Payment is in addition to the individual Settlement Payment to
23 which Plaintiff is entitled to along with the other Class Members. (*Id.*)

24 14. The Settlement Agreement provides that Defendant will not oppose a fee application of up
25 to 33 1/3% (\$83,333.33) of the Gross Settlement Amount for Class Counsel's attorneys' fees, plus out-
26 of-pocket litigation costs not exceeding \$20,000.00. (*Id.* at ¶ 26(m).) At this time, the litigation costs
27 incurred by my office are \$18,587.61 and a true and correct copy of our litigation costs to the date is
28 attached hereto as **Exhibit 4**. These costs have included amounts for Plaintiff's PAGA notice to the

1 LWDA, the filing and administrative fees incurred in filing Plaintiff's initial complaint, One Legal fees
2 incurred in filing and serving various documents filed during the litigation, CourtCall fees incurred in
3 Court appearances, Plaintiff's mediation fee, and Plaintiff's expert fee for preparation for mediation.

4 15. The Parties selected Phoenix Settlement Administrators, based on a cost estimate of
5 \$8,750.00, and a true and correct copy of the settlement administration bid the Parties received is attached
6 hereto as **Exhibit 5**. In the event the amount of costs approved by the Court are less than the requested
7 amount, the difference will revert to Participating Class Members.

8 **THE PROPOSED SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE**

9 16. Class Counsel has conducted a thorough investigation into the facts of this case. Based on the
10 foregoing discovery and their own independent investigation and evaluation, Class Counsel is of the
11 opinion that the Settlement is fair, reasonable, and adequate. Furthermore, in light of all known facts and
12 circumstances, the risk of significant delay, trial risk, appellate risk, the defenses that could be asserted by
13 Defendant both to certification and on the merits, the settlement is in the best interests of the Class
14 Members.

15 17. Based on my analysis of the time, payroll, and additional records provided by Defendant,
16 Plaintiff's expert's analysis of the time and payroll records provided by Defendant, and information from
17 Plaintiff, I evaluated Defendant's maximum exposure. I took into account the risk of not having the
18 claims certified and the risk of not prevailing at trial, even if the claims are certified. According to the
19 data Defendant provided at the time of mediation, there are approximately 289 class members,
20 approximately 23,827 workweeks¹, and the average hourly rate is \$20.45 per hour. Based on
21 Defendant's payroll data, there are 173 former employees who fall within the 3-year statute of limitations
22 period for Labor Code § 203 penalties, and 143 employees that fall within the 1-year statute of limitations
23 period for penalties under Labor Code § 226. Additionally, there are 5,511 pay periods within the 1-year
24 statute of limitations period for PAGA penalties.

25
26
27 ¹ Following the Preliminary Approval Order, Phoenix Settlement Administrators processed the Class
28 Data and determined there are actually 282 Class Members who cumulatively worked 23,750.71
workweeks. (Declaration of Lluvia Islas of Phoenix Settlement Administrators in Support of Motion for
Final Approval of Class Action Settlement ("Islas Decl.") ¶ 13.)

Accordingly, I calculated Defendant's potential exposure as follows:

Claim	Relevant Time Period	Rate	Number of Violations	Amount
Unpaid Wages due to Off-the-Clock Work	23,827 workweeks /104,876 shifts	\$20.45 average rate of pay	8,740 unpaid hours assuming 61.2% at overtime	**\$26,380.30
Meal Period Violations	23,827 workweeks /104,876 shifts	\$20.45 average rate of pay	27,016 unique meal break violations	*\$138,119.30
Rest Break Violations	23,827 workweeks /104,876 shifts	\$20.45 average regular rate	100,123 rest break violations (assuming 100% violation rate for shifts least 3.5 hours)	***\$102,375.77
Failure to Reimburse Necessary Business Expenses	23,827 workweeks /104,876 shifts	\$10 per month, per class member starting March 2020	Based on 100% violation rate	**\$4,929.00
Labor Code §226	Based on approximately 143 class members within the 1-year statute of limitations	\$100 for each pay period/\$4,000 employee maximum	\$100 for each pay period for 143 employees during the 1-year statute of limitations	**\$54,395.00
Labor Code §203	Based on approximately 173 terminated class members within the 3-year statute of limitations	\$20.45 average regular rate	Violation rate based on analysis of records by expert	**\$81,161.70
PAGA	Based on approximately 5,511 pay periods within the 1-year statute of limitations	\$100 per pay period	\$100 for each pay period during the 1-year statute of limitations	**\$55,110.00
Total for Class Claims				\$462,471.07
*These figures are discounted based on a 25% probability of prevailing at class certification				

1 and on the merits.

2 **These figures are discounted based on a 10% probability of prevailing at class
3 certification and on the merits.

4 *** These figures are discounted based on a 5% probability of prevailing at class
5 certification and on the merits.

6 18. Plaintiff's unpaid wage claim is based on the fact that Defendant did not compensate Class
7 Members for all hours worked. In particular, Plaintiff alleged that Defendant regularly required the Class
8 Members to work off-the-clock without being compensated. This included approximately 5 minutes of
9 time spent in line waiting to clock-in, including, more recently, undergoing COVID screenings. Defendant
10 argued there was virtually no wait time as the screenings took seconds, and there were no lines to clock in.
11 Class Counsel and its data expert then estimated that, in light of the average regular and overtime rates of
12 the Class Members and the calculation that 61.2% of unpaid work should have been paid at the overtime
13 rate, Defendant failed to pay Class Members for approximately 8,740 hours. From this, Class Counsel
14 argued that Defendant has a potential liability of \$263,803.00 (straight and overtime rate combined).
15 Defendant argued that this would require a highly individualized inquiry and would not be well suited for
16 class treatment. Based on the Defendant's defenses and potential issues with certification based on the
17 individualized nature of this claim, the maximum liability was discounted by 90% ($\$263,803.00 \times 0.1$).

18 **Accordingly, I arrived at realistic damages estimate of \$26,380.30 for the off-the-clock claim.**

19 19. The meal period claim is based on the allegation that Defendant did not provide or maintain
20 sufficient meal period policies or practices, such that Class Members were not always permitted or able
21 to take meal periods and/or were sometimes subjected to late, short and/or interrupted meal periods
22 without compensation in lieu thereof. For example, Defendant's records show that 88.3% of shifts
23 between 10 and 12 hours did not have a recorded second meal period, resulting in unpaid premiums due
24 to missed second meal periods for shifts between 10 and 12 hours. The sample of time and corresponding
25 payroll records of the putative Class indicated that Defendant either failed to provide a meal period or
26 provided a short and/or interrupted meal period 27,016 times (29.1% unique meal break violations)
27 throughout the Class Period. Out of the total 29.1% unique meal break violation rate, more than half (or
28 54.8%) showed no recorded meal break for shifts between 5 and 6 hours, while only 4.6% of shifts greater

1 than 6 hours were without a recorded meal break. At mediation, Defendant argued that shifts between 5
2 and 6 hours should not be incorporated into the total violation rate because Defendant promulgated valid
3 meal break waivers which allowed an employee to waive (or relinquish the right to) a meal break when
4 not working more than 6 hours per shift. California Labor Code § 512(a). Defendant further argued that
5 even if we considered the total violation rate, Defendant paid a significant amount for meal break
6 premiums, totaling to \$271,164.59 in meal period premiums to the putative class/ aggrieved employees
7 since the beginning of 2019. Finally, Defendant contented that many meal breaks were taken and where
8 violations appear, it was the result of Class Members choosing to forego a meal period, to take it after the
9 end of the fifth hour, or to stop his or her break early to return to work. Thus, making this claim
10 individualized in nature. Given the significant amount paid in meal period premiums, the difficulty in
11 adequately establishing that the class members experience the alleged violations and at what frequency
12 in spite of a compliant meal break policy, the sample pay and time data records indicating a low violation
13 rate. Class Counsel and its data expert then calculated that, in light of these violations and the average
14 regular rate of the putative Class, Defendant had a potential liability of \$552,477.20 (27,016 unique
15 violations² * \$20.45 per hour). Defendant nonetheless contended that many meal breaks were taken
16 and, where a violation appears, it was a result of the Class Member voluntarily choosing to forego a meal
17 period, to take it after the end of the fifth hour, or to stop his or her break early to return to work. In light
18 of these defenses, and for purposes of settlement, Class Counsel discounted the potential liability by
19 75% (\$552,477.20 * 0.25). **My realistic damage estimate for the meal period claim is therefore**
20 **\$138,119.30.**

21 20. With respect to the rest break claim, Plaintiff alleges that during all times, Defendant regularly
22 required Plaintiff and class members to work in excess of four consecutive hours a day without Defendant
23 authorizing and permitting them to take a 10-minute, continuous and uninterrupted, rest period for every
24 four hours of work (or major fraction of four hours), or without compensating Plaintiff and Class
25

26 ² Unique meal break violations are defined as shifts with at least one of the following: (1) recorded 1st
27 meal break after the end of the 5th hour for shifts greater than 5 hours, (2) 1st meal break less than 30
28 minutes for shifts greater than 5 hours, (3) no 1st meal breaks for shifts greater than 5 hours, or (4) no 2nd
meal breaks for shifts greater than 10 hours.

Members for rest periods that were not authorized or permitted. The precise number of rest break violations could not be calculated, in light of the fact that Defendant did not document when Class Members took their required rest breaks. Therefore, in preparation for mediation, Class Counsel estimated that Defendant has a one-hundred percent violation rate for shifts of at least 3.5 hours. Class Counsel and its data expert then estimated that, in light of the estimated violation rate, 100,123 total rest breaks during the Class Period, and average regular rate of the putative Class, Defendant has a potential liability of \$2,047,515.35 (100,123 unique violations * \$20.45). Defendant, at the time of the mediation, provided a sample Employee Handbook, which contained a legally compliant rest break policy. Defendant did not require its workforce to record rest breaks, as it is not required under the labor code. Therefore, Plaintiff's counsel had to generally rely on Defendant's overall practices regarding breaks. Class counsel considered the relatively low facial violation of the meal breaks, which speaks generally to Defendant's policies and practices as it relates to breaks. Further, in mediation Defendant contended that all employees are provided with the opportunity to take uninterrupted rest breaks. Additionally, Defendant contended that the rest periods do not have to be recorded, that Class Members voluntarily chose to forego some rest breaks and, that this claim is individualized in nature. To adequately establish rest break violations, and at what frequency, most of the Class Members would need to be interviewed in a systematic fashion and their testimony cataloged in way sufficiently meaningful to permit the submission of summary evidence at the time for class certification and trial, such as via surveys. Alternatively, direct testimony would have been required from as many of the approximately 289 class members as could be obtained. Based on the facially compliant rest break policy, the low violation rate of the meal breaks, and the individualized nature of this claim, Class counsel discounted the potential liability by 95% to arrive at a more realistic damage estimate. In light of these defenses, and for purposes of settlement, Class Counsel discounted the potential liability by 95% (\$2,047,515.35 * 0.05). **My realistic damage estimate for the rest break claim is therefore \$102,375.77.**

21. With respect to Plaintiff's claim for unreimbursed business expenses, Plaintiff purchased facial masks and gloves. Defendant did not reimburse employees for these expenses. The precise value of all necessary business expenses Class Members incurred could not be calculated, in light of the fact that Defendant did not document the actual or average amount Class Members spent on protective gear.

1 Therefore, in preparation for mediation, Class Counsel estimated that Defendant should have reimbursed
2 each Class Member approximately \$10.00 per month starting in March 2020. Class Counsel and its data
3 expert then estimated that, in light of the estimated maximum reimbursement and total number of months
4 worked by each Class Member during the Class Period, Defendant had a potential liability of \$49,290.00.
5 Defendant nonetheless contended that it complied with all of its reimbursement obligations, and further,
6 that the reimbursement claim could be difficult to certify. In light of these defenses, and for purposes of
7 settlement, Class Counsel discounted the potential liability by 90% ($\$49,290.00 \times 0.1$). **My realistic**
8 **damage estimate for the unreimbursed expenses claim is therefore \$4,929.00.**

9 22. The derivative penalties, as indicated above, were calculated by taking into account the above
10 claims, defenses, maximum liabilities and reasonable discounts; their respective formulae for calculation
11 and statute of limitations; and the total number of Class Members who fall within their respective statute
12 of limitations. On these bases, the maximum potential liability of Defendant for waiting time penalties is
13 \$811,617.00 based on approximately 173 terminated class members during the 3-year statute,
14 \$543,950.00 for inaccurate wage statements based on approximately 143 class members within the 1-
15 year statute, and \$551,100.00 for PAGA penalties based on the Court assessing a \$100 penalty for each
16 violation, I believe it would be unrealistic to expect the Court to award the full \$1,906,667.00 in penalties
17 given Defendant's defenses and the discretionary nature of penalties. Defendant nonetheless contended
18 that, in light of its defenses, the discretionary nature of statutory penalties, and the potential Due Process
19 concerns that might arise from a punitive award, it would be unrealistic to expect the Court to award the
20 full \$1,906,667.00. For purposes of reaching a reasonable settlement, Class Counsel agreed to discount
21 this amount by 90% ($1,906,667.00 \times 0.1$). **My realistic damage estimate for all derivative penalties is**
22 **therefore \$190,666.70.**

23 23. Using these estimated figures, Plaintiff predicted that the realistic maximum recovery
24 for all claims, including penalties, would be \$462,471.07. This means that the \$250,000.00
25 settlement figure represents approximately 54.05% of the realistic maximum recovery. This is an
26 excellent result for the Class. Indeed, because of the proposed Settlement, class members will receive
27 timely, guaranteed relief and will avoid the risk of an unfavorable judgment.
28

1 24. While Plaintiff is confident in the merits of her claims, a legitimate controversy exists as to
2 each cause of action. Plaintiff also recognizes that proving the amount of wages due to each Class
3 Member would be an expensive, time-consuming, and uncertain proposition.

4 25. I am also of the opinion that because the issues here are fairly contested, there is a possibility
5 of the Court not awarding PAGA penalties even if Plaintiff prevailed on the merits.

6 26. The Settlement obviates the significant risk that this Court may deny certification of all or
7 some of Plaintiff's claims. Furthermore, even if Plaintiff was able to pursue the claims on a class-wide
8 basis and thereafter obtained certification of all or some of the claims, continued litigation would be
9 expensive, involving a trial and possible appeals, and would substantially delay and reduce any recovery
10 by the Class Members.

11 27. This Settlement avoids the risks and the accompanying expense of further litigation.
12 Although the Parties had engaged in a significant amount of investigation, informal discovery and class-
13 wide data analysis, the Parties had not yet completed formal written discovery. Moreover, preparation
14 for class certification and a trial remained for the Parties as well as the prospect of appeals in the wake of
15 a disputed class certification ruling for Plaintiff and/or adverse summary judgment ruling. Had the Court
16 certified any claims, Defendant could move to decertify the claims. As a result, the Parties would incur
17 considerably more attorneys' fees and costs through trial.

18 28. **The Net Settlement Amount** currently available to pay Settlement Class Members **is**
19 **estimated to be \$124,329.06.**³ The Settlement Administrator has reviewed the Class Data and
20 determined there are 281 **Class Members** who cumulatively worked **23,750.71 workweeks**, and **142**
21 **Aggrieved Employees** who cumulatively worked **3,816.86 pay periods**. (Declaration of Lluvia Islas of
22 Phoenix Settlement Administrators in Support of Motion for Final Approval of Class Action Settlement
23 ["Islas Decl."], ¶¶ 13, 14.) As a result, **each Participating Settlement Class Member** is eligible to
24 receive **an average benefit of approximately \$433.56**, subject to wage-related tax withholdings, and
25 **each Aggrieved Employee** is eligible to receive **an average benefit of approximately \$17.61**.

26
27 ³ The Net Settlement Amount is \$250,000.00 minus: \$83,333.33 for Class Counsel attorneys' fees,
28 \$18,587.61 for Class Counsel costs, \$7,500.00 for the Service Payment to the named Plaintiff, \$10,000.00
for the PAGA Amount, and \$8,750.00 for the requested Settlement Administration Costs.

1 Considering Class Members' average hourly rate is \$20.45, the **average Class benefit is approximately**
2 **21 hours of work.** The amounts to Class Members and Aggrieved Employees will vary based on the
3 duration of employment during the Class Period. (Settlement Agreement, ¶¶ 26(i)–(j).) Thus, Class
4 Members and Aggrieved Employees who worked longer for Defendant during the Class Period will
5 receive a benefit greater than the average amount. According to Pheonix, the *highest* individual
6 Settlement Class Payment share to be paid is approximately \$1,208.36 and the *lowest* individual
7 Settlement Class Payment share to be paid is approximately \$0.72; and the *highest* individual PAGA
8 Settlement Payment share to be paid is approximately \$26.11 and the *lowest* individual PAGA Settlement
9 Payment share to be paid is approximately \$0.47. (Islas Decl., ¶¶ 13,14.)

10 29. The proposed gross settlement of \$250,000.00 therefore represents a substantial recovery
11 when compared to Plaintiff's reasonably forecasted recovery. When considering the risks of litigation,
12 the uncertainties involved in achieving class certification, the burdens of proof necessary to establish
13 liability, the probability of appeal of a favorable judgment, it is clear that the settlement amount of
14 \$250,000.00 is within the "ballpark" of reasonableness, and that final approval is appropriate.

15 THE SERVICE PAYMENT TO PLAINTIFF ARE REASONABLE

16 30. Throughout this litigation, Plaintiff, who was a former employee of Defendant, has cooperated
17 immensely with my office and has taken many actions to protect the interests of the class. Plaintiff provided
18 valuable information regarding her hours worked, and what duties were performed during those hours.
19 Plaintiff also provided information regarding meal and rest periods taken and missed by her and the class.
20 Plaintiff participated in decisions concerning this action, assisted in preparation for the mediations, and
21 provided my office with the information of potential witnesses in this action. Before this case was filed,
22 Plaintiff worked with my office to determine the viability of her claims. She also provided information and
23 documents relating to her employment with Defendant. The information and documentation provided by
24 Plaintiff was instrumental in establishing the wage and hour violations alleged in this action, and the
25 recovery provided for in the settlement agreement would have been impossible to obtain without her
26 participation.

1 31. At the same time, Plaintiff faced many risks in adding herself as the class representatives in
2 this matter. Plaintiff faced actual risks with her future employment, as putting herself on public record
3 in an employment lawsuit could also very well affect her likelihood for future employment.

4 32. In turn, class members will now have the opportunity to participate in a settlement,
5 reimbursing them for wage violations they may have never known about on their own or been willing to
6 pursue on their own. If these class members would have each tried to pursue their legal remedies on their
7 own, that would have resulted in each having to expend a significant amount of their own monetary
8 resources and time, which were obviated by Plaintiff putting herself on the line on behalf of these other
9 Class Members.

10 33. In the final analysis, this class action would not have been possible without the aid of Plaintiff,
11 who put her own time and effort into this litigation and placed herself at risk for the sake of the class
12 members. The requested service payment for Plaintiff for her service as the class representatives is a
13 relatively small amount of money considering the time and effort put into the litigation and in
14 comparison, to enhancements granted in other class actions. The requested service payments are therefore
15 reasonable to compensate Plaintiff for her active participation in this lawsuit, in addition to her general
16 release of claims, both known and unknown, and waiver of section 1542 rights.

17 MY EXPERIENCE AND QUALIFICATIONS

18 34. I received a B.A. in History in 1998 from UCLA, and my J.D. from Loyola Marymount Law
19 School in 2006. I became an Active Member of the State Bar of California in June 2007 and have been
20 an Active Member in good standing continuously since then. I have been selected to Super Lawyers each
21 year from 2019 to 2023.

22 35. I co-founded Moon & Yang, APC in March 2010 – now Moon Law Group, PC. My practice
23 is focused exclusively on advocating for the rights of employees in wage and hour litigation, almost
24 entirely in class actions.

25 36. For the past decade, I have built my practice to have an emphasis on employment and related
26 civil litigation cases and have both prosecuted and defended employment-related litigation cases. I have
27 been heavily, successfully, and continuously involved in active litigation and trial work, and have
28

1 conducted bench and jury trials on behalf of both employees and employers in wage and hour cases. My
2 current billing rate is \$900.00 per hour.

3 37. I am experienced in prosecuting and defending employment matters, particularly class
4 actions as well as PAGA representative actions. My firm has focused a substantial percentage of its
5 practice on wage, hour, and working conditions violations. In addition to the present case, I am also class
6 counsel for other wage and hour class action lawsuits pending in various counties throughout California,
7 including in state and federal courts. The following is a list of some of our recent class action settlements
8 that have received preliminary and final approval: *Aparicio v. Lineage Logistics, LLC* (LASC No.
9 BC722764) (class size approx. 155; lead counsel); *Black v. Mission Healthcare Servs., Inc.* (LASC No.
10 19STCV04602) (class size approx. 1,000; lead counsel); *Campa v. Bloomingdeals, Inc.* (LASC No.
11 BC700366) (class size approx. 1,500; lead counsel); *Garcia v. Comfy U.S.A. Apparel, Inc.* (LASC No.
12 BC709630) (class size approx. 210; lead counsel); *Gomez v. H Mart Cos., Inc.* (LASC No. BC671525)
13 (class size approx. 2,500; co-counsel); *Jones v. Citiguard, Inc.* (LASC No. BC664890) (class size approx.
14 587; lead counsel); *Jones v. Fitness Alliance, LLC* (Riverside No. PSC1404079) (class size approx.
15 1,000; lead counsel); *Lagos v. ThyssenKrupp Elevator Corp.* (LASC No. BC682972) (\$750,000 for 79
16 class members; lead counsel); *Mark Brulee et al. v. DAL Global Servs., LLC* (C.D. Cal. Dec. 20, 2018,
17 No. CV 17-6433 JVS(JCGx)) 2018 WL 6616659, at *10 (class size approx. 2,650; lead counsel) (in
18 approving my \$650 hourly rate in that case, the Court found: “Class Counsel’s declarations show that the
19 attorneys are experienced and successful litigators. Other courts have approved the attorneys’ current
20 rates for the Moon & Yang, APC attorneys”); *Martinez v. Bail Hotline Bail Bonds, Inc.* (LASC No.
21 BC700131) (class size approx. 173; lead counsel); *Montoya v. Golden 1 Credit Union* (Sacramento No.
22 34-2018-00228252) (class size approx. 1,900; lead counsel); *Onofre v. Caitac Garment Processing, Inc.*
23 (LASC No. BC702283) (class size approx. 750; lead counsel); *Rodriguez v. Rossmoyne, Inc.* (LASC No.
24 BC699137) (class size approx. 220; lead counsel); *Sison v. Cha Hollywood Med. Ctr., L.P.* (LASC No.
25 BC6441 29) (class size approx. 2,100; co-counsel); *Slaughter v. ACA Sec. Stems, LP* (LASC No.
26 BC699137) (class size approx. 300; lead counsel); *Taylor v. Sherman’s Delicatessen & Bakery, LLC*
27 (LASC No. BC722765) (class size approx. 515; lead counsel); *Vargas v. AMS Paving, Inc.* (LASC No.
28 BC722767) (case size approx. 260; lead counsel); *Vertti v. Bagcraft Papercon III, LLC* (LASC No.

1 19STCV12729) (class size approx. 260; lead counsel); and *Wallick v. Campbell Soup Supply Co., LLC*
2 (San Joaquin No. STK-CV-UOE-2021-0000865) (class size 435; lead counsel).

3 LILIT TER-ASTVATSATRYAN'S EXPERIENCE AND QUALIFICATIONS

4 38. Lilit Ter-Astvatsatryan is a Senior Associate attorney at Moon Law Group, PC. Since she
5 was admitted to the California Bar, her practice has exclusively focused on labor and employment class
6 action lawsuits involving California and federal labor laws. Ms. Ter-Astvatsatryan's current billing rate is
7 \$700.00 per hour

8 39. Ms. Ter-Astvatsatryan received her Juris Doctorate from the University of California,
9 Hastings College of the Law in 2017, where she served as a Symposium Editor for the Hastings Race
10 and Poverty Law Journal and a Teaching Assistant to the Legal Research & Writing and Legal Analysis
11 programs. In law school, she served as a Judicial Extern to the Honorable Patrick J. Walsh of the United
12 States District Court, Central District of California.

13 40. Ms. Ter-Astvatsatryan received her undergraduate degree in 2014 from the University of
14 California, Los Angeles with a Bachelor of Arts degree in Anthropology and a minor in English
15 Literature.

16 41. As an associate working solely on wage and hour class action cases, she has been involved
17 in all aspects of complex litigation, including assisting in class certification motions in the following
18 cases:

- 19 (a) *Macario Gonzalez v. Metcon TI, Inc., Alameda Superior Court, Case No.*
20 *RG19015589 [after class certification motion was filed, the parties attended*
21 *mediation and ultimately resolved the matter on a class wide basis];*
- 22 (b) *Miguel Angel Lopez Cuadras v. R.C. Wendt Painting, Inc., Los Angeles*
23 *Superior Court, Case No. BC705964 [after class certification motion was*
24 *entirely briefed, the parties attended mediation and ultimately resolved the*
25 *matter on class wide basis];*

26 42. Additionally, the following is a list of cases where she briefed preliminary and final approval
27 motions of class action settlements that were ultimately granted by each respective Court:

- 28 (a) *Ana Rose De Jesus, et al. v. Philippine National Bank, et al, Los Angeles*

Superior Court, Case No. BC673024;

(b) *Andres De La Riva Sotelo v. Belfor USA Group, Inc.*, Los Angeles Superior Court, Case No. BC688895;

(c) *Carlos Vertti v. Bagcraft Papercon III, LLC, et al.*, Los Angeles Superior Court, Case No. 19STCV12729;

(d) *Christopher Thurman v. Wanton Group SP, LLC, et al*, Los Angeles Superior Court, Case No. 19STCV18772;

(e) *Francisca Velasco v. Paige, LLC*, Los Angeles Superior Court, Case No. 19STCV12114;

(f) *Jose Montoya v. The Golden 1 Credit Union*, Sacramento Superior Court, Case No. 34-2018-00228252

(g) *Malu Vaesau v. Double AA Corporation*, San Francisco Superior Court, Case No. CGC-19-572598

(h) *Tyler Jones v. Citiguard, Inc.*, Los Angeles Superior Court, Case No. BC664890;

(i) *Venancio Miranda v. Maximum Nursery, Inc.*, Santa Barbara Superior Court, Case No. 19STCV06041;

43. In addition to her work on complex litigation matters and class actions, she has authored published articles on California labor laws, including:

(a) Lilit Ter-Astvatsatryan and H. Scott Leviant, *Where Troester Stops Not Even Troester Knows*, Daily Journal (Los Angeles & San Francisco), July 2, 2019;

(b) Lilit Ter-Astvatsatryan and H. Scott Leviant, *Unaccounted Time: Reading the Tea Leaves of Troester*, Daily Journal (Los Angeles & San Francisco), September 12, 2018.

44. Ms. Ter-Astvatsatryan has been named “Rising Star” by Super Lawyers for 2022 and 2023.

HOLLY WILLIAMS’ EXPERIENCE AND QUALIFICATIONS

45. Holly Williams is an associate attorney at Moon Law Group, PC and represents employees in

1 all aspects of employment litigation, including wage-and-hour class and representative actions involving
2 claims related to overtime and minimum wages, meal and rest break violations, improper wage
3 statements, the California Private Attorneys General Act, and unfair business practices.

4 46. Ms. Williams received a Bachelor of Science in Environmental Science and
5 Management from the University of California, Davis, and a Juris Doctorate from Chapman
6 University Dale E. Fowler School of Law.

7 47. Ms. Williams became an Active Member of the State Bar of California in December
8 2023 and has been an Active Member in good standing continuously since. Ms. Williams is also
9 a member in good standing with the United States District Court for the Central and Eastern
10 District. Ms. Williams' billing rate is \$350.00 per hour.

11 CLASS COUNSEL'S EXPERIENCE AND QUALIFICATIONS

12 48. As demonstrated by the foregoing, my office is qualified to handle this litigation because we
13 are experienced in litigating Labor Code and Wage Order violations in individual, class, and
14 representative actions. The attorneys at my office have been appointed as lead or co-lead counsel in
15 numerous wage and hour class actions in state and federal courts by way of motion for settlement
16 approval. Including myself, Moon Law Group, PC is comprised of twenty-eight attorneys, all of whom
17 are actively and continuously practicing employment litigation, representing almost entirely employee-
18 plaintiffs, in both individual and class actions, in this Superior Court and other Superior Courts
19 throughout the State, in the Courts of Appeal, and in various federal courts. The attorneys at my firm
20 have a high level of knowledge and experience in areas of wage and hour class actions and labor and
21 employment law generally.

22 49. Moon Law Group, PC has been engaged in the practice of employment and labor law for
23 over a decade, and presently focuses exclusively on plaintiffs' employment law. The firm and its lawyers
24 have tried both bench and jury trials (representing both plaintiffs and defendants) relating to employment
25 matters. As noted above, Moon Law Group, PC has been appointed lead or co-lead class counsel in
26 federal and state courts in California. Also, the firm and its lawyers have successfully settled hundreds of
27 cases during that time, including wage and hour class actions.

50. The experience of myself and other attorneys of Moon Law Group, PC provided herein is helpful in assessing the reasonableness of settlements, such as the one at issue here, and from this experience Class Counsel concluded that this litigation could not have been settled on better terms than provided under the proposed Settlement Agreement.

51. To my knowledge, I do not have any conflicts of interest with the Class or with the Class Representatives, and I am not related to the Class Representatives. I respectfully submit that the attorneys of Moon Law Group, PC, myself included, are well suited to act as Class Counsel in this action, and we have and will continue to vigorously represent the interests of the Class. We respectfully request our appointment as Class Counsel be confirmed.

THE REQUEST FOR ATTORNEYS' FEES AND COSTS IS REASONABLE

52. The Settlement Agreement provides for attorneys' fees payable to Class Counsel in an amount up to 33 1/3% of the Gross Settlement Amount (\$83,333.33), plus reimbursement for actual costs and expenses not to exceed \$20,000.00. (Settlement Agreement, ¶ 26(m).)

53. Class Counsel seek a total award of \$83,333.33 for reasonable attorneys' fees. The proposed award of attorneys' fees to Class Counsel can be justified under either the lodestar method or percentage recovery method. Class Counsel, however, base the requested award of fees on the percentage method.

54. The total current lodestar for Moon Law Group, PC is not less than the following:

Attorney	Rate	Hours	Lodestar
Kane Moon	\$900.00	37.3	\$ 33,570.00
Lilit Ter-Astvatsatryan	\$700.00	62.2	\$ 43,540.00
Holly Williams	\$350.00	39.8	\$ 13,930.00
	Total:	139.3	\$91,040.00

55. There are additional hours devoted to this litigation by the attorneys in my office as well as our legal staff that are not reflected in the foregoing lodestar, including additional time that will be spent to obtain and monitor final approval of the Settlement and requested awards, oversee the settlement administration process and distribution of funds, respond to Class Member inquiries, and communicate with Plaintiff regarding the case. I estimate that my office will commit no less than 10 hours, although

likely more time, to these additional tasks, which are hours not included in the foregoing lodestar total. My office also bears the risk of taking whatever actions are necessary if Defendant fails to pay.

56. We can provide complete, detailed billing records should the Court request them, but in such event would request the opportunity to redact attorney-client, attorney work product, and any other privileged information. As discussed below, a positive multiplier is warranted in this case, although not requested.

57. The lodestar method requires the Court to determine a “touchstone” or lodestar figure based on a compilation of time spent and reasonable hourly compensation for each attorney. (*Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 579.) Generally, hours are reasonable if they were “reasonably expended in pursuit of the ultimate result achieved in the same manner that an attorney traditionally is compensated by a fee-paying client.” (*Hensley v. Eckerhart* (1983) 461 U.S. 424, 431.) The Court “should defer to the winning lawyer’s professional judgment as to how much time he was required to spend on the case.” (*Moreno v. City of Sacramento* (9th Cir. 2008) 534 F.3d 1106, 1112.)

(a) Number of Hours Expended by My Office is Reasonable: As set forth in this declaration, my office expended a significant amount of time litigating the case to achieve an excellent result on behalf of the Class. To date, my office has spent no less than approximately 139.3 hours litigating this case. In the event the Court grants final settlement approval, my office will spend additional time related to this litigation, including monitoring administration of the settlement after final approval, committing no less, although likely more, than 10 hours to those additional tasks. The number of hours that my office has and will devote to this case is reasonable. (See, e.g., *Ketchum III v. Moses* (2001) 24 Cal.4th 1122, 1133 [fee award should be fully compensatory and, “absent circumstances rendering the award unjust, an attorney fee award should ordinarily include compensation for *all* the hours *reasonably spent*”] [emphasis in original]; *Serrano v. Unruh* (1982) 32 Cal. 3d 621, 624 [counsel are entitled to compensation for all hours reasonably expended]; *Hensley, supra*, 461 U.S. at pp. 435–36; *Caudle v. Bristow Optical Co.* (9th Cir. 2000) 224 F.3d 1014, 1028; *Cabrales v. Cty. of L.A.* (9th Cir. 1991) 935 F.2d 1050, 1052–53.) As discussed above, my office was required to

1 expend considerable time and resources to investigate, litigate, and successfully settle these
2 claims for the benefit of the Class.

3 (b) Class Counsel's Hourly Rates Are Reasonable: “[T]he established standard when
4 determining a reasonable hourly rate is the ‘rate prevailing in the community for similar work
5 performed by attorneys of comparable skill, experience, and reputation.’” (*Camacho v.*
6 *Bridgeport Fin., Inc.* (9th Cir. 2008) 523 F.3d 973, 979 [quoting *Barjon v. Dalton* (9th Cir.
7 1997) 132 F.3d 496, 502].) This rule applies even when, as here, the attorneys representing a
8 named plaintiff perform the work on a contingent fee basis. (See, e.g., *Robertson v. Fleetwood*
9 *Travel Trailers of Cal., Inc.* (2006) 144 Cal.App.4th 785, 818; *Blanchard v. Bergeron* (1989)
10 489 U.S. 87, 96.) These hourly rates are reasonable in light of the significant experience,
11 expertise, and skill my firm brought to this action. Rates are reasonable if they are “within
12 the range of reasonable rates charged by and judicially awarded comparable attorneys for
13 comparable work.” (*Children’s Hosp. & Med. Ctr. v. Bonta* (2002) 97 Cal.App.4th 740, 783.)
14 The trial court may “find hourly rates reasonable based on evidence of other courts approving
15 similar rates.” (*Parkinson v. Hyundai Motor Am.* (C.D. Cal. 2010) 796 F.Supp.2d 1160,
16 1172.) The attorneys at Moon Law Group, PC are experienced litigators who specialize in
17 employment law, with a substantial wage and hour class action practice. These rates are not
18 opposed or challenged, and have been approved by other courts, as explained *supra*.

19 (c) Application of Positive Multiplier Is Warranted, but not requested: Once this lodestar figure
20 has been determined, the Court may take into account other “enhancement” factors to adjust
21 the lodestar award. As the California Supreme Court has held, contingency fees should be
22 higher than fees for the same legal services paid concurrently with the provision of the
23 services. (*Ketchum III, supra*, 24 Cal.4th at pp. 1132–33; see also *Fischel v. Equitable Life*
24 *Assurance Soc’y of the U.S.* (9th Cir. 2002) 307 F.3d 997, 1008.) “A lawyer who both bears
25 the risk of not being paid and provides legal services is not receiving the fair market value of
26 his work if he is paid only for the second of these functions. If he is paid no more, competent
27 counsel will be reluctant to accept fee award cases.” (*Ketchum*, 24 Cal.4th at p. 1133.)
28 Application of that rule is particularly appropriate where the case is brought to redress

important rights of vulnerable persons. (*Id.*) A risk enhancement is “earned compensation; unlike a windfall, it is neither unexpected nor fortuitous. Rather, it is intended to approximate market-level compensation for such services, which typically includes a premium for the risk of nonpayment or delay in payment of attorney fees.” (*Id.* at p. 1138.) Multipliers normally range from two to four or higher. (*Wershba v. Apple Comp., Inc.* (2001) 91 Cal.App.4th 224, 255; *see also Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1051, n.6 [“most” common fund cases apply a multiplier of 1.0–4.0]; *Been v. O.K. Indus., Inc.* (E.D. Okla. 2011, No. CIV–02–285–RAW) 2011 WL 4478766, *11 [citing a study “reporting [an] average multiplier of 3.89 in survey of 1,120 class action cases” and finding that a multiplier of 1.22 would be “per se reasonable”].) Factors considered in determining whether a lodestar multiplier is appropriate generally include: (1) the risks presented by the contingent nature of the case; (2) the novelty and difficulty of the questions involved and the skill requisite to perform the legal service properly; (3) the nature of the opposition; (4) the preclusion of other employment by the attorney due to acceptance of the case; and (5) the result obtained and the importance of the lawsuit to the public. (*Serrano v. Ivy Baker Priest* (1977) 20 Cal. 3d 25, 48–49 [hereinafter “*Serrano III*”].) All these factors favor approval of a multiplier along the lines of those approved in the cases above. To date, my office has incurred \$91,040.00 in attorneys’ lodestar fees and has advanced \$18,587.61 in actual litigation costs and expenses. After reimbursement of our reasonable out-of-pocket expenses, the fee request to my law firm represents a negative multiplier of the lodestar fees incurred in prosecuting this case.

- 1) *Risks presented by the contingent nature of the case:* The major consideration in determining the necessity of a multiplier is the contingent nature of the award. (*Ketchum III, supra*, 24 Cal.4th at pp. 1132–33; *see also Fischel, supra*, 307 F.3d at p. 1008.) In determining what multiplier to award, the probability of success must be assessed *ex ante*, that is, as viewed from the outset of the case. (*See, e.g., Harman v. Lyphomed, Inc.* (7th Cir. 1991) 945 F.2d 969, 976.) Further, the possibility of no recovery is only one of the uncertainties involved in taking on such a case. Other uncertainties are the amount that will be recovered, uncertainty as to the cost, both

1 in effort and expenses, and uncertainty about how much time will pass before the
2 recovery is obtained. (See, e.g., *Ketchum*, 24 Ca1.4th at pp. 1132–1133, 1138.) My
3 office’s outlay of time and money in this case has been significant. In all, my office
4 has spent approximately 139.3 hours to date investigating, analyzing, researching,
5 litigating, and negotiating a favorable resolution of this case, in addition to a
6 minimum of 10 hours that will be spent following final settlement approval,
7 including to monitor settlement administration and distribution of funds, and has
8 incurred \$18,587.61 in necessary litigation expenses. Unsettled legal issues also
9 presented risks to the claims in this case. My office bore the substantial risk of an
10 uncertain outcome in agreeing to prosecute this class action case on a contingency
11 fee basis, as well as the difficulties and delay inherent in such litigation. There was
12 the prospect of the enormous cost inherent in class action litigation, as well as
13 extensive negotiations with corporate Defendants who vigorously opposed
14 Plaintiffs’ claims and resisted settlement from the outset. My office risked significant
15 time and expense to ensure a successful settlement. As detailed *supra*, the risks
16 presented in this case were significant, and Defendants’ defenses posed serious risks
17 to the success of this matter at the certification level and on the merits. These risks
18 illustrate the recognition by the California Supreme Court in *Ketchum III* that, if
19 multipliers are not awarded to class counsel in the cases that are successfully settled,
20 counsel’s fees are essentially being cut because the lodestar in and of itself would
21 not account for contingent risk.

- 22 2) *Difficulty of the questions involved and the skill required*: My office is comprised of
23 skilled attorneys who have had success in wage and hour class actions. This case
24 required experienced and competent lawyers, as well as expertise in the issues
25 presented herein. To obtain such an attorney on the free market, a client must pay
26 the market rate. While most class actions are complex and involve some risk, my
27 office had to overcome several major obstacles in prosecuting this case, as explained
28

1 *supra*. Defendants' contentions underscore the risk of prevailing at class certification
2 and trial, and any of these obstacles could have prevented recovery completely.

3 3) *Vigorous opposition by Defendants*: Counsel who skillfully overcome difficult
4 issues or uncompromising opposition in the litigation are entitled to a fee
5 enhancement. (*Serrano III, supra*, 20 Cal.3d at 49.) Here, before eventually agreeing
6 to a settlement, Defendants asserted a vigorous defense. The settlement effort was
7 protracted, with extended discussions and instances in which it appeared the Parties
8 would not reach a settlement. Further, proceeding to trial would have added years to
9 the resolution of this case because of the difficult legal and factual issues raised and
10 the likelihood of appeals. Indeed, even if Plaintiffs prevailed at class certification and
11 trial, Defendants would likely have mounted a decertification motion and/or appeal.

12 4) *The extent to which litigation precluded other employment would justify an*
13 *enhancement*: There are only so many cases that my office can take at any one time.
14 Consequently, there were other meritorious cases presented to my office that would
15 have generated substantial fees, but were declined, during the pendency of this action
16 in order to devote the attention necessary to achieve favorable results.

17 5) *The result obtained would justify an enhancement*: The results obtained in litigation
18 can properly be used to enhance a lodestar calculation where an exceptional effort
19 produced excellent results. (*Graham, supra*, 34 Cal.4th at p. 582.) Here, the final
20 gross settlement figure of \$250,000.00 represents approximately 54.05% of the
21 maximum realistic potential liability of the claims. Considered against the size of the
22 Class, the risks posed by continued litigation, and the importance of the employment
23 rights and a speedy recovery, the relief provided under the Settlement Agreement
24 represents a very strong result for the Class.

25 58. I am informed and believe that the fee and costs provisions under the Settlement Agreement
26 are reasonable. The fee percentage requested is less than that charged by my office for most employment
27 cases. My office invested significant time and resources into the case, with payment deferred to the end
28 of the case, and then, of course, contingent on the outcome.

1 59. The risk to my office has been very significant, particularly if we would not be successful in
2 pursuing this class action. In that case, we would have been left with no compensation for all the time
3 taken in litigating this case. Indeed, I have taken on a number of class action cases that have resulted in
4 thousands of attorney hours being expended and ultimately having the defendant company going
5 bankrupt. The contingent risk in these types of cases is very real and occurs regularly. Furthermore, we
6 were precluded from focusing on, or taking on, other cases which could have resulted in a larger, and less
7 risky, monetary gain.

8 60. Because most individuals cannot afford to pay for representation in litigation on an hourly
9 basis, Moon Law Group, PC represents virtually all its employment law clients on a contingency fee
10 basis, including Plaintiff in this matter. Pursuant to this arrangement, we are not compensated for our
11 time unless we prevail at trial or successfully settle our clients' cases. Because Moon Law Group, PC is
12 taking the risk that we will not be reimbursed for our time unless our client settles or wins his or her case,
13 we cannot afford to represent an individual employee on a contingency basis if, at the end of our
14 representation, all we are to receive is our regular hourly rate for services. It is essential that we recover
15 more than our regular hourly rate when we win if we are to remain in practice so as to be able to continue
16 representing other individuals in civil rights employment disputes.

17 61. As of the drafting of this motion, my office has incurred \$18,587.61 in expenses litigating
18 this action. These expenses were reasonably necessary to the litigation and were actually incurred by my
19 office. Moreover, these expenses are below the \$20,000.00 maximum amount allowed in the Settlement
20 Agreement. In the event the amount of costs approved by the Court are less than the requested amount,
21 the difference will revert to Participating Class Members.

22 62. My office invested significant time and resources into the case, with payment deferred to the
23 end of the case, and then, of course, contingent on the outcome. My office's efforts have included, and
24 will include following a final approval order, without limitation, the following:

- 25 (a) Numerous interviews with the Plaintiff and review of documents provided by her;
26 (b) Legal research and investigation regarding Defendant's practices at numerous points in the
27 litigation;
28

- 1 (c) Preparation of multiple drafts of the original and first amended class action complaint, and
2 finalization and filing of said complaints;
- 3 (d) Extensive “meet and confer” correspondence and discussions with Defendant’s counsel to
4 obtain relevant documents and information through informal discovery;
- 5 (e) Contacting witnesses;
- 6 (f) Analysis of the audit results and preparation of a damages model with the aid of a statistics
7 expert;
- 8 (g) Research and preparation of Plaintiff’s mediation brief;
- 9 (h) Attendance at the full-day mediation;
- 10 (i) Drafting, negotiating, and reviewing multiple drafts of the Settlement Agreement and
11 attachment thereto;
- 12 (j) Drafting and preparation of the motion for preliminary approval of the Settlement
13 Agreement and accompanying filings;
- 14 (k) Conferring with Defendant’s counsel, and with the Settlement Administrator regarding the
15 Notice process;
- 16 (l) Drafting and preparation of the motion for final approval and accompanying filings;
- 17 (m) Monitoring final approval of the Settlement Agreement and requested awards;
- 18 (n) Overseeing the settlement administration process and distribution of funds;
- 19 (o) Responding to Class Member inquiries; and
- 20 (p) Communicating with Plaintiff regarding the case.

21 63. Through the efforts of my office, and Plaintiff in this case, a fair and reasonable resolution
22 has been reached that includes a non-reversionary settlement payment by Defendant of \$250,000.00 to
23 compensate Settlement Class Members for Defendant’s alleged wage and hour practices. I am informed
24 and believe that, without the efforts of my office, or Plaintiff, the Labor Code and Wage Order violations
25 alleged in the Complaint would have gone completely unremedied.

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

28 //

Executed this October 15th, 2024, at Los Angeles, California.



Kane Moon

EXHIBIT 1

Kane Moon (SBN 249834)
 Lilit Ter-Astvatsatryan (SBN 320389)
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Attorneys for Defendant WELLNESS
 INNOVATION GROUP INCORPORATED

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF MONTEREY

VERONICA ESPARZA RODRIGUEZ,
 individually, and on behalf of all others
 similarly situated,

Plaintiff,

vs.

WELLNESS INNOVATION GROUP
 INCORPORATED, a California corporation;
 and DOES 1 through 10, inclusive,

Defendants.

Case No.: 23CV001695

CLASS ACTION

**FIRST AMENDED JOINT STIPULATION
 OF CLASS ACTION AND PAGA
 SETTLEMENT**

Complaint filed: May 25, 2023
 FAC filed: January 11, 2024
 Trial date: Not set

**FIRST AMENDED JOINT STIPULATION OF CLASS ACTION AND PAGA
SETTLEMENT**

This First Amended Joint Stipulation of Class Action and PAGA Settlement (“Joint Stipulation of Settlement” or “Settlement” or “Agreement”) is made and entered into by and between Plaintiff VERONICA ESPARZA RODRIGUEZ, individually, and on behalf of all others similarly situated, (“Plaintiff” or “Class Representative”), and Defendant WELLNESS INNOVATION GROUP INCORPORATED (“Defendant”). Plaintiff and Defendant are sometimes referred to individually as a “Party” or collectively referred to herein as “the Parties.” THE PARTIES STIPULATE AND AGREE as follows:

DEFINITIONS

1. For purposes of this Settlement, “Complaint” refers to the First Amended Complaint, filed on January 11, 2024.

2. “Action” means and refers to *Veronica Esparza Rodriguez v. Wellness Innovation Group Incorporated*, Case No. 23CV001695, which is currently pending in the Monterey County Superior Court of the State of California.

3. For purposes of this Settlement, the “Class Period” is May 25, 2019 to November 29, 2023.

4. For purposes of this Settlement, the “Class” or “Class Members” consist of: All current and former non-exempt employees who are or were employed by Defendant in the State of California during the Class Period (the “Settlement Class” or “Settlement Class Members”).

5. For purposes of this Settlement, “Class Counsel” means Moon Law Group, PC.

6. For purposes of this Settlement, “Covered Workweeks” means the number of weeks a Class Member worked at Defendant’s locations in California during the Class Period.

7. For purposes of this Settlement, “Response Deadline” means the date sixty (60) days after the Settlement Administrator initially mails the Notice to Settlement Class Members (“Notice”) and the last date on which Settlement Class Members may submit a request for exclusion or written objection to the Settlement. In the case of a re-mailed Notice, the Response Deadline will be the later of 60 calendar

1 days after initial mailing or 14 calendar days from re-mailing. The Response Deadline may be extended
2 only as expressly described herein.

3 8. For purposes of the Settlement, “Defendant’s Counsel” means Payne & Fears, LLP.

4 9. For purposes of this Settlement, “PAGA” means the Labor Code Private Attorneys
5 General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*).

6 10. For purposes of this Settlement, “PAGA Allocation” means the portion of the Gross
7 Settlement Amount that the Parties have agreed to allocate to resolution of the Released PAGA Claims.
8 The Parties have agreed that the PAGA Allocation will be \$10,000.00 from the Gross Settlement
9 Amount. Pursuant to PAGA, Seventy Five Percent (75%), or \$7,500.00, of the PAGA Allocation will
10 be paid to the Labor and Workforce Development Agency (“LWDA”) (“PAGA Penalty Payment”), and
11 Twenty Five Percent (25%), or \$2,500.00, of the PAGA Allocation will be included in the Net Settlement
12 Amount for aggrieved employees (“PAGA Settlement Payment”).

13 11. For purposes of this Settlement, “PAGA Period” means the period between May 20, 2022
14 through November 29, 2023.

15 12. For purposes of this Settlement, “Aggrieved Employees” means all non-exempt
16 employees of Defendant who worked for Defendant in California during the PAGA Period. It is
17 stipulated by the Parties that, for purposes of this Settlement, all Aggrieved Employees are “aggrieved
18 employees” as defined pursuant to PAGA.

19 13. For purposes of this Settlement, “PAGA Pay Periods” means the number of pay periods
20 each Aggrieved Employee worked during the PAGA Period.

21 14. For purposes of this Settlement, “PAGA Representative” means Plaintiff.

22 15. For purposes of this Settlement, “Released PAGA Claims” means all claims for penalties
23 and any other available relief pursuant to PAGA, to the extent asserted in Plaintiff’s administrative
24 exhaustion letters submitted to the LWDA in this Action, arising during the PAGA Period.

25 16. For purposes of this Settlement, “Settlement Payments” means all of the payments to
26 Settlement Class Members (the “Settlement Class Payments”) and all of the payments to Aggrieved
27 Employees (the “PAGA Settlement Payment”).
28

STIPULATED BACKGROUND

17. On May 25, 2023, Plaintiff, by and through her counsel Moon Law Group, PC, filed a putative Class Action alleging the following labelled causes of action: (1) Failure to Pay Wages [Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197]; (2) Failure to Pay Overtime Compensation [Cal. Lab. Code §§ 1194 and 1198]; (3) Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512]; (4) Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code §§ 226.7]; (5) Failure to Indemnify Necessary Business Expenses [Cal. Lab. Code § 2802]; (6) Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-203]; (7) Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226]; and (8) Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, *et seq.*]. In this Complaint, Plaintiff sought to represent all persons that worked for Defendant in California as hourly-paid, non-exempt employees at any time during the period beginning four years before the filing of the initial complaint and ending when Notice to the Class is sent.

18. Plaintiff satisfied the administrative exhaustion requirement that is a prerequisite to filing a claim for Civil Penalties under the Labor Code Private Attorneys General Act of 2004 [Lab. Code § 2699, *et seq.*] (“PAGA”). On January 11, 2024, Plaintiff filed a First Amended Complaint adding a cause of action for Civil Penalties Under PAGA [Cal. Lab. Code § 2699, *et seq.*].

19. Solely for purposes of settling this case, the Parties and their respective counsel stipulate and agree that the requisites for establishing class certification with respect to the Class Members have been met and are met. More specifically, for settlement purposes only, the Parties stipulate and agree that:

- (a) The Class is ascertainable and so numerous as to make it impracticable to join all Class Members.
- (b) There are common questions of law and fact including, but not limited to, the following:
 - 1) Whether or not Defendant paid proper wages to the Class;
 - 2) Whether or not Defendant provided meal periods to the Class;
 - 3) Whether or not Defendant provided rest periods to the Class;

- 4) Whether or not Defendant paid compensation timely upon separation of employment to former Class Members;
 - 5) Whether or not Defendant paid compensation timely throughout Class Members' employment;
 - 6) Whether or not Defendant provided accurate itemized statements to the Class;
 - 7) Whether or not Defendant suffered the Class to purchase necessary business expenses without reimbursement;
 - 8) Whether or not waiting-time penalties are available to the Class for violation of California Labor Code § 203;
 - 9) Whether or not Defendant maintained requisite records;
 - 10) Whether or not Defendant paid proper meal period pay or rest period pay to the Class; and,
 - 11) Whether or not Defendant engaged in unlawful or unfair business practices affecting the Class in violation of California Business and Professions Code §§ 17200-17208.
- (c) Plaintiff's claims are typical of the claims of the Class Members.
- (d) Plaintiff and Class Counsel will fairly and adequately protect the interests of the Class.
- (e) The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications, which would establish incompatible standards of conduct.
- (f) With respect to the Class, questions of law and fact common to the members of the Class predominate over any questions affecting any individual member in such Class, and that a class action is superior to other available means for the fair and efficient adjudication of the controversy.
20. Should, for whatever reason, the Settlement not become effective, the fact that the Parties

1 were willing to stipulate to certification as part of the Settlement shall have no bearing on, and shall not
2 be admissible in connection with, the issue of whether the Class Members and/or the Class Claims should
3 be certified in a non-Settlement context in this Action or in any other lawsuit. Defendant expressly
4 reserves its right to oppose claims or class certification in this or any other action should this Settlement
5 not become effective.

6 21. Defendant denies any liability or wrongdoing of any kind whatsoever associated with the
7 claims alleged in the Complaint, and Defendant further denies that, for any purpose other than settling
8 this lawsuit, the action is appropriate for class or representative treatment. With respect to Plaintiff's
9 claims, Defendant contends, among other things, that Plaintiff and the Class Members have been paid
10 proper wages, have been provided meal periods or they have been made available as required, have been
11 provided rest periods or they have been authorized and permitted as required, have been paid timely
12 wages upon separation of employment, have been provided with accurate itemized wage statements, and
13 have been reimbursed for reasonable and necessary business expenses as required. Defendant contends,
14 among other things, that it has complied at all times with the California Labor Code and the applicable
15 Wage Orders of the Industrial Welfare Commission. Furthermore, with respect to all claims, Defendant
16 contends that it has complied at all times with the California Business and Professions Code.

17 22. It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge
18 all disputes and claims arising from or related to the Complaint.

19 23. Class Counsel has conducted a thorough investigation into the facts of this Action,
20 including an extensive review of relevant documents, and has diligently pursued an investigation of the
21 claims of the Class against Defendant. Based on its own independent investigation and evaluation, Class
22 Counsel is of the opinion that the Settlement with Defendant for the consideration and on the terms set
23 forth in this Joint Stipulation of Settlement is fair, reasonable, and adequate and is in the best interest of
24 the Class in light of all known facts and circumstances, including the risk of significant delay, the risk the
25 Class will not be certified by the Court, defenses asserted by Defendant, and numerous potential appellate
26 issues. Defendant and Defendant's Counsel also agree that the Settlement is fair and in the best interest
27 of the Class.
28

1 24. The Parties agree to cooperate and take all steps necessary and appropriate to obtain
2 preliminary and final approval of this Settlement.

3 25. The Parties agree to stay all proceedings in the Action, except such proceedings necessary
4 to implement and complete the Settlement, pending the Final Approval hearing to be conducted by the
5 Court.

6 **PRIMARY TERMS OF SETTLEMENT**

7 26. NOW THEREFORE, in consideration of the mutual covenants, promises and agreements
8 set forth herein, the Parties agree, subject to the Court's approval, as follows:

9 (a) It is agreed by and among the Class and Defendant that this Action and any
10 claims, damages, or causes of action arising out of the disputes which are the
11 subject of this Action, be settled and compromised as between the Class and
12 Defendant, subject to the terms and conditions set forth in this Settlement and the
13 approval of the Court.

14 (b) Effective Date: The terms of settlement embodied in this Settlement shall
15 become effective when all of the following events have occurred: (i) this Joint
16 Stipulation of Settlement has been executed by all Parties and their respective
17 counsel; (ii) the Court has given preliminary approval to the Settlement; (iii) the
18 Notice has been given to the Class, providing them with an opportunity to dispute
19 information contained in the Notice, to opt out of the Settlement, or to object to
20 the Settlement; (iv) the Court has held a final approval hearing and entered a final
21 order and judgment certifying the Class and approving this Settlement; and (v)
22 the later of the following events: (a) five (5) calendar days have passed since final
23 approval is granted if there are no objections to the settlement; (b) sixty-five (65)
24 days following notice of entry of the Court's final order approving the Settlement
25 if there are any objections by any Class Member; (c) or if any appeal, writ or other
26 appellate proceeding opposing this Settlement has been filed within sixty-five
27 (65) days following notice of entry of the Court's final order approving the
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1 Settlement, then twenty (20) days after when any appeal, writ or other appellate
2 proceeding opposing the Settlement has been resolved finally and conclusively
3 with no right to pursue further remedies or relief.

4 (c) Gross Settlement Amount: Defendant's maximum total payment under the
5 Settlement, including all attorney's fees and costs, the Service Payment to the
6 named Plaintiff, the costs of settlement administration, the PAGA Allocation, and
7 any other payments provided by this Settlement, is \$250,000.00 ("Gross
8 Settlement Amount"), subject to the Escalator Clause and except that, to the
9 extent that any portions of the Class Members' Settlement Payments constitute
10 wages, Defendant will be separately responsible for any employer payroll taxes
11 required by law, including the employer FICA, FUTA, and SDI contributions.

12 (d) Escalator Clause: Defendant represents that as of November 29, 2023, the
13 number of workweeks worked by Settlement Class Members is approximately
14 25,000. Should the number of workweeks increase by more than 10%, the payout
15 will increase proportionately over the 10% grace percentage (i.e. meaning if the
16 workweeks increase by 11%, the settlement amount will increase by 1%).
17 However, if this escalator clause is triggered, Defendant may alternatively choose
18 to end the Class Period on the last date before which the increase would otherwise
19 trigger this escalator clause. The Gross Settlement Amount will not be reduced
20 for any reason.

21 (e) Non-reversionary Settlement: No portion of the Gross Settlement Amount will
22 revert to Defendant.

23 (f) No Claims Required: Class Members will not be required to submit a claim to
24 receive their Settlement payment.

25 (g) Net Settlement Amount: The Net Settlement Amount shall be calculated by
26 deducting from the Gross Settlement Amount (\$250,000.00) the following sums,
27 subject to approval by the Court: (1) attorney's fees (not to exceed one-third of
28

1 the Gross Settlement Amount, or \$83,333.33); (2) reasonable litigation costs; (3)
2 the Service Payment (not to exceed \$7,500.00 to the named Plaintiff); (4) the
3 PAGA Penalty Payment in the amount of \$10,000.00 (which is 75% of the PAGA
4 Allocation); and (5) costs of settlement administration. Settlement Payments to
5 the Class Members will be calculated by the Settlement Administrator and paid
6 out of the Net Settlement Amount as set forth below.

7 (h) Payroll Taxes and Required Withholdings: To the extent that any portions of the
8 Settlement Class Members' Settlement Payments constitute wages, Defendant
9 will be separately responsible for any employer payroll taxes required by law,
10 including the employer FICA, FUTA, and SDI contributions. Except for any
11 employer payroll taxes and subject to the Escalator Clause, it is understood and
12 agreed that Defendant's maximum total liability under this Settlement shall not
13 exceed the Gross Settlement Amount. The Settlement Administrator will
14 calculate and submit Defendant's employer share of payroll taxes after advising
15 Defendant of the total amount owed, in aggregate, as employer-side payroll taxes
16 and receiving a lump sum payment from Defendant in that amount when the
17 Gross Settlement Amount is delivered to the Settlement Administrator.

18 (i) Settlement Class Payments (Excludes PAGA Payments): Settlement Class
19 Payments will be paid out of the Net Settlement Amount. Each Settlement Class
20 Member will be paid a pro-rata share of the Net Settlement Amount (less the
21 PAGA Settlement Payments to the LWDA), as calculated by the Settlement
22 Administrator. The pro-rata share will be determined by comparing the
23 individual Settlement Class Member's Covered Workweeks employed during the
24 Class Period in California to the total Covered Workweeks of all the Settlement
25 Class Members during the Class Period as follows: [Workweeks worked by a
26 Settlement Class Member] ÷ [Sum of all Covered Workweeks worked by all
27 Settlement Class Members] × [Net Settlement Amount – all PAGA Settlement
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1 Payments to the LWDA] = individual Settlement Payment for a Settlement Class
2 Member. Settlement Class Payments in the appropriate amounts will be
3 distributed by the Settlement Administrator by mail to the Settlement Class
4 Members. Un-cashed, unclaimed or abandoned checks, shall be transmitted to a
5 *cy pres* recipient, approved by the Court. The Parties will propose Legal Aid at
6 Work.

7 (j) PAGA Payments: PAGA Settlement Payments will be paid out of the Net
8 Settlement Amount. Each Aggrieved Employee will be paid a pro-rata share of
9 the Aggrieved Employees' PAGA Settlement Payment, as calculated by the
10 Settlement Administrator minus PAGA Settlement Payments to the LWDA.
11 Class Members will not be permitted to exclude themselves from this portion of
12 the Settlement. The pro-rata share will be determined by comparing the
13 individual Aggrieved Employee's PAGA Pay Periods during the PAGA Period
14 to the total PAGA Pay Periods of all the Aggrieved Employees during the PAGA
15 Period as follows: [PAGA Pay Periods worked by an Aggrieved Employee] ÷
16 [Sum of all PAGA Pay Periods worked by all Aggrieved Employees] × [PAGA
17 Settlement Payment] = individual Aggrieved Employee's portion of the PAGA
18 Settlement Payment. PAGA Settlement Payments to Aggrieved Employees in
19 the appropriate amounts will be distributed by the Settlement Administrator by
20 mail to the Aggrieved Employees at the same time Settlement Class Payments
21 issue to the Settlement Class. Un-cashed, unclaimed or abandoned checks, shall
22 be transmitted to the California Controller's Office, as set forth below. The
23 LWDA's PAGA Penalty Payment will issue to the LWDA at the same time
24 Settlement Payments issue to the Settlement Class.

25 (k) Allocation of Settlement Payments: The Parties have agreed that Settlement
26 Class Payments will be allocated as follows: 10% to wages and 90% to penalties
27 and interest. The PAGA Settlement Payment shares to Aggrieved Employees
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1 will be entirely allocated to penalties. Appropriate federal, state and local
2 withholding taxes will be taken out of the wage allocations, and each Class
3 Member will receive an IRS Form W-2 with respect to this portion of the
4 Settlement Payment. The employer's share of payroll taxes and other required
5 withholdings will be paid as set forth above, including but not limited to the
6 Defendant's FICA and FUTA contributions, based on the payment of claims to
7 the Class Members. IRS Forms 1099 will be issued to each Class Member
8 reflecting the payments for penalties and interest. Class Members are responsible
9 to pay appropriate taxes due on the Settlement Payments they receive. To the
10 extent required by law, IRS Forms 1099 and W-2 will be issued to each Class
11 Member with respect to such payments.

12 (l) Settlement Payments Do Not Give Rise to Additional Benefits: All Settlement
13 Payments to individual Class Members shall be deemed to be paid to such Class
14 Member solely in the year in which such payments actually are received by the
15 Class Member. It is expressly understood and agreed that the receipt of such
16 Settlement Payments will not entitle any Class Member to additional
17 compensation or benefits under any company bonus, contest or other
18 compensation or benefit plan or agreement in place during the period covered by
19 the Settlement up to and including the date the Settlement becomes effective, nor
20 will it entitle any Class Member to any increased retirement, 401(k) benefits or
21 matching benefits or deferred compensation benefits. It is the intent that the
22 Settlement Payments provided for in this Settlement are the sole payments to be
23 made by Defendant to the Class Members, and that the Class Members are not
24 entitled to any new or additional compensation or benefits as a result of having
25 received the Settlement Payments (notwithstanding any contrary language or
26 agreement in any benefit or compensation plan document that might have been
27 in effect during the period covered by this Settlement).

1 (m) Attorney's Fees and Costs: Subject to approval by the Court, Defendant will not
2 object to Class Counsel's application for attorney's fees not to exceed thirty-three
3 and one third percent (33.33%) of the Gross Settlement Amount and
4 reimbursement of litigation costs and expenses.

5 (n) Service Payment: Subject to Court approval, and in exchange for a general
6 release, Defendant will not object to Class Counsel's application for an additional
7 payment of up to \$7,500.00 to Plaintiff for service as Class Representative
8 ("Service Payment"). It is understood that the Service Payment is in addition to
9 the individual Settlement Payment to which Plaintiff is entitled to along with the
10 other Class Members. In exchange, Plaintiff has agreed to release all claims,
11 whether known or unknown, under federal law or state law against the
12 Releasees, to the extent permitted by law, through the Class Period
13 ("Plaintiff's Released Claims"). Plaintiff understands that this release
14 includes unknown claims and that they are, as a result, waiving all rights and
15 benefits afforded by Section 1542 of the California Civil Code, which
16 provides:

17
18 **A general release does not extend to claims that the creditor**
19 **or releasing party does not know or suspect to exist in his or**
20 **her favor at the time of executing the release and that, if**
21 **known by him or her, would have materially affected his or**
22 **her settlement with the debtor or released party.**

23 Specifically excluded from Plaintiff's Released Claims are any claims for
24 workers' compensation benefits. The Service Payment will issue at the same time
25 all Settlement Payments are mailed to the Settlement Class.

26 (o) Defendant or the Settlement Administrator will issue an IRS Form 1099 for the
27 Service Payment to Plaintiff. Plaintiff will be individually responsible for
28 correctly characterizing this compensation on personal income tax returns for tax
purposes and for paying any taxes on the amounts received. Should the Court

1 approve a Service Payment in an amount less than that set forth above, the
2 difference between the lesser amount(s) approved by the Court and the Service
3 Payment amount(s) set forth above shall be added to the Net Settlement Amount.
4 Plaintiff agrees not to opt out or object to the Service Payment as the Class
5 Representative.

6 (p) Settlement Administrator: The Settlement Administrator is Phoenix, the neutral
7 entity the Parties have agreed to appoint to administer the Settlement. The costs
8 of the Settlement Administrator for work done shall be paid regardless of the
9 outcome of this Settlement.

10 (q) Funding of Settlement Account: No later than thirty (30) days after the Effective
11 Date, Defendant shall fully fund the Gross Settlement Amount and the amounts
12 necessary to fully pay their share of payroll taxes by transmitting funds to the
13 Settlement Administrator.

14 (r) Mailing of Settlement Payments: The Settlement Administrator shall cause the
15 Settlement Payments to be mailed to the Class Members within 14 calendar days
16 of the receipt of funding.

17 (s) Notice of Settlement: Each Class Member will be mailed a notice setting forth
18 the material terms of the proposed Settlement, along with instructions about how
19 to object or request exclusion from the proposed class action Settlement
20 (“Notice”). For each Class Member, there will be pre-printed information on the
21 mailed Notice, based on Defendant’s records, stating the Class Member’s
22 Covered Workweeks during the Class Period and the estimated total Settlement
23 Payment under the Settlement, including the Settlement Class Payment and the
24 PAGA Settlement Payment that will be distributed irrespective of any exclusion
25 request. The pre-printed information based on Defendant’s records shall be
26 presumed to be correct. A Class Member may dispute the pre-printed information
27 on the Notice as to his or her Covered Workweeks during the Class Period. Class
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Members must submit any dispute regarding the information on the Notice as to his or her Covered Workweeks within the Response Deadline. Unless a disputing Class Member submits documentary evidence in support of his or her dispute, the records of Defendant will be determinative.

(t) Settlement Notice Language: The Notice will issue in English and Spanish.

(u) Class Members Cannot Exclude Themselves from the Released PAGA Claims:

Class Members submitting a Request for Exclusion will nevertheless receive their pro-rata share of the PAGA Settlement Payment. If the Court approves the compromise of the PAGA Claim, all Class Members are bound by the Court's resolution of that Claim. Plaintiff shall serve a notice of settlement on the California Labor and Workforce Development Agency at or before the time Plaintiff files the motion for preliminary approval.

(v) Resolution of Workweek Disputes: If a Class Member disputes the accuracy of Defendant's records used to calculate Covered Workweeks, and the Parties' counsel cannot resolve the dispute informally, the matter will be referred to the Settlement Administrator. The Administrator shall review the challenge and reach a conclusion. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defendant's Counsel and Class Counsel and the Administrator's determination of the challenges. Class Counsel and Defendant's Counsel shall submit the Administrator's decision to the Court for the Court's review. The Court's decision shall be final and not appealable or otherwise susceptible to challenge.

(w) Right of Class Member to Request Exclusion from the Settlement: Any Class Member may request to be excluded from the Class by mailing a "Request for Exclusion" from the Settlement within the Response Deadline, stating, their intent to be excluded from this settlement. Any Request for Exclusion must include the name, address, telephone number, last four digits of the Class

1 Member's Social Security Number, and the signature of the Class Member
2 requesting exclusion. Any such request must be made in accordance with the
3 terms of the Notice, and the Notice will advise Class Members of these
4 requirements. Any Class Member who timely requests exclusion in compliance
5 with these requirements (i) shall not have any rights under this Settlement other
6 than a right to receive a pro-rata share of the portion of the PAGA payment
7 allocated to the Class Members if the Class Member is also an Aggrieved
8 Employee; (ii) shall not be entitled to receive any Settlement Payments under this
9 Settlement other than as stated in Paragraph 28(j) ("PAGA Payments"); and (iii)
10 shall not be bound by this Settlement or the Court's Order and Final Judgment
11 other than as it applies to the PAGA Claim.

12 (x) Right of Settlement Class Member to Object to The Settlement: Any Class
13 Member may object to the Settlement. To object, the Class Member may (1)
14 appear at the Final Approval Hearing, remotely or in person, to explain any
15 objection, (2) have an attorney object for the Class Member, or (3) submit a
16 simple written brief or statement of objection to the Settlement Administrator. If
17 any Class Member chooses to submit a written objection, the written objection
18 should contain sufficient information to confirm the identity of the objector and
19 the basis of the objection, including (1) the full name of the Settlement Class
20 Member; (2) the signature of the Settlement Class Member; (3) the grounds for
21 the objection; and (4) be postmarked within the Response Deadline to permit
22 adequate time for processing and review by the Parties of the written statement
23 or objection. Class Counsel shall ensure that any written objections are
24 transmitted to the Court for the Court's review (either by Class Counsel or as an
25 attachment to declaration from the Settlement Administrator). Regardless of the
26 form, an objection alone will not satisfy the requirement that a Settlement Class
27 Member must either make a timely complaint in intervention before final
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1 judgment or by file a motion to set aside and vacate the class judgment under
2 Code of Civil Procedure § 663 to have standing to appeal entry of judgment
3 approving this Settlement, as is required under the California Supreme Court
4 decision of *Hernandez v. Restoration Hardware*, 4 Cal. 5th 260 (2018). A Class
5 Member who does not object prior to or at the Final Approval Hearing, will be
6 deemed to have waived any objections and will be foreclosed from making any
7 objections (whether at the Final Approval Hearing, by appeal, or otherwise) to
8 the Settlement. If the objecting Class Member does not formally intervene in the
9 action or move to set aside any judgment and/or the Court rejects the Class
10 Member's objection, the Class Member will still be bound by the terms of this
11 Agreement. Class Counsel and Defendant's Counsel may, at least five (5)
12 calendar days (or some other number of days as the Court shall specify) before
13 the final approval hearing, file responses to any written objections submitted to
14 the Court.

15 **THE SETTLEMENT ADMINISTRATOR'S PRIMARY DUTIES**

16 27. Subject to the Court's approval, and subject to reconsideration by the Parties after a
17 competitive bidding process, the Parties have agreed to the appointment of Phoenix. to perform the
18 customary duties of Settlement Administrator. The Settlement Administrator will mail the Notice, both
19 in English and Spanish, to the Class Members.

20 28. The Settlement Administrator will independently review the Covered Workweeks
21 attributed to each Class Member and will calculate the estimated amounts due to each Class Member and
22 the actual amounts due to each Settlement Class Member in accordance with this Settlement. The
23 Settlement Administrator shall report, in summary or narrative form, the substance of its findings. The
24 Settlement Administrator shall be granted reasonable access to Defendant's records in order to perform
25 its duties.

26 29. In accordance with the terms of this Settlement, and upon receipt of the Gross Settlement
27 Amount from Defendant, the Settlement Administrator will issue and send out the Settlement Payment
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1 checks to the Class Members. Tax treatment of the Settlement Payments will be as set forth herein, and
2 in accordance with state and federal tax laws. All disputes relating to the Settlement Administrator's
3 performance of its duties shall be referred to the Court, if necessary, which will have continuing
4 jurisdiction over the terms and conditions of this Settlement until all payments and obligations
5 contemplated by this Settlement have been fully carried out.

6 30. The Settlement Administrator will post the final judgment approving the Settlement on a
7 website maintained by the Settlement Administrator for a period of not less than 90 calendar days after
8 the final judgment is entered. The address of that website will be included in the Notice.

9 **ATTORNEY'S FEES AND COSTS**

10 31. In consideration for resolving this matter and in exchange for the release of all claims by
11 the Class Members, including Plaintiff, and subject to approval by the Court, Defendant will not object
12 to Class Counsel's application for attorney's fees not to exceed thirty three and one third percent (33.33%)
13 of the Gross Settlement Amount (\$83,333.33 of \$250,000.00) and litigation costs actually incurred. The
14 amounts set forth above will cover all work performed and all fees and costs incurred to date, and all
15 work to be performed and all fees and costs to be incurred in connection with the approval by the Court
16 of this Settlement and administration of the Settlement. Should Class Counsel request a lesser amount
17 and/or the Court approve a lesser amount(s) of attorney's fees and/or attorneys' costs, the difference
18 between the lesser amount(s) and the maximum amount set forth above shall be added to the Net
19 Settlement Amount. The Parties agree that there is no prevailing party, and the Class and Class Counsel
20 shall not be entitled to any fees or costs other than those awarded out of and deducted from the Gross
21 Settlement Amount. As with the Settlement Payments to the Settlement Class, the attorney's fees and
22 costs approved by the Court shall be distributed by the Settlement Administrator to Class Counsel, within
23 14 calendar days of the receipt of settlement funds by the Settlement Administrator. In the event that the
24 Court awards less than 25% of the Gross Settlement Amount for attorney's fees, Class Counsel shall
25 retain the right to appeal that portion of any Final Approval Order and Judgment.

26 **THE NOTICE PROCESS**

27 32. A Notice in approximately the form attached hereto as **Exhibit "A,"** and as approved by
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1 the Court, shall be sent by the Settlement Administrator to the Class Members by first class mail. The
2 Notice shall be translated into Spanish so that Spanish and English language versions of the Notice are
3 included in the mailing. Any returned envelopes from this mailing with forwarding addresses will be
4 utilized by the Settlement Administrator to forward the Notices to the Class.

5 (a) Within 21 calendar days from the date of preliminary approval of this Settlement
6 by the Court, Defendant shall provide to the Settlement Administrator a class
7 database containing the following information for each Class Member: (1) name;
8 (2) last known address; (3) social security number; and (5) dates of employment
9 at Defendant's locations in California. This database shall be based on
10 Defendant's payroll and other business records and shall be provided in a
11 reasonable format to the Settlement Administrator. Defendant agrees to consult
12 with the Settlement Administrator prior to the production date to ensure that the
13 format will be acceptable to the Settlement Administrator. The Settlement
14 Administrator will run a check of the Class Members' addresses against those on
15 file with the U.S. Postal Service's National Change of Address List; this check
16 will be performed only once per Class Member by the Settlement Administrator.
17 Absent mutual written agreement of counsel for the Parties or Court order, the
18 Settlement Administrator will keep this database confidential and secure and use
19 it only for the purposes described herein and will return this database to
20 Defendant upon final approval of the settlement or destroy electronic records
21 containing the database after the Settlement is final and all payments are
22 distributed as required under this Agreement.

23 (b) Within 14 calendar days after the Class database is provided to the Settlement
24 Administrator, the Settlement Administrator will mail the Notices to the Class
25 Members by First Class United States mail.

26 (c) Notices returned to the Settlement Administrator as non-deliverable on or before
27 the initial Response Deadline shall be resent to the forwarding address, if any, on
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1 the returned envelope. A returned Notice will be forwarded by the Settlement
2 Administrator any time that a forwarding address is provided with the returned
3 mail. If there is no forwarding address, the Settlement Administrator will do a
4 computer search for a new address using the Class Member's social security
5 number or other information. In any instance where a Notice is re-mailed, that
6 Class Member will have until the extended Response Deadline as described
7 above. A letter prepared by the Settlement Administrator will be included in the
8 re-mailed Notice in that instance, stating the extended Response Deadline. Upon
9 completion of these steps by the Settlement Administrator, Defendant and the
10 Settlement Administrator shall be deemed to have satisfied their obligations to
11 provide the Notice to the affected Class Member. The affected Class Member
12 shall remain a member of the Settlement Class and shall be bound by all the terms
13 of the Settlement and the Court's Order and Final Judgment.

14 (d) Class Counsel shall provide to the Court, at least five calendar days prior to the
15 final approval hearing, or such other date as set by the Court, a declaration by the
16 Settlement Administrator of due diligence and confirming mailing of the Notices.

17 **DISPOSITION OF SETTLEMENT PAYMENTS AND UNCASHED CHECKS**

18 33. As set forth above, each Class Member will have until the expiration of the applicable
19 Response Deadline to submit to the Settlement Administrator any challenge or dispute to the Class
20 Member's Covered Workweek information on the Notice. No disputes will be honored if they are
21 submitted after the Response Deadline, unless the Parties mutually agree to accept the untimely dispute.
22 Each Class Member is responsible to maintain a copy of any documents sent to the Settlement
23 Administrator and a record of proof of mailing.

24 34. The Settlement Administrator shall cause the Settlement Payments to be mailed to the
25 Settlement Class Members and Aggrieved Employees as provided herein. Settlement Class Payments
26 and PAGA Payments may be combined into one check. Settlement Payment checks shall remain valid
27 and negotiable for 180 calendar days from the date of their issuance. Settlement Payment checks will
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1 automatically be cancelled by the Settlement Administrator if they are not cashed by the Class Member
2 within that time, and the Class Member's relevant claims will remain released by the Settlement.
3 Settlement Payment checks which have expired will not be reissued.

4 35. Funds from un-cashed or abandoned Settlement Payment checks, based on a 180-day
5 void date, shall be transmitted to a *cy pres* recipient, approved by the Court. The Parties will propose
6 Legal Aid at Work.

7 36. Upon completion of its calculation of Settlement Payments, the Settlement Administrator
8 shall provide Class Counsel and Defendant's Counsel with a report listing the amounts of all payments
9 to be made to Class Members (to be identified anonymously by employee number or other identifier). A
10 Declaration attesting to completion of all payment obligations will be provided to Class Counsel and
11 Defendant's Counsel and filed with the Court by Class Counsel.

12 **RELEASE BY THE CLASS AND PAGA EMPLOYEES**

13 37. Upon the final approval by the Court of this Settlement and Defendant's payment of all
14 sums due pursuant to this Settlement, and except as to such rights or claims as may be created by this
15 Settlement, the Class Representatives, the Class and each Class Member who has not submitted a valid
16 and timely request for exclusion as to claims other than the PAGA claim, and each Aggrieved Employee,
17 regardless of whether they have requested exclusion from the Settlement of Class claims, will release
18 claims as follows:

19 (a) **Identity of Released Parties.** The released parties are Defendant, and each of
20 its/their former and present direct and/or indirect owners, dba's, affiliates, parents,
21 subsidiaries, brother and sister corporations, divisions, related companies,
22 successors and predecessors, and current and former employees, attorneys,
23 officers, directors, shareholders, owners, trustees, fiduciaries, beneficiaries,
24 subrogees, executors, partners, privies, agents, servants, insurers, representatives,
25 administrators, employee benefit plans, and assigns of said entities (the "Released
26 Parties").

27 (b) **Date Release Becomes Active.** The Released Claims and Released PAGA
28

1 Claims will be released upon the later of (1) the Settlement's Effective Date, or
2 (2) the satisfaction of Defendant's obligation to provide to the Settlement
3 Administrator a sum in the amount required to satisfy all required payments and
4 distributions pursuant to this Settlement and the Order and Judgment of final
5 approval. Class Members will not release the Released Claims or Released
6 PAGA Claims until both the Effective Date of the Settlement has occurred, **and**
7 Defendant has paid all amounts owing under the Settlement.

8 (c) **Claims Released by Settlement Class Members.** Each and every Class
9 Member, on behalf of himself or herself and his or her heirs and assigns, unless
10 he or she has submitted a timely and valid Request for Exclusion (which will not
11 effectuate an opt-out from the release of Released PAGA Claims), hereby
12 releases Releasees from the following claims for the entire Class Period:

13 1) any and all claims stated in the Action, or that could have been stated
14 based on the facts alleged in the Action, including but not limited to all
15 state wage and hour claims (including all claims under the California
16 Labor Code) for unpaid wages, minimum wage, overtime, off-the-clock
17 work, meal periods, rest periods, unreimbursed business expenses, wage
18 statement violations, interest, penalties, and attorneys' fees, waiting time
19 penalties, withholding from wages and the related provisions of the Labor
20 Code including but limited to Labor Code §§ 201-204, 210, 216, 218.6,
21 226, 226.3 , 226.7, 510, 512, 512.5, 558, 1194, 1194.2, 1198, 2802
22 derivative claims under California Business & Professions Code §§
23 17200 et seq., and all claims under the governing Wage Order ("Released
24 Claims").

25 (d) **Claims Released by the Class, Including Aggrieved Employees.** All Class
26 Members, including all Aggrieved Employees, release the Released PAGA
27 Claims, regardless of whether they have requested exclusion from the Settlement
28

as to Class claims.

DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL

38. The Parties shall submit this Joint Stipulation of Class Action Settlement to the Court in support of Plaintiff's unopposed motion for preliminary approval for determination by the Court as to its fairness, adequacy, and reasonableness. Upon execution of this Joint Stipulation of Class Action Settlement, the Parties shall apply to the Court for the entry of an order:

- (a) Scheduling a final approval and fairness hearing on the question of whether the proposed Settlement, including payment of attorney's fees and costs, and the Class Representative's service payment, should be finally approved as fair, reasonable, and adequate as to the members of the Class;
- (b) Certifying a Class for settlement purposes;
- (c) Approving as to form and content the proposed Notice;
- (d) Directing the mailing of the Notice;
- (e) Preliminarily approving the Settlement subject only to the objections of Class Members and final review by the Court;
- (f) Conditionally appointing Plaintiff and Class Counsel as representatives of the proposed Class Members; and,
- (g) Appointing Phoenix as the Settlement Administrator, and order the Settlement Administrator to issue Notices as outlined above.

DUTIES OF THE PARTIES FOLLOWING FINAL COURT APPROVAL

39. In conjunction with the hearing of a motion for final approval by the Court of the Settlement provided for in this Joint Stipulation of Settlement, Class Counsel will provide to Defendant's Counsel for review and approval and then submit to the Court a proposed final order and judgment containing provisions sufficient to accomplish the following:

- (a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;
- (b) Approving Class Counsel's application for an award of attorney's fees and costs;

- 1 (c) Approving the Service Payment to the Class Representatives;
- 2 (d) Adjudging the Settlement Administrator has fulfilled its initial notice and
- 3 reporting duties under the Settlement.
- 4 (e) Adjudging Plaintiff and Class Counsel may adequately represent the Final
- 5 Settlement Class for the purpose of entering into and implementing the
- 6 Agreement;
- 7 (f) Entering a final judgment in the action;
- 8 (g) Adjudging that notwithstanding the submission of a timely request for exclusion,
- 9 Class Members are still bound by the settlement and release of the Released
- 10 PAGA Claims or remedies under the Judgment pursuant to *Arias v. Superior*
- 11 *Court*, 46 Cal. 4th 969 (2009), as requests to be excluded from the Settlement do
- 12 not apply to the Released PAGA Claims, and further affirms that the State's
- 13 claims for civil penalties pursuant to PAGA are also extinguished;
- 14 (h) Directing the posting of the final judgment on a website maintained by the
- 15 Settlement Administrator for a period of not less than 90 calendar days after entry
- 16 of final judgment.

17 **NULLIFICATION AND TERMINATION**

18 40. This Settlement will be null and void if any of the following occur: (a) the Court should

19 for any reason fail to certify a class for settlement purposes; (b) the Court should for any reason fail to

20 preliminarily or finally approve of this Settlement in the form agreed to by the Parties, other than

21 adjustments made to the attorney's fees and costs or granting of the Service Payment; (c) the Court should

22 for any reason fail to enter the final judgment; (d) the final judgment is reversed, modified, or declared

23 or rendered void; or (e) the Settlement does not become final for any other reason.

24 41. If 10% or more of the Class Members opt out of this Settlement, then Defendant in its

25 sole discretion may terminate, nullify and void this Settlement. The Settlement Administrator shall

26 provide Defendant's Counsel with the information necessary to effectuate this provision on a regular

27 basis, but no less frequently than on a monthly basis. To terminate this Settlement under this paragraph,

28

1 Defendant's Counsel must give Plaintiff's Counsel written notice, by facsimile, e-mail, or mail, no later
2 than 14 calendar days after the Response Deadline. If this option is exercised by Defendant, Defendant
3 shall be solely responsible for the costs incurred by the Settlement Administrator for the settlement
4 administration.

5 42. In the event this Settlement is nullified or terminated as provided above: (i) this
6 Settlement shall be considered null and void, (ii) neither this Settlement nor any of the related negotiations
7 or proceedings shall have any force or effect and no Party shall be bound by any of its terms, and (iii) all
8 Parties to this Settlement shall stand in the same position, without prejudice, as if the Settlement had been
9 neither entered into nor filed with the Court.

10 **PARTIES' AUTHORITY**

11 43. The signatories hereto hereby represent that they are fully authorized to enter into this
12 Settlement and bind the Parties hereto to the terms and conditions thereof.

13 **MUTUAL FULL COOPERATION**

14 44. The Parties agree to fully cooperate with each other to accomplish the terms of this
15 Settlement including, but not limited to, execution of such documents and taking such other action as
16 reasonably may be necessary to implement the terms of this Settlement. The Parties to this Settlement
17 shall use their best efforts, including all efforts contemplated by this Settlement and any other efforts that
18 may become necessary by order of the Court, or otherwise, to effectuate this Settlement and the terms set
19 forth herein. As soon as practicable after execution of this Settlement, Class Counsel shall, with the
20 assistance and cooperation of Defendant and Defendant's Counsel, take all necessary steps to secure the
21 Court's preliminary and final approval of this Settlement.

22 **NO PRIOR ASSIGNMENTS**

23 45. The Parties and their respective counsel represent, covenant, and warrant that they have
24 not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber
25 to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein
26 released and discharged except as set forth herein, and that they are not on notice of any liens as to the
27 Gross Settlement Amount or any right to attorneys' fees or costs.

NO ADMISSION OF LIABILITY

46. Nothing contained herein, nor the consummation of this Settlement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant. Defendant denies all the claims and contentions alleged by the Plaintiff in this case. Defendant has entered into this Settlement solely with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses.

ENFORCEMENT ACTIONS

47. In the event that one or more of the Parties to this Settlement institutes any legal action or other proceeding against any other party or parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful party or parties shall be entitled to recover from the unsuccessful party or parties reasonable attorney's fees and costs, including expert witness fees incurred in connection with any enforcement actions.

NOTICES

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

Class Counsel:

Kane Moon
Lilit Ter-Astvatsatryan
Holly Williams
MOON LAW GROUP, PC
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125
kmoon@moonlawgroup.com
lilit@moonlawgroup.com
hwilliams@moonlawgroup.com

Counsel for Defendant:

Leila Narvid, Bar No. 229402
ln@paynefears.com
Matthew C. Lewis, Bar No. 274758
mcl@paynefears.com
Jonathan A. Arjonilla, Bar No. 305866
jaa@paynefears.com
PAYNE & FEARS LLP
Attorneys at Law
235 Pine Street, Suite 1175
San Francisco, California 94104
Telephone: (415) 738-6850
Facsimile: (415) 738-6855

CONSTRUCTION

49. The Parties hereto agree that the terms and conditions of this Settlement are the result of lengthy, intensive arms-length negotiations between the Parties, including but not limited to an all day mediation with Jeff Ross, and this Settlement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his, her or its counsel participated in the drafting of this Settlement.

CAPTIONS AND INTERPRETATIONS

50. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision hereof. Each term of this Settlement is contractual and not merely a recital.

MODIFICATION

51. This Settlement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

INTEGRATION CLAUSE

52. This Settlement contains the entire agreement between the Parties relating to the Settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

WAIVER OF APPEALS

53. The Parties agree to waive appeals and to stipulate to class certification for purposes of implementing this Settlement only, with the exception that Class Counsel retains the right to appeal the amount awarded as attorney's fees in the event that the Court awards less than twenty-five percent of the Gross Settlement Amount as attorney's fees.

BINDING ON ASSIGNS

54. This Settlement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors and assigns.

CLASS COUNSEL SIGNATORIES

55. It is agreed that because the members of the Class are so numerous, it is impossible or impractical to have each member of the Class execute this Settlement. The Notice will advise all Class Members of the binding nature of the Released Claims and Released PAGA Claims, and the release shall have the same force and effect as if this Settlement were executed by each member of the Class.

COUNTERPARTS

56. This Settlement may be executed in counterparts and by electronic or facsimile signatures, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement, which shall be binding upon and effective as to all Parties.

FINAL JUDGMENT

57. The Parties agree that, upon final approval of the Settlement, final judgment of this Action will be made and entered in its entirety. The final judgment may be included in the Order granting Final Approval of the Settlement.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action Settlement between Plaintiff and Defendant as set forth below:

IT IS SO STIPULATED.

(Signature Page Follows)

Plaintiff & Class Representative:

Dated: 4/5/2024

By:

DocuSigned by:

Veronica Rodriguez

60813F2DB32B420...

Veronica Esparza Rodriguez

Approved as to Form:

Dated: 4/5/2024

MOON LAW GROUP, PC

By:

Lilith

Kane Moon

Lilit Ter-Astvatsatryan

Holly Williams

Defendant:

Dated: 4/11/2024

WELLNESS INNOVATION GROUP INCORPORATED

By: Mark Ainsworth

Print Name

Signature

Signature

CEO

Title

Approved as to Form:

Dated: 4/11/2024

PAYNE & FEARS LLP

By:

Leila Narvid

Leila Narvid

Matthew C. Lewis

Jonathan A. Arjonilla

Rodriguez v. Wellness Long form 20240115 MLG_P&F.docx

EXHIBIT 2

Thank you for your Proposed Settlement Submission

DIR PAGA Unit <lwdadonotreply@dir.ca.gov>

Fri 4/12/2024 11:48 AM

To: Holly Williams <hwilliams@moonlawgroup.com>

04/12/2024 11:43:09 AM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: https://urldefense.proofpoint.com/v2/url?u=http-3A_labor.ca.gov_Private-5FAttorneys-5FGeneral-5FAct.htm&d=DwlFaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_Cdp gnVfiiMM&r=DupkRXJadFbPE1Y6qnqjGl5hVECUDcHtWP-0i0UAcuU&m=1aWatYSxugTo2bHYrWiTRNR8RwFSRXulX77t_i2RacoMIPxQKyFz5eI40Lf7N4IP&s=0DpzZZKBlwawnAy8G8ts1jAYVCQM6mXtLbn3OKU7Ofc&e=

Exhibit 3

MOON & YANG, APC

ATTORNEYS AT LAW
WWW.MOONYANGLAW.COM

1055 W. SEVENTH ST., SUITE 1880
LOS ANGELES, CALIFORNIA 90017
TELEPHONE: (213) 232-3128
FACSIMILE: (213) 232-3125

Kane Moon, Esq.
Kane.Moon@moonyanglaw.com

May 20, 2023

VIA ONLINE SUBMISSION

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

VIA CERTIFIED MAIL

Wellness Innovation Group Incorporated
19 Quail Run Circle, Unit B
Salinas, CA 93907

Notice of Labor Code Violations and PAGA Penalties

Re: ***Veronica Esparza Rodriguez v. Wellness Innovation Group Incorporated***

To Whom It May Concern:

Please be advised that my office has been retained by Veronica Esparza Rodriguez (“Plaintiff”) to pursue a Labor Code Private Attorney General Act (PAGA) representative action (Cal. Lab. Code §§ 2699, *et seq.*) against his former employer, Wellness Innovation Group Incorporated (“Defendant”). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiff and all of Defendant’s aggrieved employees.

Plaintiff wishes to pursue a PAGA representative action on behalf of Plaintiff as an aggrieved employee, on behalf of the State of California, and on behalf of all other current and former aggrieved employees who worked for Defendant in California as an hourly paid, non-exempt employee at any time within the applicable statutory period (hereafter, the “Aggrieved Employees”).

Plaintiff and the Aggrieved Employees of Defendant suffered the Labor Code violations described below.

Factual Background Regarding Plaintiff's Employment with Defendant

Defendant owns and operates an industry, business, and establishment within the State of California, including Monterey County. As such, Defendant is subject to the California Labor Code and the Wage Orders issued by the Industrial Welfare Commission (“IWC”).

Plaintiff worked for Defendant as a packer from approximately 2019 to March 2023, primarily in Monterey County. Defendant classified Plaintiff as non-exempt from overtime. During the time period that Plaintiff was employed by Defendant, Plaintiff typically worked at least 5 days per week, and in excess of 8 hours each workday.

Throughout Plaintiff's employment, Defendant committed numerous labor code violations under state law. As discussed below, Plaintiff's experience working for Defendant was typical and illustrative.

Failure to Pay for All Hours Worked, Including Overtime

Under California law, an employer must pay for all hours worked by an employee. "Hours worked" is the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight (8) hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

Throughout the statutory period, Defendants maintained a policy and practice of not paying Plaintiff and the Class for all hours worked, including all overtime wages. Defendants regularly use a system of time rounding in a manner that resulted, over a period of time, in failing to compensate Plaintiff and the Class properly for all the time they have actually worked, even though the realities of Defendants' operations are such that it is possible, practical, and feasible to count and pay for work time to the minute. Also throughout the statutory period, Plaintiff and the Class were required to work off the clock, and uncompensated. For example, Plaintiff and the Class were required to wait in line in order to clock into work, which included a retinal eye scan, which also had breakdown issues causing further delay when clocking into work. Also, Plaintiff and the Class were required to leave personal belonging in the break room prior to clocking into work, leading to off the clock work, uncompensated. Also, Plaintiff and the Class were required to undergo COVID screening prior to clocking into work, off the clock and uncompensated.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including overtime.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Defendant wrongfully failed to provide Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendant regularly required Plaintiff and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, continuous and uninterrupted, duty-free meal period for every five hours of work, or without compensating Plaintiff and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Defendant did not adequately inform Plaintiff and the Aggrieved Employees of their right to take a meal period by the end of the fifth hour of work, or, for shifts greater than 10 hours, by the end of the tenth hour of work. Moreover, Defendant did not have adequate written policies or practices providing meal periods for Plaintiff and the Aggrieved Employees, nor did Defendant have adequate policies or practices regarding the timing of meal periods. Defendant also did not have adequate policies or practices to verify whether Plaintiff and the Aggrieved Employees were taking their required meal periods. Accordingly, Defendant's policy and practice was to not provide meal periods to Plaintiff and the Aggrieved Employees in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s). Defendant, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for meal periods and that were not provided.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit breaks of 10 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours).

Thus, for example, if an employee's work time is 6 hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Defendant, however, wrongfully failed to authorize and permit Plaintiff and the Aggrieved Employees to take timely and duty-free rest periods. Defendant regularly required Plaintiff and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendant authorizing and permitting them to take a 10 minute, continuous and uninterrupted, rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees for rest periods that were not authorized or permitted. Defendant did not adequately inform Plaintiff and the Aggrieved Employees of their right to take a rest period. Moreover, Defendant did not have adequate policies or practices permitting or authorizing rest periods for Plaintiff and the Aggrieved Employees, nor did Defendant have adequate policies or practices regarding the timing of rest periods. Defendant also did not have adequate policies or practices to verify whether Plaintiff and the Aggrieved Employees were taking their required rest periods. Further, Defendant did not maintain accurate records of employee work periods, and therefore Defendant cannot demonstrate that Plaintiff and the Aggrieved Employees took rest periods during the middle of each work period. Accordingly, Defendant's policy and practice was for Plaintiff and the Aggrieved Employees to work through rest periods and to not authorize or permit them to take any rest periods.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Defendant, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for rest periods and that they were not authorized and permitted to take.

As a result, Defendant are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Plaintiff seeks penalties under Labor Code § 1174(d). Pursuant to Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Defendant, however, failed to maintain accurate records of hours worked and all meal periods taken or missed by Plaintiff and the Aggrieved Employees.

Defendant's failure to provide and maintain records required by the Labor Code IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendant's records. Therefore, Plaintiff and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendant. As a direct result, Plaintiff and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendant to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Defendant's knowing failure to comply with the Labor Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 1174.5 for failing to maintain accurate records of hours worked and meal periods.

Failure to Reimburse and Indemnify Expenses

California Labor Code § 2802 requires employers to reimburse employees for their necessary expenditures and losses incurred in direct consequence of the discharge of their duties or of their obedience to directions of the employer.

Throughout the statutory period, Defendant wrongfully required Plaintiff and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendant without reimbursement, which included the purchase of protective gear, painting materials, and uniforms. Further, Plaintiff and the Aggrieved Employees regularly used their own vehicles to retrieve paint and painting materials or other errands relating to their work, but Defendant did not reimburse them for all expenses related to the use of the vehicle. Plaintiff and the Aggrieved Employees incurred these substantial expenses as a direct result of performing their job duties for Defendant, and Defendant has failed to indemnify Plaintiff and the Aggrieved Employees for these employment-related expenses.

Failure to Pay All Accrued Vacation Wages at Termination

Labor Code § 227.3 requires employers to pay employees for all unused vested vacation time at their final rate of pay upon termination of their employment.

During the statutory period, Defendant maintained a policy and practice of failing to pay Plaintiff and the Aggrieved Employees the correct amount of vacation pay owed at the termination of employment. For instance, when Plaintiff's employment with Defendant terminated, he was owed vacation wages at his true final wage rate on his final pay check from Defendant even though he had accrued unused vacation time. On information and belief, Defendant's failure to pay Plaintiff the correct amount of vacation pay was not a single, isolated incident, but was instead part of Defendant's policy and practice that applied to the Aggrieved Employees.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to pay all accrued vacation wages at termination.

Failure to Timely Pay All Wages at Termination

Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, 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.

Within the applicable statute of limitations, the employment of Plaintiff and many other Aggrieved Employees ended, i.e. was terminated by quitting or discharge, and the employment of others will be. However, during the relevant time period, Defendant failed, and continues to fail to pay Plaintiff and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendant's employ. These unpaid wages include wages for unpaid work time (including minimum and straight time wages), missed meal periods, and missed rest periods.

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

Accordingly, Plaintiff and the Aggrieved Employees are entitled to recover from Defendant their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to 30 days maximum pursuant to Labor Code § 203.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: “An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.” (Lab. Code § 226(e)(1).)

Defendant intentionally and willfully failed to provide employees with complete and accurate wage statements. The deficiencies include, among other things, the failure to correctly identify hourly rates, the failure to correctly list gross wages earned, and the failure to list the true net wages earned, including wages for meal periods that were not provided in accordance with California law, wages for rest periods that were not authorized and permitted to take in accordance with California law, and correct wages earned for all hours worked.

As a result of Defendant violating Labor Code § 226, Plaintiff and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights.

Accordingly, Plaintiff and similarly Aggrieved Employees are entitled to recover from Defendant the greater of their actual damages caused by Defendant’s failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding \$4,000 dollars per employee.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

Failure to Pay All Earned Wages Twice Per Month

Based on its failure to pay Plaintiff and the Aggrieved Employees for all wages as discussed above, Defendant also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for hours worked. However, during all such times, Defendant systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Defendant, all wages for all rest periods not authorized and permitted by Defendant, and all wages for all hours worked. As a result, Defendant owes employees the legally required wages for unpaid wages, and Plaintiff and the Aggrieved Employees suffered damages in those amounts.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Action for Civil Penalties Under PAGA

In light of the above, Plaintiff alleges that Defendant violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

1. Labor Code § 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages and overtime wages;
2. Labor Code § 226.7, 512 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing to authorize and permit rest periods;
4. Labor Code § 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;
5. Labor Code § 2802 by failing to reimburse and indemnify employees for expenses and losses in the direct consequence and discharge of their duties;
6. Labor Code § 227.3 by failing to pay all vacation wages at termination;
7. Labor Code §§ 201 to 203 by willfully failing to pay all wages owed at termination;
8. Labor Code § 226 by failing to provide accurate itemized wage statements; and

9. Labor Code § 204 by failing to pay all earned wages two times per month.

Therefore, on behalf of all Aggrieved Employees, Plaintiff seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, 2802, and 2699(f)(2).

Plaintiff has placed Defendant on notice by mailing a certified copy of this correspondence to its corporate address, as indicated on the first page.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

MOON & YANG, APC



Kane Moon, Esq.
Attorney at Law

Exhibit 4

Activities Export

10/15/2024

2:47 PM

Date ▼	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
07/23/2024	\$	One Legal - Notice ● Unbilled	02076-Rodriguez Rodriguez v. Wellness Innovation Group (Class) (CJ)	Support Account	1.00	\$16.79	-	\$16.79
04/12/2024	\$	One Legal ● Unbilled	02076-Rodriguez Rodriguez v. Wellness Innovation Group (Class) (CJ)	Andrea Marin	1.00	\$16.79	-	\$16.79
03/07/2024	\$	One Legal Motion declarations affidavit Proposed order ● Unbilled	02076-Rodriguez Rodriguez v. Wellness Innovation Group (Class) (CJ)	Andrea Marin	1.00	\$78.72	-	\$78.72
01/23/2024	\$	Ace ● Unbilled	02076-Rodriguez Rodriguez v. Wellness Innovation Group (Class) (CJ)	Andrea Marin	1.00	\$50.75	-	\$50.75
01/08/2024	\$	One Legal ● Unbilled	02076-Rodriguez Rodriguez v. Wellness Innovation Group (Class) (CJ)	Andrea Marin	1.00	\$35.79	-	\$35.79
12/28/2023	\$	One Legal ● Unbilled	02076-Rodriguez Rodriguez v. Wellness Innovation Group (Class) (CJ)	Andrea Marin	1.00	\$15.04	-	\$15.04
12/28/2023	\$	One Legal ● Unbilled	02076-Rodriguez Rodriguez v. Wellness Innovation Group (Class) (CJ)	Andrea Marin	1.00	\$15.04	-	\$15.04
12/06/2023	\$	Berger Consulting Group ● Unbilled	02076-Rodriguez Rodriguez v. Wellness	Andrea Marin	8.10	\$500.00	-	\$4,050.00

Activities Export

10/15/2024
2:47 PM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
			Innovation Group (Class) (CJ)					
09/19/2023	\$	Rodriguez v. Wellness Innovation Paid online 9/19/2023 Invoice 2508 ● Unbilled	02076-Rodriguez Rodriguez v. Wellness Innovation Group (Class) (CJ)	Kane Moon	1.00	\$12,500.00	-	\$12,500.00
07/10/2023	\$	Ace ● Unbilled	02076-Rodriguez Rodriguez v. Wellness Innovation Group (Class) (CJ)	Andrea Marin	1.00	\$50.75	-	\$50.75
06/21/2023	\$	Ace ● Unbilled	02076-Rodriguez Rodriguez v. Wellness Innovation Group (Class) (CJ)	Andrea Marin	1.00	\$189.75	-	\$189.75
05/25/2023	\$	One Legal Complaint ● Unbilled	02076-Rodriguez Rodriguez v. Wellness Innovation Group (Class) (CJ)	Support Account	1.00	\$1,493.19	-	\$1,493.19
05/20/2023	\$	PAGA Notice ● Unbilled	02076-Rodriguez Rodriguez v. Wellness Innovation Group (Class) (CJ)	Andrea Marin	1.00	\$75.00	-	\$75.00
							\$0.00 0.00h	\$18,587.61 0.00h

Exhibit 5



CLASS ACTION ADMINISTRATION SOLUTIONS

CASE ASSUMPTIONS

Class Members	289
Opt Out Rate	1%
Opt Outs Received	3
Total Class Claimants	286
Subtotal Admin Only	\$8,750.00

Not-to-Exceed Total \$8,750.00

For 289 Members

Pricing Good for Scope of Estimate Only

January 16, 2024

Case: TBD Opt-Out Admin wTranslation

Phoenix Contact: Jodey Lawrence
Contact Number: 949.566.1455
Email: Jodey@phoenixclassaction.com

Requesting Attorney: Holly Williams
Firm: MOON LAW GROUP, PC
Contact Number: (213) 232-3128
Email: hwilliams@moonlawgroup.com

Assumptions and Estimate are based on information provided by counsel. If class size changes, PHX will need to adjust this Estimate accordingly.
Estimate is based on 289 Class Members. Class data Must be sent in Microsoft Excel or uploaded in the same format. Class Data Must be sent in one spreadsheet, with no additional programming needed. A rate of \$150 per hour will be charged for any additional analysis or programming. Pricing good for 90 days.

Case & Database Setup / Toll Free Setup & Call Center / NCOA (USPS)

Administrative Tasks:	Rate	Hours/Units	Line Item Estimate
Programming Manager	\$125.00	2	\$250.00
Programming Database & Setup	\$125.00	2	\$250.00
Toll Free Setup*	\$147.45	1	\$147.45
Call Center & Long Distance	\$2.00	16	\$32.00
NCOA (USPS)	\$150.00	2	\$300.00
Total			\$979.45

* Up to 120 days after disbursement

Data Merger & Scrub / Notice Packet, Opt-Out Form & Postage / Spanish Translation / Reporting

Project Action	Rate	Hours/Units	Line Item Estimate
Notice Packet Formatting	\$100.00	2	\$200.00
Data Merge & Duplication Scrub	\$0.50	289	\$144.50
Notice Packet & Opt-Out Form	\$1.50	289	\$433.50
Estimated Postage (up to 2 oz.)*	\$0.87	289	\$251.43
Static Website	\$250.00	1	\$250.00
Language Translation	\$1,000.00	1	\$1,000.00
Total			\$2,279.43

* Prices good for 90 days. Subject to change with the USPS Rate or change in Notice pages or Translation, if any.



PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

Skip Tracing & Remailing Notice Packets / Tracking & Programming Undeliverables

Project Action:	Rate	Hours/Units	Line Item Estimate
Case Associate	\$50.00	3	\$150.00
Skip Tracing Undeliverables	\$2.50	58	\$144.50
Remail Notice Packets	\$1.50	58	\$86.70
Estimated Postage	\$0.87	58	\$50.29
Programming Undeliverables	\$50.00	2	\$100.00
Total			\$531.49

Database Programming / Processing Opt-Outs, Deficiencies or Disputes

Project Action:	Rate	Hours/Units	Line Item Estimate
Programming Claims Database	\$125.00	2	\$250.00
Non Opt-Out Processing	\$125.00	1	\$125.00
Case Associate	\$55.00	2	\$110.00
Opt-Outs/Deficiency/Dispute Letters	\$10.00	2	\$20.00
Case Manager	\$85.00	2	\$170.00
Total			\$675.00

Calculation & Disbursement Programming/ Create & Manage QSF/ Mail Checks

Project Action:	Rate	Hours/Units	Line Item Estimate
Programming Calculations	\$125.00	2	\$250.00
Disbursement Review	\$125.00	2	\$250.00
Programming Manager	\$95.00	1	\$95.00
QSF Bank Account & EIN	\$125.00	1	\$125.00
Check Run Setup & Printing	\$125.00	2	\$250.00
Mail Class Checks *	\$1.75	286	\$500.69
Estimated Postage	\$0.64	286	\$183.11
Total			\$1,653.80

* Checks are printed on 8.5 x 11 in. sheets with W2/1099 Tax Filing



PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

Tax Reporting & Reconciliation / Re-Issuance of Checks / Conclusion Reports and Declarations			
Project Action:	Rate	Hours/Units	Line Item Estimate
Case Supervisor	\$125.00	3	\$375.00
Remail Undeliverable Checks (Postage Included)	\$1.50	57	\$85.83
Case Associate	\$60.00	3	\$180.00
Reconcile Uncashed Checks	\$75.00	2	\$150.00
Conclusion Reports	\$125.00	2	\$250.00
Case Manager Conclusion	\$85.00	4	\$340.00
Final Reporting & Declarations	\$125.00	2	\$250.00
IRS & QSF Annual Tax Reporting * (1 State Tax Reporting Included)	\$1,000.00	1	\$1,000.00
Total			\$2,630.83

* All applicable California State & Federal taxes, which include SUI, ETT, and SDI, and FUTA filings. Additional taxes are Defendant's responsibility.

Estimate Total: \$8,750.00



TERMS AND CONDITIONS

Provisions: The case estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make any provision for any services or class size not delineated in the request for proposal or stipulations. Proposal rates and amounts are subject to change upon further review, with Counsel/Client, of the Settlement Agreement. Only pre-approved changes will be charged when applicable. No modifications may be made to this estimate without the approval of PSA (Phoenix Settlement Administrators). All notifications are mailed in English language only unless otherwise specified. Additional costs will apply if translation into other language(s) is required. Rates to prepare and file taxes are for Federal and California State taxes only. Additional charges will apply if multiple state tax filing(s) is required. **Pricing is good for ninety (90) days.**

Data Conversion and Mailing: The proposal assumes that data provided will be in ready-to-use condition and that all data is provided in a single, comprehensive Excel spreadsheet. PSA cannot be liable for any errors or omissions arising due to additional work required for analyzing and processing the original database. A minimum of two (2) business days is required for processing prior to the anticipated mailing date with an additional two (2) business days for a National Change of Address (NCOA) update. Additional time may be required depending on the class size, necessary translation of the documents, or other factors. PSA will keep counsel apprised of the estimated mailing date.

Claims: PSA's general policy is to not accept claims via facsimile. However, in the event that facsimile filing of claims must be accepted, PSA will not be held responsible for any issues and/or errors arising out of said filing. Furthermore, PSA will require disclaimer language regarding facsimile transmissions. PSA will not be responsible for any acts or omissions caused by the USPS. PSA shall not make payments to any claimants without verified, valid Social Security Numbers. All responses and class member information are held in strict confidentiality. Additional class members are \$10.00 per opt-out.

Payment Terms: All postage charges and 50% of the final administration charges are due at the commencement of the case and will be billed immediately upon receipt of the data and/or notice documents. PSA bills are due upon receipt unless otherwise negotiated and agreed to with PSA by Counsel/Client. In the event the settlement terms provide that PSA is to be paid out of the settlement fund, PSA will request that Counsel/Client endeavor to make alternate payment arrangements for PSA charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the settlement account is funded by Defendant, or no later than the time of disbursement. Amounts not paid within thirty (30) days are subject to a service charge of 1.5% per month or the highest rate permitted by law.

Tax Reporting Requirements

PSA will file the necessary tax returns under the EIN of the QSF, including federal and state returns. Payroll tax returns will be filed if necessary. Under the California Employment Development Department, all taxes are to be reported under the EIN of the QSF with the exception of the following taxes: Unemployment Insurance (UI) and Employment Training Tax (ETT), employer-side taxes, and State Disability Insurance (SDI), an employee-side tax. These are reported under Defendant's EIN. Therefore, to comply with the EDD payroll tax filing requirements we will need the following information:

1. Defendant's California State ID and Federal EIN.
2. Defendant's current State Unemployment Insurance (UI) rate and Employment Training Tax (ETT) rate. This information can be found in the current year DE 2088, Notice of Contribution Rates, issued by the EDD.
3. Termination dates of the class members, or identification of current employee class members, so we can account for the periods that the wages relate to for each class member.
4. An executed Power of Attorney (Form DE 48) from Defendant. This form is needed so that we may report the UI, SDI, and ETT taxes under Defendant's EIN on their behalf. If this form is not provided we will work with the EDD auditors to transfer the tax payments to Defendant's EIN.
5. Defendant is responsible for reporting the SDI portion of the settlement payments on the class member's W-2. PSA will file these forms on Defendant's behalf for an additional fee and will issue an additional W-2 for each class member under Defendant's EIN, as SDI is reported under Defendant's EIN rather than the EIN of the QSF. The Power of Attorney (Form DE 48) will be needed in order for PSA to report SDI payments.