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7 Attorneys for Plaintiff PRICILLA COOPER

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF ALAMEDA**

10
11
12 PRICILLA COOPER, as an individual and
on behalf of all others similarly situated,

13
14 Plaintiff,

15 v.

16 AMTEC HUMAN CAPITAL, INC., a
17 California Corporation; THE CLOROX
COMPANY, a Delaware Corporation;
18 THE CLOROX INTERNATIONAL
COMPANY, a Delaware Corporation; and
19 DOES 1-100, inclusive,

20 Defendants.
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Case No.: 23CV038864

Assigned for All Purposes to:
Hon. Michael Markman
Dept. 23

**DECLARATION OF BRANDON
BROUILLETTE IN SUPPORT OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

[Filed concurrently with Notice of Motion and
Motion; Memorandum of Points & Authorities;
Declarations of Pricilla Cooper and Jodey
Lawrence; [Proposed] Order]

Date: September 24, 2024
Time: 10:00 a.m.
Dept. 23

1 I, BRANDON BROUILLETTE, declare as follows:

2 1. I am an attorney duly licensed to practice in California and before this Court, and
3 I a partner with Crosner Legal, P.C., counsel of record for Plaintiff Pricilla Cooper in the above-
4 captioned matter. If called to testify as to the facts within, I would and could competently do so.

5 2. Attached hereto as **Exhibit 1** is a fully-executed, true and correct copy of the
6 Parties' Class Action and PAGA Settlement Agreement ("Settlement Agreement").

7 3. I am unaware of any other pending matters that would overlap with this matter as
8 far as claims asserted or class membership, or that would be affected the release in this matter.

9 **FACTUAL BACKGROUND AND PROCEDURAL POSTURE**

10 4. Defendant Amtec provides staffing services and temporary help to clients in several
11 industries, including aerospace, construction and engineering, and manufacturing. Plaintiff was a direct
12 hire of Amtec and assigned to work at facility of former Defendant The Clorox Company,¹ where she
13 worked as a warehouse worker, repacker, and palleter from aaround September 2021 to June 2022, when
14 she was terminated.

15 5. Plaintiff alleges a number of wage and hour violations by Defendant. First, she
16 alleges a failure to provide all required meal and rest breaks, and that Defendant had a practice of
17 "auto-deducting" 30 minute meal periods regardless of whether such meal periods actually were taken or
18 lasted a full 30 minutes, resulting in lost hours worked when meal breaks were missed or cut short.
19 Plaintiff also alleges this same policy resulted in meal period violations and also that Amtec failed to
20 provide compliant meal periods before the end of the fifth hour of work and pay meal period premiums
21 when required. She further alleges rest break violations based on a non-compliant written policy and
22 failure to provide all required rest breaks. Lastly, she alleges Defendant failed to reimburse employees
23 for use of their personal cellular devices for company business.

24 6. Based on these allegations, Plaintiff's filed a class action lawsuit alleging wage and hour
25 violations against Defendant captioned *Pricilla Cooper v. Amtec Human Capital, Inc., et al.* initiated on
26 June 16, 2023. After notice to the Labor & Workforce Development Agency ("LWDA") and
27

28 ¹ The Clorox Company and The Clorox International Company both are being dismissed from the case
as part of the settlement.

1 Defendants, and exhausting administrative remedies, Plaintiff also filed a separate PAGA-only lawsuit
2 alleging wage and hour violations against Defendants captioned *Pricilla Cooper v. Amtec Human*
3 *Capital, Inc., et al.*, initiated on July 19, 2023. A true and correct copy of Plaintiff's PAGA notice letter
4 is attached hereto as Exhibit 2.

5 7. Amtec has at all times denied Plaintiff's allegations and maintained its meal and
6 rest break and payroll policies and procedures comply with California law, that it provided
7 employees with required meal and rest breaks or paid the required compensation for any
8 documented meal/rest violations. Additionally, Amtec strongly contends the case cannot be
9 maintained as a class action, arguing for example that to the extent class members missed meal
10 and/or rest breaks, that such breaks were non-compliant, or that class members had to sue their
11 own phones for work it was intermittent and infrequent and evidence of such missed breaks or
12 phone use would be anecdotal, and therefore individualized issues would predominate.

13 8. Once the matter was at issue, the Parties initiated written discovery and began
14 meeting and conferring regarding discovery, law and motion, and other case management issues,
15 and ultimately agreed to attempt early mediation. The Parties also agreed on a protocol for an
16 exchange of additional documents and information before the mediation to facilitate the
17 settlement discussions. Consequently, Plaintiff's counsel reviewed payroll records, compensation
18 plans, personnel policies/handbooks, meal and rest break policies, personnel files, and a random
19 of sampling of Class Member paystubs and time records. Defendant also provided data regarding
20 the total number of putative class members, the estimated total amount of workweeks and pay
21 periods they worked, average pay rates, and information regarding other non-hourly
22 compensation, among other relevant data.

23 9. The Parties then engaged Steve Pearl, Esq., a respected professional neutral with
24 substantial wage and hour and class action experience. In May 2024, the Parties participated in a
25 full day mediation with Mr. Pearl. Throughout the day, the arms-length negotiations were hard-
26 fought and adversarial as the Parties exchanged extensive information on their legal and factual
27 positions, and made numerous offers and counter-offers, and ultimately reached agreement on all
28 major issues. The Parties then collaboratively drafted the Class Action and PAGA Settlement

1 (“Settlement Agreement”) setting forth the settlement terms now before the Court for approval.
2 A fully-executed, true and correct copy of the Settlement Agreement is attached to the Brouillette
3 Declaration as Exhibit 1.

4 **THE PROPOSED SETTLEMENT TERMS**

5 10. Under the settlement, Amtec will pay \$300,000 into a common fund, the Gross
6 Settlement Amount (“GSA”). Attorney’s fees of up to \$100,000 (1/3 of the GSA), litigation
7 costs of up to \$15,000, settlement administration costs of no more than \$8,500, a service award
8 to Plaintiff of no more than \$10,000, and PAGA civil penalties of \$30,000, all will be paid from
9 the GSA. The balance of around \$136,500 will be allocated pro rata to the Class Members based
10 on their weeks worked during the Class Period. No portion of the GSA will revert to Amtec.

11 11. The settlement provides for conditional certification of a settlement class including
12 all individuals employed by Amtec in California and classified as non-exempt who worked for
13 Defendant and were placed with The Clorox Company or The Clorox International Company
14 during the Class Period of June 16, 2019 to July 13, 2024. The Settlement Class consists of about
15 200 individuals.

16 12. As noted, the settlement obligates Amtec to pay \$300,000 to resolve the Settlement
17 Class’s claims, inclusive of attorney’s fees and costs. At least \$136,500 from the GSA will be
18 distributed to the Participating Class Members. This is a cash settlement that does not require
19 Participating Class Members to submit a claim form to receive their settlement share.
20 Participating Class Members will receive their settlement checks automatically via First Class
21 U.S. Mail. Twenty-five percent of each settlement share will be allocated to wages and the
22 remaining seventy-five percent will be allocated to penalties and interest, which allocation is
23 consistent with Amtec’s potential liability. Amtec will pay any and all applicable employer-side
24 payroll taxes separately and in addition to the GSA. Subject to the Court’s approval, any amounts
25 not claimed (because a class member does not cash their settlement check) will be forwarded to
26 the State Controller’s Unclaimed Property Fund.

27 13. Each Participating Class Member will receive a share of the Net Settlement
28 Amount based on his or her total weeks worked in California as a non-exempt employee during

1 the Class Period.. Thus, each Class Member's Individual Settlement Payment will be calculated
2 using criteria typically used in determining appropriate amounts of unpaid wages, unpaid
3 premium wages for missed meal and rest breaks, and potential statutory penalties under applicable
4 law. These methods are intended to ensure each Class Member receives a settlement award
5 corresponding to the relative value of their potential claims. The proposed allocation provides a
6 reasonable way to compensate Class Members based on the amount of time they worked for
7 Amtec in California and the amount unpaid overtime, the number of missed meal breaks and/or
8 rest breaks, etc. I estimate the average class award will be around \$683.

9 14. Subject to the Court's approval, the Parties have agreed on Phoenix Settlement
10 Administrators ("Phoenix") as the Settlement Administrator. Phoenix is qualified and has
11 significant experience administering class action settlements, including numerous wage and hour
12 matters. Phoenix's fees and costs will not exceed \$8,500. If the Court approves less than the
13 above amount, the difference will remain in the Net Settlement Amount for distribution to the
14 Participating Class Members.

15 15. The proposed Notice of Class Action Settlement (Exhibit A to the Settlement
16 Agreement) sets out information about this case and explains the basic settlement terms in plain
17 language. The Notice also sets forth the individualized information used to calculate Class
18 Members' Individual Settlement Payments and each Class Member's estimated settlement
19 award. The Notice likewise details the procedures for Class Members to dispute their individual
20 information, the procedure for submitting an objection to the Settlement, the procedure to
21 request exclusion, and the fact that any final judgment will bind all class members who do not
22 opt out. Cal. Rules of Court 3.769(f) and 3.766(d). In sum, the Notice provides the Class
23 Members with the information necessary to evaluate the Settlement and decide to participate in,
24 opt out of, or object to the proposed Settlement, and meets all requirements imposed by the
25 California Rules of Court. Coupled with the notice procedure, the Notice provides the best
26 notice practicable.

27 16. Class Members will have sixty (60) days to dispute the information in their
28 Notice used to calculate their settlement award, and also have 60 days to submit any objections

1 to the settlement or to request exclusion. If a Class Member disputes their individual
2 information, the Settlement Administrator will review the Class Member's records and any
3 other information submitted, and make a final determination.

4 17. All Participating Class Members will release Amtec and the Released Parties
5 (including the Clorox Defendants) from all claims alleged in the operative complaint, or that
6 could have been brought based on the factual allegations in the complaint during the Class
7 Period. The release is limited to the claims that were actually pleaded or could have been
8 pleaded based on the alleged facts in the operative complaint.

9 18. A modest incentive award for Plaintiff is appropriate under applicable law. She
10 devoted time and resources to the litigation, provided documents, assisted Class Counsel with
11 investigating the claims asserted and in preparing for mediation. The service payment provided
12 to Plaintiff as the class representatives is typical in class action cases and reasonable. Defendant
13 will not oppose a request for an enhancement award to Plaintiff of not more than \$10,000.00 in
14 recognition of her time spent on this matter, the risks she undertook on behalf of the class, and
15 the benefit conferred to the class, as addressed in her declaration filed herewith. If the Court
16 approves less than the above amount, the difference will remain in the Net Settlement Amount for
17 distribution to the Participating Class Members.

18 19. The terms of the Parties' settlement also allow Plaintiff's counsel to apply for an
19 award of attorney's fees of up to one-third of the GSA, or \$100,000 and reimbursement of actual
20 costs and expenses of up to \$15,000.00. Plaintiff's counsel will submit a request for attorney's
21 fees and actual litigation costs at final approval per the terms of the Settlement Agreement and
22 applicable law, and will provide the Court with appropriate information and evidence regarding
23 hourly rates, tasks performed, and time expended on the case. If the Court approves less than the
24 above amounts, the difference will remain in the Net Settlement Amount for distribution to the
25 Participating Class Members.

26 20. As noted, the Parties allocated \$30,000 to resolution of Plaintiff's alleged claims
27 under PAGA. Consistent with PAGA, \$22,500 of that amount will go to the LWDA for the
28 State's share of the civil penalties, while the remaining \$7,500 will be distributed pro rata to

1 eligible Aggrieved Employees. Prior to filing this motion, my office provided notice of the
2 proposed settlement of the PAGA claims and the approval hearing to the LWDA via its online
3 portal. A true and correct copy of the LWDA's notice of receipt is attached hereto as Exhibit 3.

4 **The Proposed Settlement Class Should Be Conditionally Certified**

5 21. In the present matter, conditional certification is proper since this matter satisfies
6 all requirements for class certification under Code of Civil Procedure section 382. First, the
7 class is both sufficiently numerous, consisting of approximately 200 individuals, and
8 ascertainable by reference to Defendant's personnel and payroll records.

9 22. Plaintiff is an adequate class representative, as her claims do not conflict with
10 and are not antagonistic to the claims of other class members. Further, her claims are typical as
11 he is a member of the class and his claims arise from the same employment practices and course
12 of conduct giving rise to the claims of the other class members.

13 23. Common questions of law and fact predominate – particularly for purposes of a
14 settlement class – as the Class Members all were paid via substantially similar company-wide
15 policies that resulting in missed/non-compliant meal and rest breaks, etc. Since the focus of the
16 claims against Amtec concerns the legality of common policies applied uniformly to the entire
17 class, common issues predominate over individualized inquiries concerning liability. For
18 instance, Amtec either had an “auto deduct” policy or did not, which policy either properly
19 recorded meal breaks or it did not. Similarly, whether use of personal phones was “reasonable”
20 or “necessary” to the perform the required duties of the job presents yet another common issue.
21 Regardless of these determinations, it will decide liability for all Class Members one way or
22 another.

23 24. Resolving this matter as a class action is superior to other available means for the
24 fair and efficient adjudication of this controversy for multiple reasons, including inter alia: (a)
25 individual joinder of all members of the class is impractical, (b) class action treatment will
26 permit a large number of similarly situated persons to resolve their common claims in a single
27 forum simultaneously, efficiently, and without unnecessary duplication of effort and expense;
28 and (c) the damages suffered by many of the individual class members are relatively small and

1 the expenses and burden of individual litigation would make it difficult or impossible for them
2 to seek redress on their own.

3 **The Proposed Settlement Meets the Dunk and Kullar Factors and is within the Range of**
4 **Reasonableness**

5 25. Prior to mediation, the parties engaged in extensive formal informal discovery to
6 facilitate settlement discussions. As a result, Plaintiff reviewed documents and information
7 regarding Amtec's payroll practices, pay stubs and time records for a sampling of class members,
8 meal and rest break policies, etc., and information from Defendant regarding class size and
9 breakdown of job positions, work weeks, rates of pay, and other information used to formulate a
10 damages model. This extensive information then was analyzed by a consulting expert to look for
11 meal and rest break violation rates, time spent working off the clock, etc., and other issues relevant
12 to liability and damages. Plaintiff's counsel are confident they obtained sufficient information to
13 enable them to understand the law and facts of this case and make an informed decision regarding
14 the proposed settlement and whether it is in the best interests of the class.

15 26. Using that data, Plaintiff ran various calculations and estimated Amtec's likely
16 maximum exposure on the class claims at approximately \$1,635,810, including approximately
17 \$360,600 on the meal period claims, about \$360,600 on the rest period claims, about \$44,060 on
18 the expense reimbursement claim, around \$139,800 on the wage statement claims, and \$730,750
19 on the waiting time penalty claims. While Plaintiff's complaint alleges claims for unpaid wages,
20 our investigation and discovery did not suggest any potentially widespread violations for unpaid
21 wages that could be addressed via a class or representative action. Accordingly no value was
22 attributed to those claims for purposes of settlement.

23 27. We calculated these amounts as follows:

24 Meal Period Violations

25 4,406 work weeks * 5 violations/week * \$16.37/hour avg. wage = \$360,600

26 Rest Period Violations

27 4,406 work weeks * 5 violations/week * \$16.37/hour avg. wage = \$360,600

28 /////

Expense Reimbursement

4,406 work weeks \$10/week = \$44,060

Wage Statement Violations

70 initial violations * \$50/violation * 1,363 subsequent violations * \$100/violation = \$139,800

Waiting Time Penalties

186 former employees * (240 hours * \$16.37/hour) = \$730,750

28. On the meal and rest break claims, Plaintiff contends that Amtec's alleged "auto-deduct" policy obscured the fact that employees missed meal periods completely or received shortened breaks. Plaintiff further alleged Amtec regularly provided meal periods that did not start until after the fifth hour of work thus were untimely. Plaintiff's review of the time and payroll records provided suggested these deficiencies in the policies affected employee breaks. Similarly, Plaintiff alleged Amtec's written break policy likewise was non-compliant, failed to properly reflect the time periods for taking breaks, and also resulted in "de facto" violations. [

29. In response, Amtec argued its written meal and rest break policies are fully compliant, and that it provided employees with the opportunity to receive all required breaks. Defendant further maintained that, in light of its compliant policies, whether a class member missed a meal period, received a late meal period, or missed a rest break would have been aberrational and against company policy. Thus, per Amtec, these issues are not amenable to class or representative treatment since their resolution would require individualized inquiries as to why a break was missed or non-compliant.

30. On the expense reimbursement claim, Plaintiff alleges Defendant's management and supervisors would constantly text Plaintiff and other employees on their cell phones throughout their shifts to communicate with them on work-related issues, and that no reimbursement was paid. On the other hand, Amtec argued there would be no conceivable need for employees to use their own phones while working or for any work-related purposes, and if they did so it was purely for personal convenience rather than business necessity. Thus, per Amtec, no reimbursement is owed.

1 31. The claims under Labor Code sections 203 and 226 are derivative of the primary
2 unpaid wage claims, and accordingly are subject to the same risks and uncertainties plus
3 additional risks posed by the need to take into account the discretionary nature of such awards
4 and the “good faith” and other defenses available to Defendant. Thus, while these claims largely
5 are derivative of the unpaid wage claim, they also are subject to additional defenses.

6 32. As far as potential PAGA liability, the allegedly aggrieved employees theoretically
7 are entitled to penalties totaling around \$575,000 in civil penalties should Plaintiff prevail on all
8 claims and establish violations of the multiple Labor Code sections as to each and every pay
9 period at issue. As with the class claims, Plaintiff discounted the potential PAGA penalties based
10 on Defendant’s various defenses on the merits and also accounted for the Court’s wide discretion
11 to reduce such penalties, or to decline to award penalties at all. Accordingly, the Parties allocated
12 \$30,000 to PAGA penalties, and I submit this amount is reasonable under the circumstances and
13 in line with comparable settlements in other wage and hour class actions in California.
14 Additionally, the LWDA has been informed of the terms of the PAGA portion of the settlement,
15 and will be able to weigh in as necessary.

16 33. The settlement obviates the significant risk that this Court may find any kind of
17 class or representative resolution unachievable or deny certification of all or some of Plaintiff’s
18 claims. Furthermore, even if Plaintiff obtained certification of all or some of the claims,
19 continued litigation would be lengthy and expensive as the parties pursued merits discovery, a
20 probable motion to decertify, as well as trial and possible appeals, and would further and
21 substantially delay any recovery by the class with no assurance of recovering significantly more
22 than the proposed settlement. While Plaintiff is confident in the merits of these claims,
23 legitimate controversies exist regarding each one of them. Plaintiff also recognizes proving the
24 amount of wages and penalties due each Class Member would be an expensive, time-
25 consuming, and uncertain proposition.

26 34. Plaintiff and I discounted the value of the class claims consistent with the risks
27 discussed above, and carefully weighed the likelihood of the class receiving substantially
28 greater benefit if the litigation continued. We concluded – in light of these very real and

1 substantial risks – settlement on the proposed terms and without prolonged and costly litigation
2 was in the best interests of the class, and the overall \$300,000 recovery represents a significant
3 percentage of Defendant’s potential exposure. Given these risks, a total recovery for the class of
4 \$300,000, which will result in average award of over \$680 per class member, is a significant
5 result well within the range of reasonableness considering all potential outcomes, and it will
6 provide direct monetary awards to all Class Members without further delay.

7 35. I am a graduate of Loyola Law School, Los Angeles, from which I received a
8 *juris doctorate* degree in 2009. Prior to attending law school, I attended the University of
9 Southern California, from which I received a *bachelors of science* in Business Administration in
10 2006.

11 36. I have been a Partner at Crosner Legal since February 1, 2023. Prior to joining
12 Crosner Legal, I was a Senior Associate and Team Director of a Wage and Hour Litigation
13 Team at Capstone Law APC, which I originally joined as an associate attorney in May 2016.

14 37. Since being admitted to the California State Bar in 2010, my entire legal career
15 has been dedicated to protecting employee and consumer rights through the prosecution of class
16 action and representative actions filed on behalf of plaintiffs in class actions and statewide
17 representative actions. Throughout my career I have managed or co-managed more than 100
18 class action and PAGA representative cases, from initial filing of the complaint through final
19 resolution.

20 38. In particular, I have served as class counsel in several certified class action cases,
21 including:

- 22 a. *Party City Wage and Hour Cases*, JCCP4781 (class counsel for certified class of
23 non-exempt hourly employees who worked for Defendants in California)
- 24 b. *Lewis v. Express Messenger Systems*, Los Angeles Superior Court Case No.
25 BC501521 (class counsel for certified class of last-mile delivery drivers who were
26 alleged to be misclassified as independent contractors)
- 27 c. *Ramirez-Vivar v. Grifols Diagnostic Solutions, Inc., et al.*, Alameda County Superior
28 Court, Case No. RG21099519 (class counsel for certified classes of non-exempt

hourly employees who worked for Defendants in California)

- d. *Jones v. LA Live*, Los Angeles County Case No. BC687908 (class counsel for certified issue classes consisting of hourly employees who worked at Staples Center and Nokia Theater)

39. The following is a representative sample of settlements in wage and hour class action and PAGA representative cases in which I was listed as an attorney of record and either managed, or co-managed with attorneys at my firm and other co-counsel:

- e. *Cruz v. Walmart*, Los Angeles County Super. Ct. Case No. 18STCV03128 (\$15 million global PAGA settlement on behalf of hourly employees statewide for alleged Labor Code violations.)
- f. *Vorise v. 24 Hour Fitness USA, Inc.*, Contra Costa County Super. Ct., Case No. C 15-02051 (\$11 million global PAGA settlement on behalf of over 36,000 employees for Labor Code violations.)
- g. *Gross v. Sodexo*, Kern County Super Ct., Case No. BCV-18-101746 Capstone (\$4.75 million class and PAGA settlement on behalf of class of non-hourly employees for Labor Code violations.)
- h. *Campbell v. AEG* (\$1.8M class and PAGA settlement on behalf of group of hourly employees who worked at concert venues in California for alleged Labor Code violations)
- i. *Fiebelkorn v. AEG*, et al. Los Angeles Superior Court Case No. BC717337 (\$1.75M class settlement on behalf of group of hourly employees who worked at Oakland Coliseum for alleged Labor Code violations)
- j. *Amaro v. Anaheim Arena Management*, Orange County Superior Court Case No. 30-2017-00917542 (\$2,212,500 class and PAGA settlement on behalf of group of hourly employees who worked at Honda center in Anaheim California for alleged Labor Code violations)
- k. *Espindola v. Panda Express*, San Bernardino Superior Court Case No. CIVDS1931455 (\$3.125M class and PAGA settlement on behalf of hourly

- employees statewide for alleged Labor Code violations)
- l. *Gold v. Benihana*, San Diego Court Superior Court Case No. 37-2016-00022320-CU-OE-NC (\$2.25M class and PAGA settlement on behalf of hourly employees statewide for alleged Labor Code violations)
 - m. *Party City Wage and Hour Cases*, JCCP4781 (\$6.5M class and PAGA settlement on behalf of hourly employees statewide for alleged Labor Code violations)
 - n. *Lewis v. Express Messenger Systems*, Los Angeles County Super Court Case No. BC501521 (\$10.5M class and PAGA settlement on behalf of a statewide group of independent contractor last-mile delivery drivers alleged to be misclassified)
 - o. *Flores v. Tesla*, Alameda County Superior Court Case No. RG18907072 (\$4M class and PAGA settlement on behalf of statewide group of hourly employees for alleged Labor Code violations)
 - p. *Ruiz v. Disney Stores*, San Bernardino Superior Court Case No. CIVDS2016983 (\$2M class and PAGA settlement on behalf of statewide group of hourly employees who worked at retail stores in California for alleged Labor Code violations)
 - q. *Ramirez v. Yin Management*, Sacramento County Superior Court Case No. 34-2021-00301530 (\$1.8M class and PAGA settlement on behalf of statewide group of hourly employees who worked at Defendant's McDonald's franchises in California for alleged Labor Code violations).
 - r. *Suhartono v. RRG Besh*, Los Angeles County Superior Court Case No. 19STCV22184 (\$2.25 class and PAGA settlement on behalf of statewide group of hourly employees who worked at Defendant's McDonald's franchises in California for alleged Labor Code violations).
 - s. *Gomes v. Kura Sushi*, Los Angeles County Superior Court Case No. 19STCV18977 (\$1.75M class and PAGA settlement on behalf of statewide group of hourly employees who worked at Defendant's restaurants in California for alleged Labor Code violations)
 - t. *Saldana v. Hydrochem*, Contra Costa Superior Court Case No. CIVMSC19-02624

1 (\$1.38M class and PAGA settlement on behalf of statewide group of hourly
2 employees for alleged Labor Code violations).

3 40. In addition, below are settlements in consumer class action cases in which I was
4 listed as an attorney of record and either managed, or co-managed with attorneys at my firm:

5 u. *Lopez v. Seterus, et al.*, Los Angeles Superior Court Case No. BC484297 (\$3M Class
6 settlement on half of thousands of borrowers in California, Florida, and Texas for
7 UCL violations premised on improper late fee collections)

8 v. *McGill v. Citibank*, Riverside County Superior Court Case No. RIC 1109398 (in
9 landmark case that established the ‘McGill rule’ precluding the waiver of public
10 injunctive relief in pre-dispute arbitration agreements, negotiated confidential
11 settlement on behalf of consumer who sued for damages and class injunctive relief
12 stemming from marketing of credit protector plan)

13 41. Finally, I have been selected by my peers as a Super Lawyers ‘Rising Star’ every
14 year since 2016 through 2022, which is a recognition that is provided to only 2.5% of active
15 lawyers practicing within the State of California

16 42. Zachary Crosner is a 2010 graduate of University of San Diego School of Law. He
17 has some fourteen years of experience as a practicing attorney, all of which have focused on
18 litigation of employment, labor law, consumer, and class action claims. Following graduation, he
19 immediately began working for a nationally recognized plaintiff-side complex litigation firm,
20 CaseyGerry, where he had the fortune of working directly with past presidents of the consumer
21 attorneys and recipients of trial attorneys of the year awards. He also worked for former CAALA
22 and CLAY trial attorney of the year recipient, attorney Conal Doyle, as his sole associate attorney.
23 During his tenure at these firms, he focused on advocating for the rights of consumers and
24 employees in class action litigation, civil rights and employment litigation, catastrophic injuries,
25 insurance bad faith, and appellate litigation.

26 43. In 2013, he founded the law firm of Crosner Legal, P.C., which since its inception
27 has focused almost exclusively on wage and hour class actions and other labor and employment
28 law cases representing plaintiffs. Currently, over ninety percent (90%) of the firm’s practice is

1 dedicated exclusively to the prosecution of wage and hour class actions, and the law firm is
2 currently responsible as lead counsel or co-lead counsel for prosecuting well over fifty (50) wage
3 and hour class actions and/or PAGA representative actions in both federal and state courts
4 throughout California.

5 44. Mr. Crosner currently is an executive board member of the Wage and Hour
6 Committee and the Legislative Committee for the California Employment Lawyers Association;
7 a member of the Grassroots Advocacy Team for the National Employment Lawyers Association;
8 Wage and Hour Committee member and Class Action Committee member for the National Trial
9 Lawyers; a member of the American Association for Justice; and a member of the Pound Civil
10 Justice Institute. He also was selected by Super Lawyers as a “Southern California Rising Star”
11 for employment and labor law for 2018-2020.

12 45. Crosner Legal, P.C. has obtained several multi-million dollar wage and hour class
13 action settlements while serving as lead class counsel in recent years, including but not limited to
14 a \$1.9 million wage and hour class action settlement in 2015 (*Smith v. Lux Retail North America,*
15 *Inc.*, Case No. 3:13-cv-01579-WHA (N.D. Cal.)); a \$4.1 million wage and hour class action
16 settlement in 2016 (*Aguirre v. Mariani Nut Company, Inc. et al.*, Case No. 34- 2016-00190252
17 (Sacramento Cty. Super Ct.)); a \$1.35 million wage and hour class action settlement in 2017
18 (*Montelone v. Ocean Cities Pizza, Inc.*, Case No. 56-2014-00458249 (Ventura Cty. Super. Ct.)),
19 a \$1.8 million wage and hour class action settlement in 2018 (*Latham v. K.W.P.H. Enterprises,*
20 *Inc. dba American Ambulance*, Case No. 17C-0162 (Kings Cty. Super Ct.)), a \$1.3 million wage
21 and hour class action settlement in 2019 (*Means, et al. v. AirGas USA, LLC*, Case No. 17-CV-
22 2160 JGB (C.D. Cal.)), a \$1.5 million wage and hour settlement in 2020 (*Babouchian, et al. v.*
23 *Wyndham Vacation Ownership, et al.*, Case No. CV18-14601 (San Diego Cty. Super. Ct.)), a \$1.15
24 million wage and hour class action settlement in 2020 (*Buford v. Medical Solutions LLC*, Case
25 No. 4:18-CV-04864-YGR (N.D.Cal.)); a \$2.2 million wage and hour class action settlement in
26 2021 (*Ghorchian, et al. v. West Hills Hospital, et al.*, Case No. LS029737 (Los Angeles Cty.
27 Super. Ct.)); a \$2.85 million dollar wage and hour settlement in 2021 (*Valencia v. The Original*
28 *Mowbray’s Tree Service, Inc.*, Case No. CIVDS1825518 (San Bernardino Cty. Super. Ct.)); a \$1

1 million wage and hour class action settlement in 2022 (*Duong v. Loan Factory, Inc.*, Case No.
2 21CV382467 (Santa Clara Cty. Super. Ct.)), a \$1.4 million wage and hour class action settlement
3 in 2023 in *Correa, et al. v. FedEx Supply Chain, Inc.*, Case No. CIVDS2023369 (San Bernardino
4 Cty. Super. Ct.), a \$2.38 million wage and hour class action settlement in 2023 in *Michel, et al.*
5 *v. Valley Thrift Store, Inc.*, Case No. 21STCV00925 (Los Angeles Cty. Super. Ct.); and a \$2.5
6 million wage and hour class action settlement in 2023 in *Jajuga v. Pilot Travel Centers*, Case No.
7 CIVDS1931464 (San Bernardino Cty. Super. Ct.).

8 47. For all the foregoing reasons, I believe the settlement is fair, reasonable, and in
9 the best interests of the class.

10 I declare under penalty of perjury under the laws of the State of California that the
11 foregoing is true and correct. Executed this 30th day of August 2024, at Los Angeles, California.

12
13 

14 Declarant

Exhibit 1

BRANDON BROUILLETTE (SBN 273156)
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Attorneys for Plaintiff PRICILLA COOPER

[Additional Counsel Listed on Following Page]

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

PRICILLA COOPER, as an individual and on
behalf of all others similarly situated,

Plaintiff,

v.

AMTEC HUMAN CAPITAL, INC., a
California Corporation; THE CLOROX
COMPANY, a Delaware Corporation; THE
CLOROX INTERNATIONAL COMPANY,
a Delaware Corporation; and DOES 1-100,
inclusive,

Defendants.

Case No. **23CV036357**

**CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT AND CLASS
NOTICE**

Assigned to the Hon. Michael Markman
Dept.: 23

Action Filed: June 16, 2023

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23 Attorneys for Defendants THE CLOROX COMPANY &
24 THE CLOROX INTERNATIONAL COMPANY

1 This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and
2 between plaintiff Pricilla Cooper (“Plaintiff”) and defendant Amtec Human Capital, Inc.
3 (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or
4 individually as “Party.”

5 **1. DEFINITIONS.**

6 1.1. “Action” means the Plaintiff’s Class lawsuit alleging wage and hour violations
7 against Defendant captioned *Pricilla Cooper v. Amtec Human Capital, Inc., et al.* initiated on
8 June 16, 2023, and pending in Superior Court of the State of California, County of Alameda, Case
9 No. 23CV036357, and PAGA lawsuit alleging wage and hour violations against Defendant
10 captioned *Pricilla Cooper v. Amtec Human Capital, Inc., et al.* initiated on July 19, 2023, and
11 pending in Superior Court of the State of California, County of Alameda, Case No. 23CV038864.

12 1.2. “Administrator” means Phoenix Class Action Settlement Administration, the
13 neutral entity the Parties have agreed to appoint to administer the Settlement.

14 1.3. “Administration Expenses Payment” means the amount the Administrator will be
15 paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in
16 accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection
17 with Preliminary Approval of the Settlement.

18 1.4. “Aggrieved Employee” means any person employed by Defendant in California
19 and classified as a non-exempt who worked for Defendant and was placed with The Clorox
20 Company or The Clorox International Company during the PAGA Period.

21 1.5. “Class” means all persons employed by Defendant in California and classified as
22 non-exempt who worked for Defendant and was placed with The Clorox Company or The Clorox
23 International Company during the Class Period.

24 1.6. “Class Counsel” means Brandon Brouillette, Jamie Serb, and Zachary Crosner of
25 Crosner Legal, PC.

26 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment”
27 mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and
28 expenses, respectively, incurred to prosecute the Action.

1.8. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, as well as the total number of Workweeks and PAGA Pay Periods by that Class Member, calculated based on their time and payroll records.

1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.12. “Class Period” means the period from June 16, 2019, until the earlier of: (a) July 13, 2024, or (b) the date upon which the Court grants preliminary approval of the settlement.

1.13. “Class Representative” means the named Plaintiff in the Operative Complaint in the Action seeking Court approval to serve as a Class Representative.

1.14. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.

1.15. “Court” means the Superior Court of California, County of Alameda.

1.16. “Defendant” means Amtec Human Capital, Inc. dba Amtec.

1.17. “Defense Counsel” means Susan M. Steward and Nicholas T. Spencer of Atkinson, Andelson, Loya, Ruud & Romo.

1.18. “Effective Date” means the date when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: the day

1 after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the
2 Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

3 1.19. "Final Approval" means the Court's order granting final approval of the
4 Settlement.

5 1.20. "Final Approval Hearing" means the Court's hearing on the Motion for Final
6 Approval of the Settlement.

7 1.21. "Final Judgment" means the Judgment Entered by the Court upon Granting Final
8 Approval of the Settlement.

9 1.22. "Gross Settlement Amount" means \$300,000 which is the total amount Defendant
10 agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross
11 Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments,
12 the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative
13 Service Payment and the Administrator's Expenses.

14 1.23. "Individual Class Payment" means the Participating Class Member's pro rata share
15 of the Net Settlement Amount calculated according to the number of Workweeks worked during
16 the Class Period.

17 1.24. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of
18 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked
19 during the PAGA Period.

20 1.25. "Judgment" means the judgment entered by the Court based upon the Final
21 Approval.

22 1.26. "LWDA" means the California Labor and Workforce Development Agency, the
23 agency entitled, under Labor Code section 2699, subd.(i).

24 1.27. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the
25 LWDA under Labor Code section 2699, subd.(i).

26 1.28. "Net Settlement Amount" means the Gross Settlement Amount, less the following
27 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA
28 Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel

1 Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be
2 paid to Participating Class Members as Individual Class Payments.

3 1.29. “Non-Participating Class Member” means any Class Member who opts out of the
4 non-PAGA portion of the Settlement by sending the Administrator a valid and timely Request for
5 Exclusion.

6 1.30. “PAGA” means the California Private Attorney General Act of 2004 (Labor Code
7 §§ 2698. *et seq.*).

8 1.31. “PAGA Notice” means Plaintiff’s May 12, 2023 letter to Defendant and the
9 LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

10 1.32. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee
11 worked for Defendant for at least one day during the PAGA Period.

12 1.33. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from
13 the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$7,500) and the 75%
14 to LWDA (\$22,500) in settlement of PAGA claims.

15 1.34. “PAGA Period” means the period from May 12, 2022, until the earlier of: (a) July
16 13, 2024, or (b) the date upon which the Court grants preliminary approval of the settlement date.

17 1.35. “Participating Class Member” means a Class Member who does not submit a valid
18 and timely Request for Exclusion from the Settlement.

19 1.36. “Plaintiff” means Pricilla Cooper.

20 1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval
21 of the Settlement.

22 1.38. “Released Class Claims” means the claims being released as described in
23 Paragraph 5.2 below.

24 1.39. “Released PAGA Claims” means the claims being released as described in
25 Paragraph 5.3 below.

26 1.40. “Released Parties” means: Defendant and its officers, directors, employees, and
27 agents, as well as The Clorox Company, a Delaware corporation, The Clorox International
28 Company, a Delaware corporation, and each of their officers, directors, employees, agents,

1 parents, subsidiaries and affiliates from June 16, 2019 through the earlier of July 13, 2024 or the
2 date of preliminary approval ("Class Period").

3 1.41. "Request for Exclusion" means a Class Member's submission of a written request
4 to be excluded from the Class Settlement signed by the Class Member.

5 1.42. "Response Deadline" means 60 days after the Administrator mails Notice to Class
6 Members and Aggrieved Employees, and will be the last date on which Class Members may: (a)
7 fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or
8 her Objection to the Settlement. Class Members to whom Notice Packets are resent after having
9 been returned undeliverable to the Administrator will have an additional 14 calendar days beyond
10 the Response Deadline has expired.

11 1.43. "Settlement" means the disposition of the Action effected by this Agreement and
12 the Judgment.

13 1.44. "Workweek" means any seven-day period beginning Sunday at midnight through
14 Saturday at 11:59 p.m. during which a Class Member worked for Defendant for at least one day,
15 during the Class Period.

16 **2. RECITALS.**

17 2.1. On May 12, 2023, pursuant to Labor Code section 2699.3, subd.(a), Plaintiff
18 provided timely written notice to Defendant and the LWDA of her claim that she was entitled to
19 civil penalties under PAGA, including the specific provisions of the Labor Code she contends
20 were violated and the theories supporting her contentions.

21 2.2. On July 19, 2023, Plaintiff filed the PAGA Action against Defendant. The PAGA
22 penalties were sought based on the following underlying claims: (1) recovery of unpaid minimum
23 wages and liquidated damages; (2) recovery of unpaid overtime wages; (3) Failure to Provide
24 Meal Periods or Compensation in Lieu Thereof; (4) Failure to Provide Rest Periods or
25 Compensation in Lieu Thereof; (5) Failure to Furnish Accurate Itemized Wage Statements; (6)
26 Failure to Timely Pay All Wages Due Upon Separation of Employment; (7) failure to reimburse
27 business expenses; and (8) Unfair Competition.
28

2.3. On May 13, 2024, the Parties participated in an all-day mediation for the Action with mediator Steve Pearl, which led to this Agreement to settle the Action.

2.4. Prior to mediation, Plaintiff obtained, through informal discovery, hundreds of documents relating to Defendant's policies, practices, and procedures regarding paying non-exempt employees all hours worked, meal and rest period policies, payroll, timekeeping, and operational policies. Plaintiff also obtained and reviewed time records, pay records, and information relating to the size and scope of the Class, as well as data regarding the number of weeks worked and pay periods during the Class and PAGA Period. The Parties agree that the above-described investigation and evaluation, as well as the information exchanged during the settlement negotiations, was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

2.5. The Court has not granted class certification.

2.6. Aside from the Action, the Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant promises to pay \$300,000 and no more as the Gross Settlement Amount (and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments). Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

1 3.2.1. To Plaintiff: Class Representative Service Payment to the Class
2 Representative of not more than \$10,000 (in addition to any Individual Class Payment and
3 any Individual PAGA Payment the Class Representative is entitled to receive as a
4 Participating Class Member and Aggrieved Employee, respectively). In exchange for this
5 payment, the Class Representative will sign a full and complete general release of all claims,
6 known and unknown, as further detailed in paragraph 5.1 below. Defendant will not oppose
7 Plaintiff's request for a Class Representative Service Payment that does not exceed this
8 amount. As part of the motion for Class Counsel Fees Payment and Class Litigation
9 Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service
10 Payments no later than sixteen (16) court days prior to the Final Approval Hearing. If the
11 Court approves a Class Representative Service Payment less than the amount requested, the
12 Administrator will retain the remainder in the Net Settlement Amount. The Administrator
13 will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes
14 full responsibility and liability for employee taxes owed on the Class Representative Service
15 Payment.

16 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than
17 33.33%, which is currently estimated to be \$100,000.00 and a Class Counsel Litigation
18 Expenses Payment of not more than \$15,000.00. Defendant will not oppose Plaintiff's
19 requests for these payments provided they do not exceed these amounts. Plaintiff and/or
20 Class Counsel will request approval of the Class Counsel Fees Payment and Class Litigation
21 Expenses Payment no later than sixteen (16) court days prior to the Final Approval Hearing.
22 If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation
23 Expenses Payment less than the amounts requested, the Administrator will allocate the
24 remainder to the Net Settlement Amount. Released Parties will have no liability to Class
25 Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any Class
26 Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The
27 Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses
28 Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and

1 liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation
2 Expenses Payment and holds the Released Parties harmless, and indemnifies the Released
3 Parties, from any dispute or controversy regarding any division or sharing of any of these
4 Payments.

5 3.2.3. To the Administrator: An Administrator Expenses Payment not to
6 exceed \$8,500.00 except for a showing of good cause and as approved by the Court. To the
7 extent the Administration Expenses are less or the Court approves payment less than
8 \$8,500.00, the Administrator will retain the remainder in the Net Settlement Amount.

9 3.2.4. To Each Participating Class Member: An Individual Class Payment
10 calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks
11 worked by all Participating Class Members during the Class Period; and (b) multiplying the
12 result by each Participating Class Member's Workweeks.

13 3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each
14 Participating Class Member's Individual Class Payment will be allocated to settlement of wage
15 claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be
16 reported on an IRS W-2 Form. The remaining 80% of each Participating Class Member's
17 Individual Class Payment will be allocated to settlement of non-wage claims for, e.g., interest and
18 penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage
19 withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full
20 responsibility and liability for any taxes owed on their Individual Class Payment.

21 3.2.4.2. Effect of Non-Participating Class Members on Calculation of
22 Individual Class Payments. Non-Participating Class Members will not receive any Individual
23 Class Payments. The Administrator will retain amounts equal to their Individual Class Payments
24 in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

25 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the
26 amount of \$30,000 will be paid from the Gross Settlement Amount, with 75% (\$22,500)
27 allocated to the LWDA PAGA Payment and 25% (\$7,500) allocated to the Individual PAGA
28 Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$7,500) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks. Defendant estimates there were 4,006 Workweeks during the Class Period.

4.2. Class Data. Not later than fifteen (15) business days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Gross Settlement Amount. Defendant will fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than thirty (30) days after the Effective Date.

1 4.4. Payments from the Gross Settlement Amount. Within fourteen (14) days after
2 Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all
3 Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the
4 Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation
5 Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class
6 Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class
7 Representative Service Payment will not precede disbursement of Individual Class Payments and
8 Individual PAGA Payments.

9 4.4.1. The Administrator will issue checks for the Individual Class
10 Payments and/or Individual PAGA Payments and send them to the Class Members via First
11 Class U.S. Mail, postage prepaid. The face of each check will prominently state the date
12 (not less than 180 days after the date of mailing) when the check will be voided. The
13 Administrator will cancel all checks not cashed by the void date. The Administrator will
14 send checks for Individual Settlement Payments to all Participating Class Members
15 (including those for whom Class Notice was returned undelivered). The Administrator will
16 send checks for Individual PAGA Payments to all Aggrieved Employees including Non-
17 Participating Class Members who qualify as Aggrieved Employees (including those for
18 whom Class Notice was returned undelivered). The Administrator may send Participating
19 Class Members a single check combining the Individual Class Payment and the Individual
20 PAGA Payment. Before mailing any checks, the Settlement Administrator must update the
21 recipients' mailing addresses using the National Change of Address Database.

22 4.4.2. The Administrator must conduct a Class Member Address Search
23 for all Class Members whose checks are returned undelivered without USPS forwarding
24 addresses. Within seven (7) days of receiving a returned check the Administrator must re-
25 mail checks to the USPS forwarding address provided or to an address ascertained through
26 the Class Member Address Search. The Administrator need not take further steps to deliver
27 checks to Class Members whose re-mailed checks are returned as undelivered. The
28

1 Administrator will promptly send a replacement check to any Class Member whose original
2 check was lost or misplaced, requested by the Class Member prior to the void date.

3 4.4.3. For any Class Member whose Individual Class Payment check or
4 Individual PAGA Payment check is uncashed and cancelled after the void date, the
5 Administrator will transmit the funds represented by such checks to the Parties' selected *cy*
6 *pres* recipient, East Bay Community Law Center subject to the requirements of California
7 Code of Civil Procedure Section 384, subd. (b).

8 4.4.4. The payment of Individual Class Payments and Individual PAGA
9 Payments will not obligate Defendant to confer any additional benefits or make any
10 additional payments to Class Members (such as 401(k) contributions or bonuses) beyond
11 those specified in this Agreement.

12 **5. RELEASES OF CLAIMS.** Effective on the date when Defendant fully funds the entire
13 Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the
14 Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims
15 against all Released Parties as follows:

16 5.1. Plaintiff's Release. In exchange for the Class Representative Service Payment,
17 Plaintiff and her respective former and present spouses, representatives, agents, attorneys, heirs,
18 administrators, successors, and assigns generally, release and discharge Released Parties from any
19 and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies,
20 damages, actions, causes of action, suits, rights, demands, costs, losses, debts, penalties and
21 expenses of any nature whatsoever, known or unknown, suspected or unsuspected, whether in
22 tort, contract, equity, or otherwise, for violation of any federal, state or local statute, rule,
23 ordinance or regulation, including but not limited to all claims arising out of, based upon, or
24 relating to her employment with Defendant or the remuneration for, or termination of, such
25 employment ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to
26 enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability
27 benefits, social security benefits, or workers' compensation benefits that arose at any time.
28 Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to,

1 the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that
2 Plaintiff's Release will be and remain effective in all respects, notwithstanding such different or
3 additional facts or Plaintiff's discovery of them.

4 5.1.1. Plaintiff's Waiver of Rights Under California Civil Code Section
5 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the
6 provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which
7 reads:

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

13 5.1.2. Plaintiff's Covenant Not to Sue. Plaintiff covenants not to sue the
14 Released Parties for any of the claims released in Paragraphs 5.1, 5.1.1, 5.2, and 5.3 of this
15 Agreement, agrees not to participate in any class, collective, representative, or group action
16 that may include any of the released claims, and will affirmatively opt out of any such class,
17 collective, representative or group action. Plaintiff further agrees not to participate in, seek to
18 recover in, or assist in any litigation or investigation by other persons or entities against the
19 Released Parties, except as required by law.

20 5.2. Class Release by Participating Class Members: All Participating Class Members
21 shall release the Released Parties from all claims that were asserted or could have been asserted
22 based on the factual assertions in Plaintiff's Operative Class Complaint (*Pricilla Cooper v. Amtec*
23 *Human Capital, Inc., et al.*, Alameda County Superior Court, Case No. 23CV036357) and/or
24 Plaintiff's May 12, 2023 letter to the Labor and Workforce Development Agency, including but
25 not limited to claims for: failure to pay overtime; failure to pay minimum wages; meal period
26 violations; rest period violations; failure to provide suitable seating; inaccurate wage statements;
27 unlawful deductions; inaccurate records; unreimbursed business expenses, violation of California
28 Day of Rest Law; reporting time violations; sick leave violations; supplemental paid sick leave

1 violations; seating violations; failure to pay vested vacation time/paid time off; failure to pay all
2 wages due upon separation; Labor Code sections 201-204, 216, 221-223, 226, 226.7, 227.3, 245-
3 248.6, 432.5, 432.7, 510, 512, 551, 552, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198,
4 1199, 2802, 2810.5, 6400-6404, 6406-6407, 6409.6, 6432, all applicable Wage Orders, violations
5 of the Fair Credit Reporting Act, 15 U.S.C. sections 1681 *et seq.*; violations of the Investigative
6 Consumer Reporting Agencies Act, California Civil Code section 1786 *et seq.*; violations of the
7 Consumer Credit Reporting Agencies Act, California Civil Code section 1785.1 *et seq.*; any and
8 all alleged violations of law related to the misuse, misappropriation, or unlawful procurement of a
9 background check or credit check; and failure to provide a safe and healthful workplace (the
10 “Released Class Claims”).

11 5.3. PAGA Release by Aggrieved Employees: Regardless of whether they opt out of
12 the class action, all Participating and Non-Participating Class Members who are Aggrieved
13 Employees are deemed to release, on behalf of themselves and their respective former and present
14 representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released
15 Parties from all claims for PAGA penalties that were alleged, or reasonably could have been
16 alleged, based on facts stated in the Operative PAGA Complaint (*Pricilla Cooper v. Amtec*
17 *Human Capital, Inc., et al.*, Alameda County Superior Court, Case No. 23CV038864)) and/or
18 Plaintiff’s May 12, 2023 letter to the Labor and Workforce Development Agency, including but
19 not limited to any and all claims involving any and all alleged or actual failures to timely, fully,
20 properly, or completely pay any minimum wages, regular wages, overtime premium wages,
21 double time wages, meal or rest period premium wages, or other wages owed; any and all alleged
22 or actual failures to comply with meal or rest period requirements; any and all alleged or actual
23 failures to provide proper, accurate, timely, adequately descriptive, or complete wage statements
24 or pay stubs; any and all alleged or actual failures to fully or properly reimburse or indemnify for
25 any and all employment-related expenses; any and all alleged or actual failure to provide suitable
26 seating; any and all alleged or actual failures to pay all wages, or compensation owed to a fired,
27 quitting, or otherwise departing employee; any and all alleged or actual failures to timely pay all
28 wages, or compensation owed during employment; any and all alleged or actual failures to

1 provide employees with one day of rest in accordance with California law; any and all alleged or
2 actual failures to provide notice of workplace rights and/or provide and pay all sick time,
3 including supplemental paid sick leave, leave in accordance with California law; any and all
4 alleged or actual failures to pay vested vacation or paid time off in accordance with California
5 law; any and all alleged or actual failures to keep accurate records; any and all alleged or actual
6 unlawful deductions made from paychecks; any and all alleged or actual inquiries into criminal
7 history in violation of California law, including any actual or alleged unlawful criminal or
8 financial background checks; any and all employment agreements with unlawful terms or
9 provisions, including but not limited to non-solicitation clauses, non-competes, and PAGA
10 waivers; and any and all alleged or actual failures to pay any interest or penalties owed as a result
11 of any and all of the foregoing (the “Released PAGA Claims”). For avoidance of doubt, the
12 Released PAGA Claims include, but are not limited to, alleged or actual violations of Labor Code
13 sections 98, 201-203, 210, 204, 216, 218.5, 221-223, 225.5, 226, 226.6, 226.7, 227.3, 233, 234,
14 245-248.6, 256, 432, 432.5, 432.7, 510, 512, 551, 552, 558, 558.1, 1024.5, 1174, 1174.5, 1193.6,
15 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2804, 2810.5, all applicable Wage Orders,
16 and California Business & Professions Code. Plaintiff and Aggrieved Employees will release
17 Defendant and the Released Parties from all remedies that could be claimed in connection with
18 the Released PAGA Claims including but not limited to statutory, constitutional, contractual
19 damages, unpaid costs, penalties, punitive damages, interest, attorneys’ fees, litigation costs,
20 restitution, and equitable relief.

21 **6. MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare
22 and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies
23 with the Court’s current checklist for Preliminary Approvals, if any.

24 6.1. Plaintiff’s Responsibilities. At least five (5) court days ahead of the filing
25 deadline, Plaintiff will prepare and deliver to Defense Counsel all documents necessary for
26 obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support,
27 of the Motion for Preliminary Approval that includes an analysis of the Settlement under
28 *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699,

1 subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA
2 Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator
3 attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to
4 serve; competency; operative procedures for protecting the security of Class Data; amounts of
5 insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts
6 relevant to any actual or potential conflicts of interest with Class Members; and the nature and
7 extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed
8 declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts
9 relevant to any actual or potential conflicts of interest with Class Members and/or the
10 Administrator; (v) a signed declaration from Class Counsel attesting to its competency to
11 represent the Class Members; its timely transmission to the LWDA of all necessary PAGA
12 documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative
13 Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699,
14 subd. (l)(2)); and (vi) all facts relevant to any actual or potential conflict of interest with Class
15 Members and the Administrator. Plaintiff and Class Counsel Declarations will aver that they are
16 not aware of any other pending matter or action asserting claims that will be extinguished or
17 adversely affected by the Settlement of the Action.

18 6.2. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly
19 responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later
20 than thirty (30) days after the full execution of this Agreement; obtaining a prompt hearing date
21 for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the
22 Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s
23 Preliminary Approval to the Administrator.

24 6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion
25 for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
26 Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or
27 by telephone, and in good faith, to resolve the disagreement. If the Court does not grant
28 Preliminary Approval or conditions Preliminary Approval on any material change to this

1 Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the
2 Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and
3 otherwise satisfy the Court's concerns.

4 **7. SETTLEMENT ADMINISTRATION.**

5 7.1. Selection of Administrator. The Parties have jointly selected Phoenix Class Action
6 Settlement Administration to serve as the Administrator and verified that, as a condition of
7 appointment, Phoenix Class Action Settlement Administration agrees to be bound by this
8 Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for
9 payment of Administration Expenses. The Parties and their Counsel represent that they have no
10 interest or relationship, financial or otherwise, with the Administrator other than a professional
11 relationship arising out of prior experiences administering settlements.

12 7.2. Employer Identification Number. The Administrator will have and use its own
13 Employer Identification Number for purposes of calculating payroll tax withholdings and
14 providing reports state and federal tax authorities.

15 7.3. Qualified Settlement Fund. The Administrator will establish a settlement fund that
16 meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation
17 section 468B-1.

18 7.4. Notice to Class Members.

19 7.4.1. No later than fifteen (15) business days after Defendant receives
20 notice that preliminary approval has been granted, Defense Counsel is to deliver the Class
21 Data to the Administrator. No later than three (3) business days after receipt of the Class
22 Data, the Administrator will notify Class Counsel that the list has been received and state the
23 number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.

24 7.4.2. Using best efforts to perform as soon as possible, and in no event
25 later than fourteen (14) days after receiving the Class Data, the Administrator will send to all
26 Class Members identified in the Class Data, via first-class United States Postal Service
27 ("USPS") mail, the Class Notice substantially in the form attached to this Agreement as
28 Exhibit A. The first page of the Class Notice will prominently estimate the dollar amounts of

any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator will update Class Member addresses using the National Change of Address database.

7.4.3. Not later than three (3) business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator will re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator will conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional fourteen (14) days beyond the sixty (60) days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

7.4.5. If the Administrator, Defendant, or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than fourteen (14) days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

7.5. Requests for Exclusion (Opt-Outs).

7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written

1 Request for Exclusion not later than sixty (60) days after the Administrator mails the Class
2 Notice (plus an additional fourteen (14) days for Class Members whose Class Notice is re-
3 mailed). A Request for Exclusion is a letter from a Class Member or his/her representative
4 that reasonably communicates the Class Member's election to be excluded from the
5 Settlement and includes the Class Member's name, address and email address or telephone
6 number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked
7 by the Response Deadline.

8 7.5.2. The Administrator may not reject a Request for Exclusion as invalid
9 because it fails to contain all the information specified in the Class Notice. The
10 Administrator will accept any Request for Exclusion as valid if the Administrator can
11 reasonably ascertain the identity of the person as a Class Member and the Class Member's
12 desire to be excluded. The Administrator's determination will be final and not appealable or
13 otherwise susceptible to challenge. If the Administrator has reason to question the
14 authenticity of a Request for Exclusion, the Administrator may demand additional proof of
15 the Class Member's identity. The Administrator's determination of authenticity will be final
16 and not appealable or otherwise susceptible to challenge.

17 7.5.3. Every Class Member who does not submit a timely and valid
18 Request for Exclusion is deemed to be a Participating Class Member under this Agreement,
19 entitled to all benefits and bound by all terms and conditions of the Settlement, including the
20 Participating Class Members' Releases under Paragraph 5.2 of this Agreement, regardless of
21 whether the Participating Class Member actually receives the Class Notice or objects to the
22 Settlement.

23 7.5.4. Every Class Member who submits a valid and timely Request for
24 Exclusion is a Non-Participating Class Member and will not receive an Individual Class
25 Payment or have the right to object to the class action components of the Settlement.
26 Because future PAGA claims are subject to claim preclusion upon entry of the Judgment,
27 Non-Participating Class Members who are Aggrieved Employees are deemed to release the
28

claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

7.6. Challenges to Calculation of Workweeks. Each Class Member will have sixty (60) days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods will be final and not appealable or otherwise susceptible to challenge. The Administrator will promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7. Objections to Settlement.

7.7.1. Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

7.7.2. Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than sixty (60) days after the Administrator's mailing of the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice was re-mailed).

1 7.7.3. Non-Participating Class Members have no right to object to any of
2 the class action components of the Settlement.

3 7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks
4 to be performed or observed by the Administrator contained in this Agreement or otherwise.

5 7.8.1. Website, Email Address and Toll-Free Number. The Administrator
6 will establish and maintain and use an internet website to post information of interest to Class
7 Members including the date, time, and location for the Final Approval Hearing and copies of
8 the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the
9 Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment,
10 Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the
11 Final Approval, and the Judgment. The Administrator will also maintain and monitor an
12 email address and a toll-free telephone number to receive Class Member calls, faxes, and
13 emails.

14 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The
15 Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain
16 their validity. Not later than five (5) days after the expiration of the deadline for submitting
17 Requests for Exclusion, the Administrator will email a list to Class Counsel and Defense
18 Counsel containing (a) the names and other identifying information of Class Members who
19 have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and
20 other identifying information of Class Members who have submitted invalid Requests for
21 Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid
22 or invalid).

23 7.8.3. Weekly Reports. The Administrator must, on a weekly basis,
24 provide written reports to Class Counsel and Defense Counsel that, among other things, tally
25 the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered,
26 Requests for Exclusion (whether valid or invalid) received, objections received, challenges to
27 Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual
28 Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports

1 must include the Administrator's assessment of the validity of Requests for Exclusion and
2 attach copies of all Requests for Exclusion and objections received.

3 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has
4 the authority to address and make final decisions consistent with the terms of this Agreement
5 on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The
6 Administrator's decision will be final and not appealable or otherwise susceptible to
7 challenge.

8 7.8.5. Administrator's Declaration. Not later than fourteen (14) days
9 before the date by which Plaintiff is required to file the Motion for Final Approval of the
10 Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed
11 declaration suitable for filing in Court attesting to its due diligence and compliance with all
12 of its obligations under this Agreement, including, but not limited to, its mailing of Class
13 Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts
14 to locate Class Members, the total number of Requests for Exclusion from Settlement it
15 received (both valid or invalid), the number of written objections and attach the Exclusion
16 List. The Administrator will supplement its declaration as needed or requested by the Parties
17 and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in
18 Court.

19 7.8.6. Final Report by Settlement Administrator. Within ten (10) days
20 after the Administrator disburses all funds in the Gross Settlement Amount, the
21 Administrator will provide Class Counsel and Defense Counsel with a final report detailing
22 its disbursements by employee identification number only of all payments made under this
23 Agreement. At least fifteen (15) days before any deadline set by the Court, the Administrator
24 will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable
25 for filing in Court attesting to its disbursement of all payments required under this
26 Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

27 **8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE.** Defendant has estimated
28 that the Settlement Class Members worked 4,406 weeks during the Class Period. To the extent

1 that the number of Workweeks in the Class Period is found to exceed 4,406 by more than 10%
2 (i.e. 400 weeks above and beyond the 4,406), Defendant has the option to increase the Gross
3 Settlement Amount proportionally for any Workweek above the 10%, or to set the Class Period
4 end date to a date at which the number of Workweeks reached 4,406.

5 **9. DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for
6 Exclusion exceeds 10% of the total of all Class Members, Defendant may, but is not obligated,
7 elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the
8 Settlement will be void ab initio, have no force or effect whatsoever, and that neither Party will
9 have any further obligation to perform under this Agreement; provided, however, Defendant will
10 remain responsible for paying all Settlement Administration Expenses incurred to that point.
11 Defendant must notify Class Counsel and the Court of its election to withdraw not later than
12 seven (7) days after the Administrator sends the final Exclusion List to Defense Counsel; late
13 elections will have no effect.

14 **10. MOTION FOR FINAL APPROVAL.** Not later than sixteen (16) court days before the
15 calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the
16 Settlement that includes a request for approval of the PAGA settlement under Labor Code section
17 2699, subd. (1), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion
18 for Final Approval"). Plaintiff will provide drafts of these documents to Defense Counsel not
19 later than five (5) court days prior to filing the Motion for Final Approval. Class Counsel and
20 Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith,
21 to resolve any disagreements concerning the Motion for Final Approval.

22 10.1. Response to Objections. Each Party retains the right to respond to any objection
23 raised by a Participating Class Member, including the right to file responsive documents in Court
24 no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or
25 accepted by the Court.

26 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
27 Approval on any material change to the Settlement (including, but not limited to, the scope of
28 release to be granted by Class Members), the Parties will expeditiously work together in good

1 faith to address the Court's concerns by revising the Agreement as necessary to obtain Final
2 Approval. The Court's decision to award less than the amounts requested for the Class
3 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses
4 Payment and/or Administrator Expenses Payment will not constitute a material modification to
5 the Agreement within the meaning of this paragraph.

6 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of
7 Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for
8 purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement
9 administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

10 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms
11 and conditions of this Agreement, specifically including the Class Counsel Fees Payment and
12 Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their
13 respective counsel, and all Participating Class Members who did not object to the Settlement as
14 provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to
15 post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for
16 new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of
17 the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the
18 Parties' obligations to perform under this Agreement will be suspended until such time as the
19 appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect
20 the amount of the Net Settlement Amount.

21 10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the
22 reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material
23 modification of this Agreement (including, but not limited to, the scope of release to be granted
24 by Class Members), this Agreement will be null and void. The Parties will nevertheless
25 expeditiously work together in good faith to address the appellate court's concerns and to obtain
26 Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration
27 Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify
28 the Court's award of the Class Representative Service Payment or any payments to Class Counsel

will not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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

12. ADDITIONAL PROVISIONS.

12.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement, and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

12.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a

1 court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal
2 government agency. Each Party agrees to immediately notify each other Party of any judicial or
3 agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant
4 and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or
5 other communication, before the filing of the Motion for Preliminary Approval, with any third
6 party regarding this Agreement or the matters giving rise to this Agreement except to respond
7 only that “the matter was resolved,” or words to that effect. This paragraph does not restrict Class
8 Counsel’s communications with Class Members in accordance with Class Counsel’s ethical
9 obligations owed to Class Members.

10 12.3. No Solicitation. The Parties separately agree that they and their respective counsel
11 and employees will not solicit any Class Member to opt out of or object to the Settlement, or
12 appeal from the Judgment. Nothing in this paragraph will be construed to restrict Class Counsel’s
13 ability to communicate with Class Members in accordance with Class Counsel’s ethical
14 obligations owed to Class Members.

15 12.4. Integrated Agreement. Upon execution by all Parties and their counsel, this
16 Agreement together with its attached exhibits will constitute the entire agreement between the
17 Parties relating to the Settlement, superseding any and all oral representations, warranties,
18 covenants, or inducements made to or by any Party.

19 12.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant
20 and represent that they are authorized by Plaintiff and Defendant, respectively, to take all
21 appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to
22 effectuate its terms, and to execute any other documents reasonably required to effectuate the
23 terms of this Agreement including any amendments to this Agreement.

24 12.6. Cooperation. The Parties and their counsel will cooperate with each other and use
25 their best efforts, in good faith, to implement the Settlement by, among other things, modifying
26 the Settlement Agreement, submitting supplemental evidence and supplementing points and
27 authorities as requested by the Court. In the event the Parties are unable to agree upon the form or
28 content of any document necessary to implement the Settlement, or on any modification of the

1 Agreement that may become necessary to implement the Settlement, the Parties will seek the
2 assistance of a mediator and/or the Court for resolution.

3 12.7. No Prior Assignments. The Parties separately represent and warrant that they have
4 not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
5 encumber to any person or entity and portion of any liability, claim, demand, action, cause of
6 action, or right released and discharged by the Party in this Settlement.

7 12.7.1. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant, nor
8 Defense Counsel are providing any advice regarding taxes or taxability, nor will anything in
9 this Settlement be relied upon as such within the meaning of United States Treasury
10 Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

11 12.7.2. Modification of Agreement. This Agreement, and all parts of it,
12 may be amended, modified, changed, or waived only by an express written instrument signed
13 by all Parties or their representatives, and approved by the Court.

14 12.7.3. Agreement Binding on Successors. This Agreement will be binding
15 upon, and inure to the benefit of, the successors of each of the Parties.

16 12.7.4. Applicable Law. All terms and conditions of this Agreement and its
17 exhibits will be governed by and interpreted according to the internal laws of the state of
18 California, without regard to conflict of law principles.

19 12.7.5. Cooperation in Drafting. The Parties have cooperated in the
20 drafting and preparation of this Agreement. This Agreement will not be construed against
21 any Party on the basis that the Party was the drafter or participated in the drafting.

22 12.7.6. Confidentiality. To the extent permitted by law, all agreements
23 made, and orders entered during Action and in this Agreement relating to the confidentiality
24 of information will survive the execution of this Agreement.

25 12.7.7. Use and Return of Class Data. Information provided to Class
26 Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data
27 provided to Class Counsel by Defendant in connection with the mediation, other settlement
28 negotiations, or in connection with the Settlement, may be used only with respect to this

1 Settlement, and no other purpose, and may not be used in any way that violates any existing
2 contractual agreement, statute, or rule of court. Not later than ninety (90) days after the date
3 when the Court discharges the Administrator's obligation to provide a Declaration
4 confirming the final pay out of all Settlement funds, Plaintiff will destroy, all paper and
5 electronic versions of Class Data received from Defendant unless, prior to the Court's
6 discharge of the Administrator's obligation, Defendant makes a written request to Class
7 Counsel for the return, rather than the destructions, of Class Data.

8 12.7.8. Headings. The descriptive heading of any section or paragraph of
9 this Agreement is inserted for convenience of reference only and does not constitute a part of
10 this Agreement.

11 12.7.9. Calendar Days. Unless otherwise noted, all reference to "days" in
12 this Agreement will be to calendar days. In the event any date or deadline set forth in this
13 Agreement falls on a weekend or federal legal holiday, such date or deadline will be on the
14 first business day thereafter.

15 12.7.10. Notice. All notices, demands or other communications between the
16 Parties in connection with this Agreement will be in writing and deemed to have been duly
17 given as of the third business day after mailing by United States mail, or the day sent by
18 email or messenger, to the other Party's respective counsel of record.

19 12.8. Execution in Counterparts. This Agreement may be executed in one or more
20 counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this
21 Agreement will be accepted as an original. All executed counterparts and each of them will be
22 deemed to be one and the same instrument if counsel for the Parties will exchange between
23 themselves signed counterparts. Any executed counterpart will be admissible in evidence to
24 prove the existence and contents of this Agreement.

25 12.9. Dismissal of Clorox Defendants. Plaintiff agrees that the Agreement will fully
26 resolve all claims brought in the Action against all named Defendants. In seeking approval of the
27 settlement, Plaintiff will seek a dismissal of the entire Action, including all claims being brought
28 against The Clorox Company and The Clorox International Company, with prejudice as to

1 Plaintiff, Participating Class Members who are bound by the Class Release, and Aggrieved
2 Employees who are bound by the PAGA Release, and without prejudice otherwise.

3 12.10. Stay of Litigation. The Parties agree that upon the execution of this Agreement the
4 litigation will be stayed, except to effectuate the terms of this Agreement. The Parties further
5 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the
6 date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
7 process.

8
9 **APPROVED AS TO FORM AND CONTENT:**

10 Dated: 08 / 29 / 2024, 2024

PRICILLA COOPER



13 Dated: Aug 30, 2024, 2024

AMTEC HUMAN CAPITAL, INC.

15 
Stephani Jensen (Aug 30, 2024 14:42 PDT)

16 By: Stephani Jensen

17 Title: Human Resources Director

18 **APPROVED AS TO FORM ONLY:**

19 Dated: August 29, 2024

CROSNER LEGAL, PC

20 

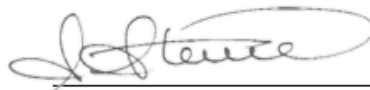
21 Brandon Brouillette, Esq.

22 Zach Crosner, Esq.

23 Attorneys for Plaintiff Pricilla Cooper, on behalf of
24 themselves and all others similarly situated

25 Dated: August 30, 2024

**ATKINSON, ANDELSON, LOYA, RUUD
& ROMO**

26 

27 Susan M. Steward, Esq.

Nicholas T. Spencer, Esq.

28 Attorneys for Defendant Amtec Human Capital, Inc.

Exhibit 2



Los Angeles Office
9440 Santa Monica Blvd.
Beverly Hills, CA 90210

Kiara Bramasco, Esq.
kiara@crosnerlegal.com
direct: (424) 335-5236
office: (866) 276-7637
fax: (310) 510-6429

May 12, 2023

VIA PAGA ONLINE FILING ONLY:

California Labor & Workforce
Development Agency
ATTN: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
PAGAfilings@dir.ca.gov

VIA U.S. CERTIFIED MAIL:

C T Corporation System
Agent for Service of Process for:
The Clorox Company
28 Liberty Street
New York, NY 10005

The Clorox Company
Attn: CA Registered Agent Authorized
Employees:
Amanda Garcia, Gabriela Sanchez, Daisy
Montenegro, Beatrice Casarez-Barrientez,
Jessie Gastelum, John Montijo, Diana Ruiz,
Sarai Marin, Emanuel Jacobo, Gladys
Aguilera, Vivian Imperial, Carlos Paz,
Alberto Damonte, Peter Cayetano, Elsa
Montanez, Xenia Perez, and Yesenia
Carpenter
330 N Brand Blvd #700
Glendale, CA 91203

The Clorox Company
Attn: Human Resources / Legal Department
1221 Broadway
Oakland, CA 94612

VIA PAGA ONLINE FILING ONLY

Notice to Division of Occupational Safety and
Health Via PAGA Online Filing
Attn: Division of Occupational Safety and
Health (Cal OSHA)
1515 Clay Street, St. 1901
Oakland, CA 94612

Scott Kuethen
Agent for Service of Process for:
Amtec Human Capital, Inc.
16374 Carnelian Court
Chino Hills, CA 91709

Amtec Human Capital, Inc.
Attn: Human Resources / Legal Department
5877 Pine Ave Suite 100
Chino Hills, CA 91709

C T Corporation System
Agent for Service of Process for:
The Clorox International Company
28 Liberty Street
New York, NY 10005

The Clorox International Company
Attn: CA Registered Agent Authorized
Employees:
Amanda Garcia, Gabriela Sanchez, Daisy
Montenegro, Beatrice Casarez-Barrientez,
Jessie Gastelum, John Montijo, Diana Ruiz,
Sarai Marin, Emanuel Jacobo, Gladys
Aguilera, Vivian Imperial, Carlos Paz,
Alberto Damonte, Peter Cayetano, Elsa
Montanez, Xenia Perez, and Yesenia
Carpenter
330 N Brand Blvd #700
Glendale, CA 91203

The Clorox International Company
Attn: Human Resources / Legal Department
1221 Broadway
Oakland, CA 94612

NOTICE OF PRIVATE ATTORNEYS GENERAL ACT CLAIM

To: California Labor and Workforce Development Agency; Division of Occupational
Safety and Health; The Clorox Company; The Clorox International Company; and
Amtec Human Capital, Inc.
Date: May 12, 2023
Subject: *Pricilla Cooper v. The Clorox Company, et. al.*

Introduction

This office represents PLAINTIFF, Pricilla Cooper (hereinafter “PLAINTIFF”) in connection with PLAINTIFF’s claims under the California Labor Code. PLAINTIFF was, at all relevant times herein mentioned, an employee of the following entities and individual managing agents of said entities: The Clorox Company; The Clorox International Company; and Amtec Human Capital, Inc. (hereinafter, these entities and their managing agents are collectively referred to as “DEFENDANTS”). DEFENDANTS may be contacted directly at the addresses listed above.

Pursuant to California Labor Code sections 2699.3 and 2699.5, PLAINTIFF, on behalf of PLAINTIFF, and on behalf of all current and former non-exempt employees employed by any one or more of the DEFENDANTS at any location in California within one year of the date of this notice (“NON-EXEMPT AGGRIEVED EMPLOYEES”) and on behalf of all current and former exempt employees employed by any one or more of the DEFENDANTS at any location in California within one year of the date of this notice (“EXEMPT AGGRIEVED EMPLOYEES”), hereby gives written notice (“NOTICE”) of PLAINTIFF’s claims against DEFENDANTS.

Said “NON-EXEMPT AGGRIEVED EMPLOYEES” include the following:

- (1) all non-exempt workers who were directly employed by Amtec Human Capital, Inc. regardless of where those non-exempt workers were assigned or staffed to work – in California at any time within one year of the date of this NOTICE;
- (2) all non-exempt workers who were assigned/staffed to work at The Clorox Company and/or The Clorox International Company by Amtec Human Capital, Inc. and/or any other staffing/temporary service agencies at any location in California at any time within one year of the date of this NOTICE; and
- (3) all non-exempt workers who were directly employed by The Clorox Company and/or The Clorox International Company to work at any location in California within one year of the date of this NOTICE.

Said “EXEMPT AGGRIEVED EMPLOYEES” include the following:

- (1) all exempt workers who were directly employed by Amtec Human Capital, Inc. regardless of where those exempt workers were assigned or staffed to work – in California at any time within one year of the date of this NOTICE;
- (2) all exempt workers who were assigned/staffed to work at The Clorox Company and/or The Clorox International Company and/or by Amtec Human Capital, Inc. and/or any other staffing/temporary service agencies at any location in California at any time within one year of the date of this NOTICE; and
- (3) all exempt workers who were directly employed by The Clorox Company and/or The Clorox International Company to work at any location in California within one year of the date of this NOTICE (“EXEMPT AGGRIEVED EMPLOYEES”),

This NOTICE is being provided via online filing to the California Labor and Workforce Development Agency (“LWDA”) and the Division of Occupational Safety and Health and DEFENDANTS via certified mail to their Agent(s) for Service of Process and/or entity mailing address as provided to the California Secretary of State.

This NOTICE also serves to demonstrate PLAINTIFF’s reasonable attempt at settlement with DEFENDANTS. If DEFENDANTS are interested in settling this matter before a lawsuit is filed, DEFENDANTS may contact Crosner Legal, P.C., at the address listed at the close of this NOTICE. This settlement attempt is in compliance with relevant California law. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal.4th 553, 561.

This NOTICE is sent in compliance with the reporting requirements of California Labor Code sections 2699.3 and 2699.5. This NOTICE further reserves any and all rights by PLAINTIFF to amend this notice to include, amend, or add further charges upon discovery of new violations of

any of the provisions of the California Labor Code. In addition, to the extent that entities and/or other individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code sections including, but not limited to sections 558.1 and 1197.1—PLAINTIFF reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue. Any further amendments and changes to this notice shall relate back to the date of this NOTICE. Consequently, DEFENDANTS are on notice that PLAINTIFF continues its investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of *any* of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein. For violations that are curable under § 2699.3(c) and that DEFENDANTS intend to cure within the statutory time period set forth in §§ 2699 and 2699.3(c), the DEFENDANTS shall provide notice including a description of the actions taken to cure. If the alleged violation is not cured within the statutory time period, PLAINTIFF will commence a civil action pursuant to section 2699. For all other violations that are not curable, an action pursuant to section 2699(a) and 2699(f) will commence after the requirements under 2699.3 are fulfilled.

Based on the following summary of facts and theories upon which PLAINTIFF will base PLAINTIFF's claims, PLAINTIFF requests that the LWDA regard this NOTICE as written notice of PLAINTIFF's intent to seek civil penalties against DEFENDANTS. Under *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, a PAGA representative has authority to seek penalties for all known violations committed by the employer – regardless of whether the representative experienced all violations personally. *Id.* at 760-761. Moreover, under *Johnson v. Maxim Healthcare Servs., Inc.*, (2021) 66 Cal. App. 5th 924, 929, an employee may pursue a claim under PAGA even when that employee's individual claim is time-barred.

PLAINTIFF, on behalf of PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES, alleges that the specific provisions of California law that DEFENDANTS have violated, requiring this NOTICE, include but are not limited to: California Labor Code sections 201-203, 204, 216, 221-223, 226, 226.7, 227.3, 245-248.6, 432.5, 432.7, 510, 512, 551, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1199, 2802, 2810.5, 6400-6404 and 6406-6407, 6409.6, 6432, and all applicable Wage Orders.

The Named Entities Are Joint Employers of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES

California courts have recognized that the definition of “employer” for purposes of enforcement of the California Labor Code goes beyond the concept of traditional employment to reach irregular working arrangements for the purpose of preventing evasion and subterfuge of California's labor laws. *Martinez v. Combs* (2010) 49 Cal.4th 35, 65. As such, anyone who directly or indirectly, or through an agent or any other person, engages, suffers, or permits any person to work or exercises control over the wages, hours, or working conditions of any person, may be liable for violations of the California Labor Code as to that person.

As explained below, PLAINTIFF is informed and believes and thereon alleges that at all relevant times DEFENDANTS and unknown entities operated as a single integrated enterprise with

common ownership and centralized human resources as set forth herein. Under California law, in determining whether two defendant entities are liable as an integrated enterprise, courts consider four factors: (1) centralized control of labor relations; (2) interrelation of operations; (3) common management; and (4) common ownership or financial control. *Laird v. Capital Cities/ABC, Inc.* (1998) 68 Cal.App.4th 727, 737 (overruled on other grounds, *Reid v. Google, Inc.* (2010) 50 Cal. 4th 512 (2010).)

PLAINTIFF believes and hereon asserts that DEFENDANTS and unknown entities must be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties under PAGA, as the aforementioned entities engaged, suffered and permitted PLAINTIFF to perform services from which they benefited, and furthermore that the aforementioned entities had the right to exercise control over the wages, hours and/or working conditions of PLAINTIFF at all relevant times herein, so as to be considered the joint employers of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES.

During PLAINTIFF's employment by DEFENDANTS, PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were jointly employed by DEFENDANTS for purposes of the Wage Orders, under the alternative definitions of "to employ" adopted by the California Supreme Court in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control over wages, hours and working conditions of PLAINTIFF and the NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES; (2) suffered or permitted PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to work for them; and (3) engaged PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to work for them.

PLAINTIFF is informed and believes, and thereon alleges that at all relevant times DEFENDANTS operated as a single integrated enterprise with common ownership and centralized human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices across all of their locations/facilities and subjected all of the NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to these same policies and practices regardless of the location(s) where they worked. Among other things, PLAINTIFF is informed and believes that: (1) there is common ownership in, and financial control, in DEFENDANTS' companies, (2) DEFENDANTS utilize common management, who have control over the day-to-day operations and employment matters, including the power to hire and fire, set schedules, issue employee policies, and determine rates of compensation across its locations in California; (3) DEFENDANTS utilize the same policies and procedures for all California employees, including issuing the same employee handbooks and other form agreements; (4) DEFENDANTS use at least some of the same Human Resources personnel and attorneys to oversee employment matters; and, (6) DEFENDANTS share employees.

PLAINTIFF is informed and believes, and thereon alleges that at all times relevant to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and the NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES upon whose behalf PLAINTIFF brings these allegations and causes of action, in that DEFENDANTS, exercised sufficient control over PLAINTIFF and the NON-EXEMPT AGGRIEVED EMPLOYEES and

EXEMPT AGGRIEVED EMPLOYEES' wages, hours and working conditions, and/or suffered or permitted PLAINTIFF and the NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to work so as to be considered the joint employers of PLAINTIFF and the NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES.

Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay, time-keeping practices, meal and rest periods, reimbursement of business expenses and other working conditions that were distributed to, and/or applied to PLAINTIFF and the NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, and further that DEFENDANTS uniformly compensated and controlled the wages of PLAINTIFF and the NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES in a uniform manner. DEFENDANTS collectively represented to PLAINTIFF and the NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES that each was an "at-will" employee of DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES' employment with or without cause. Upon information and belief, DEFENDANTS further collectively represented to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES in writing the details of their compensation, and the manner in which they were to take meal and rest periods, the procedures required by DEFENDANTS collectively for recordation of hours worked and the policies applicable to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES by which DEFENDANTS collectively would evaluate the wage rates of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES.

Moreover, based on information and belief, Amtec Human Capital, Inc. hired PLAINTIFF and entered into a written employment agreement with PLAINTIFF. During PLAINTIFF's employment, Amtec Human Capital, Inc. maintained control over many aspects of PLAINTIFF's employment, including, among other things, having the authority to discipline PLAINTIFF, change PLAINTIFF's job assignment, change PLAINTIFF's work hours, change PLAINTIFF's rates of pay, and to terminate PLAINTIFF's employment.

In addition, when PLAINTIFF was first hired, Amtec Human Capital, Inc. provided PLAINTIFF with orientation and training materials. Amtec Human Capital, Inc. issued PLAINTIFF written policies concerning meal periods, rest breaks, timekeeping, hours worked, and payment of PLAINTIFF's wages, with which PLAINTIFF was required to comply. Based on information and belief, among other things, these policies provided that PLAINTIFF's weekly time records be submitted to Amtec Human Capital, Inc., and Amtec Human Capital, Inc. was supposed to process PLAINTIFF's time records and pay PLAINTIFF for all hours worked. Amtec Human Capital, Inc. exercised ultimate control over the payment of PLAINTIFF's wages, as Amtec Human Capital, Inc. issued PLAINTIFF her paychecks. Finally, Amtec Human Capital, Inc. directed PLAINTIFF to comply with The Clorox Company and/or The Clorox International Company's policies and directions. PLAINTIFF is informed and believes that Amtec Human Capital, Inc. exercised the

same control over, applied the same policies and practices, and engaged in the same acts and omissions with regard to the other class members.

The Clorox Company and/or The Clorox International Company similarly suffered or permitted PLAINTIFF to work for them or engaged PLAINTIFF to work for them. PLAINTIFF is informed and believes that The Clorox Company and/or The Clorox International Company entered into a written agreement with Amtec Human Capital, Inc., pursuant to which The Clorox Company and/or The Clorox International Company paid Amtec Human Capital, Inc. to provide it with workers, including PLAINTIFF, to conduct The Clorox Company and/or The Clorox International Company's business operations - namely, to work in The Clorox Company and/or The Clorox International Company's production/processing centers and/or administration offices. The Clorox Company and/or The Clorox International Company suffered or permitted PLAINTIFF to work at The Clorox Company and/or The Clorox International Company and for the entirety of PLAINTIFF's employment.

The Clorox Company and/or The Clorox International Company further exercised control over PLAINTIFF's wages, hours and working conditions. The Clorox Company and/or The Clorox International Company also: (1) set PLAINTIFF's work hours and provided PLAINTIFF with PLAINTIFF's work schedule; (2) provided PLAINTIFF with policies regarding meal periods and rest breaks, with which PLAINTIFF was required to comply; (3) directly supervised PLAINTIFF's work through its employees; (4) assigned PLAINTIFF job duties and trained PLAINTIFF on said job duties; (5) exercised authority to reprimand and counsel PLAINTIFF regarding any work performance and other issues; (6) exercised authority to end PLAINTIFF's work assignment at any time, which essentially equated to a termination of employment as PLAINTIFF was not guaranteed any other job assignments; (7) required PLAINTIFF to use its timekeeping system for purposes of recording time worked; (8) determined whether and when PLAINTIFF would receive meal periods and rest breaks; (9) subjected PLAINTIFF to unlawful schedules for taking meal periods and rest breaks; and, (10) was responsible for recording when PLAINTIFF began and ended work shifts. On information and belief, The Clorox Company and/or The Clorox International Company issued further written policies and practices and guidelines governing PLAINTIFF's working conditions with which PLAINTIFF was required to comply. PLAINTIFF is informed and believes that The Clorox Company and/or The Clorox International Company exercised the same control over, applied the same policies and practices, and engaged in the same acts and omissions with regard to the other NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES. By reason of their status as joint employers of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, they are each liable for civil penalties for violations of the California Labor Code and applicable Wage Orders as to PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES.

Individual Liability Under Labor Code § 558.1

Labor Code section 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802. DEFENDANTS, at all relevant times, were an employer or person acting on behalf of employer(s) who violated PLAINTIFF's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT

AGGRIEVED EMPLOYEES' rights by violating various sections of the California Labor Code. The California Legislature defines "other person acting on behalf of an employer" as "*a natural person* who is an owner, director, officer, or managing agent of the employer." The "managing agent" definition mirrors that found in California's punitive damages statute (subdivision (b) of section 3294 of the Civil Code). Under that statute and supporting case law, "managing agents" are all employees who exercise substantial independent authority and judgment in their corporate decision-making such that their decisions ultimately determine corporate policy. *White v. Ultramar, Inc.* (1999) 21 Cal. 4th 563, 566-67. For the reasons set forth above and others, at all relevant times, any above-listed individuals meet the criteria of managing agents under California law, and therefore, may be held liable under California Labor Code sections 558 and 558.1 for violations of Labor Code §§ 203, 226, 226.7, and 1194 as further described in detail below.

PLAINTIFF intends to further name any unknown individuals responsible for violations arising under Labor Code sections 558 and 558.1 after further discovery. PLAINTIFF will ask the Court to relate the amendment of the PAGA charge and the operative complaint to the date of filing of these charges. PLAINTIFF asks and demands that DEFENDANTS put these individuals on notice immediately to provide them as much notice possible to mount in defense. In the alternative, PLAINTIFF also offers to DEFENDANTS to place those individuals on notice if DEFENDANTS voluntarily provides their contact information.

General Information

DEFENDANTS own, operate, manage and/or staff its employees to work at the warehouse(s) and/or manufacturing/production/packaging facilit(ies) and/or other location(s) in California, including but not limited to the warehouse(s) and/or manufacturing/production/packaging facilit(ies) in Fairfield, California, among other locations in California. DEFENDANTS, through its various locations serve the manufacturing and/or consumer products industry.¹ Although DEFENDANTS may operate successful companies or have a noble mission, DEFENDANTS do not comply with California's labor laws.

PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job title of warehouse worker, repacker, palleter and/or similar title(s) and/or position(s) from in or around September 30, 2021, through in or around June 14, 2022. PLAINTIFF worked for DEFENDANTS at DEFENDANTS' Fairfield, California location(s). PLAINTIFF regularly worked at least eight (8) to eleven (11) hours per day. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by DEFENDANTS as hours worked.

Among other things, DEFENDANTS (1) failed and continue to fail to keep accurate and complete time records for PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES; (2) failed and continue to fail to pay PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked; (3) failed and continue to fail to pay PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES at least minimum wage for all hours worked and overtime/regular

¹ See <https://www.thecloroxcompany.com/>. Last visited on May 11, 2023.
See <https://www.amtec.us.com/> Last visited on May 11, 2023.

rates for corresponding work; (4) failed and continue to fail to pay proper overtime wages for failure to incorporate all non-discretionary compensation into the overtime premium pay calculations; (5) failed and continue to fail to provide PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES with proper meal and/or rest breaks, and/or compensate PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of premium pay at the regular rate of compensation for missed/improper meal and/or rest periods; (6) refused and continue to refuse to make and/or falsely denied the amount of payments due to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES, including but not limited to, owed sick pay; (7) failed and continue to fail to place PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES on proper notice of their workplace rights, including but not limited to owed sick pay; (8) failed and continue to fail to provide legally compliant wage statements to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES; (9) made unlawful deductions from PLAINTIFF's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' paychecks; (10) failed and continue to fail to timely pay wages to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES during employment and/or upon separation of employment; (11) failed and continue to fail to reimburse PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses incurred on behalf of DEFENDANTS; (12) conducted and continue to conduct illegal criminal and/or financial background checks as a condition of PLAINTIFF's, NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' hire and continued employment; (13) required and continue to require PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to disclose arrests not resulting in convictions and/or to disclose convictions prior to extending an offer of employment and/or otherwise impermissibly inquired and continue to inquire into PLAINTIFF's, NON-EXEMPT AGGRIEVED EMPLOYEES', and/or EXEMPT AGGRIEVED EMPLOYEES' criminal history on their employment applications and sign off on same as a condition of employment; (14) failed and continue to fail to provide suitable seating and suitable resting facilities; (15) required and continue to require PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to a term or condition that violates the law as a condition of employment; and (16) fails and continues to fail to provide a safe and healthful workplace for PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES.. Further descriptions of the above-mentioned violations and others are explained below.

Labor Code Violations

Recordkeeping Requirement Violations: California Labor Code section 1174 requires employers to keep "accurate and complete" payroll records showing, among other things, the hours worked daily by PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES. All applicable IWC Wage Orders, section 7 similarly requires employers to keep accurate time records reflecting the times during which allowed meal periods were provided each day.

Based on information and belief, DEFENDANTS failed, and continue to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when PLAINTIFF and

other NON-EXEMPT AGGRIEVED EMPLOYEES began and ended each work period, time records of meal periods, and accurate itemized wage statements.

Based on information and belief, DEFENDANTS failed and continue to fail to keep accurate and complete records showing total hours worked by PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES by virtue of DEFENDANTS' time rounding and/or auto deduction policies and practices and/or other off-the-clock work policies and practices.

DEFENDANTS failed and continue to fail to keep accurate and complete records showing total hours worked by virtue of DEFENDANTS' failure to relieve PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and DEFENDANTS' control for unpaid meal periods, resulting in unpaid hours worked.

Based on information and belief, DEFENDANTS further failed, and continue to fail, to record the true start and end times of PLAINTIFF's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods.

Based on further information and belief, DEFENDANTS further failed and continue to fail, to record the true start and end times of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES' work shifts.

Additionally, DEFENDANTS failed, and continue to fail to keep accurate records and issue accurate wage statements by not documenting accrued sick time for PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES.

DEFENDANTS' failure to keep "accurate and complete" payroll records for PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under Labor Code sections 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.²

Meal Period Violations: California law requires employers to provide employees a duty-free, uninterrupted thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004. Employers must also provide employees with a second duty-free, uninterrupted thirty (30) minute meal period when an employee works more than (10) hours in a workday, and it must be provided before the end of the 10th hour of work. *Ibid.* Meal periods can be waived, but only under the following circumstances: (1) if an employee's total work period in a day is over five (5) hours but no more than six (6) hours, the required meal period may be waived by mutual consent of the employer and employee, and (2) if an employee's total work period in a day is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be waived by mutual consent of the employer and employee, but only if

² See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

the first meal period was not waived. *Ibid.* Upon information and belief, PLAINTIFF did not sign a valid meal period waiver throughout PLAINTIFF's employment by DEFENDANTS.

Employers covered by any and all applicable IWC Wage Orders have an obligation to both (1) relieve their employees for at least one meal period for shifts over five hours (see above), and (2) to record having done so. If the employer fails to properly record a valid meal period, it is presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3) ("Meal periods . . . shall also be recorded"); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing section 7(A)(3) ("If an employer's records show no meal period for a given shift over five hours, a rebuttable presumption arises that the employee was not relieved of duty and no meal period was provided").

Employers must pay employees an additional hour of wages at the employees' regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted meal period, first meal period provided after five (5) hours, second meal period provided after 10 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, § 11(B) ("If an employer fails to provide an employee a meal period in accordance with the applicable provision of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided"); *Brinker, supra*, 53 Cal.4th 1004.

PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES consistently worked shifts of five and a one-half (5 ½) hours or more, entitling to at least one meal period.

PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES would not receive legally compliant thirty (30) minute first meal breaks. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal periods, interrupted meal periods, and/or work through part or all their meal periods due to understaffing, the nature and constraints of their job duties and/or commentary from supervisors pressuring them to take non-compliant meal breaks or skip meal breaks completely.

For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were forced to take late meal periods in order to complete assigned job duties. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were at times, interrupted during purported meal periods and/or had meal periods cut short and/or restricted to DEFENDANTS' premises due to the need to continue assigned job duties.

For example, at times, PLAINTIFF was instructed by her supervisor to work through her meal periods because it was too busy for PLAINTIFF to stop working. Other times, PLAINTIFF was forced to take her meal period well beyond the fifth hour of work due to the need to complete assigned job duties. DEFENDANTS did not pay PLAINTIFF a meal period premium for each missed, interrupted, shortened, late and/or otherwise legally noncompliant meal period. Moreover, DEFENDANTS did not provide PLAINTIFF with any mechanism with which to record the start and end times of meal periods, and, as such, PLAINTIFF did not record any meal periods. Rather, based on information and belief, DEFENDANTS performed an automatic meal period deduction of at least thirty minutes per shift even though DEFENDANTS had actual and/or constructive

knowledge that PLAINTIFF was required to work through her meal periods, take shortened meal periods and/or otherwise legally noncompliant meal periods.

Based on information and belief, PLAINTIFF did not sign any valid meal period waiver at any time during PLAINTIFF's employment.

Based on information and belief, other NON-EXEMPT AGGRIEVED EMPLOYEES were consistently suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods interrupted, cut short, restricted to DEFENDANTS' premises and/or otherwise on duty due to commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or the need to meet DEFENDANTS' goals and expectations.

Based on information and belief, DEFENDANTS implemented policies and/or practices that failed to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and DEFENDANTS' control during unpaid meal periods.

Based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES to complete off-the-clock work prior to their scheduled shift time which DEFENDANTS failed to take into account when scheduling meal periods for NON-EXEMPT AGGRIEVED EMPLOYEES. Based on information and belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

Based on information and belief, DEFENDANTS had actual and/or constructive knowledge that their policies and practices resulted in the denial of uninterrupted meal periods which were free of DEFENDANTS' control owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

Based on information and belief, per DEFENDANTS' uniform policy and practice, NON-EXEMPT AGGRIEVED EMPLOYEES who worked shifts of more than ten hours did not receive a second legally compliant thirty (30) minute second meal break. For example, when PLAINTIFF worked shifts lasting longer than ten (10) and/or twelve (12) hours, PLAINTIFF was not afforded with any version of a second meal period.

Based on information and belief, despite DEFENDANTS' failure to provide lawful meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end times of PLAINTIFF's and other NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods and/or automatically deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal periods (including meal periods restricted to DEFENDANTS' premises), despite having actual and/or constructive knowledge that PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES did not receive lawful meal periods.

Moreover, based on information and belief, DEFENDANTS failed to keep accurate records of the true start and end times of PLAINTIFF's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods. Based on information and belief, to the extent meal period were recorded, DEFENDANTS illegally rounded the start and end times of purported meal periods resulting in PLAINTIFF and

other NON-EXEMPT AGGRIEVED EMPLOYEES not being paid for all time worked as well as late and/or shortened meal periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES as to the timing and duty-free nature of meal periods. Based on further information and belief, DEFENDANTS did not have a compliant written meal break policy, nor did DEFENDANTS have any sort of compliant policy in practice. Liability for the NON-EXEMPT AGGRIEVED EMPLOYEES can be established by evidence that an employer adopted a uniform corporate break policy that failed to give full effect to California law and the applicable Wage Order requirements. The fact that employees may legally waive meal breaks does not affect this result. *Brinker, supra*, 53 Cal.4th 1004.

PLAINTIFF is further informed and believes and thereon alleges that DEFENDANTS had actual and/or constructive knowledge that their time-rounding and/or auto-deduction policies and practices resulted in the denial of lawful meal periods owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

DEFENDANTS failed to pay PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of compensation for each workday a lawful meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for each workday a lawful meal period was not provided and/or failed to pay the proper meal period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or compensation for purposes of calculating the owed meal period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, 512, and 1198-1199, and all applicable IWC Wage Orders, section 11(A) and (C) along with all applicable IWC Wage Orders. These violations subject DEFENDANTS to civil penalties under Labor Code sections 558.1, 558 and 2699, and all applicable IWC Wage Orders, section 20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.³ DEFENDANTS' failure to provide valid meal periods, and the automatic deduction for meal periods that were not provided/valid, ultimately results in further violations, such as violations of Labor Code sections 1174, 1199, 226.6, discussed above, and other violations discussed below.

Rest Period Violations: California law requires employers to provide employees a paid, duty-free ten (10) minute rest period for each four (4) hours worked, or major fraction thereof. *See* applicable IWC Wage Order, §12(A). In *Brinker v. Restaurant Corp.* v. *Superior Court*, 53 Cal.4th 1004

³ See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); Lab. Code §558 (establishing that the civil penalty is “for each underpaid employee for each pay period for which the employee was underpaid”); All applicable IWC Wage Orders, §20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

(2012), the California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts from 3 ½ to 6 hours in length, two 10-minute rest periods for shifts more than 6 hours up to 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029). The rest period requirement obligates employers to permit and authorize employees to take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. Employers must pay employees an additional hour of wages at the employee's regular rate of pay for each missed or improper rest period (e.g., less than 10 minutes, interrupted rest period, rest period(s) at improper time(s) during shift(s). Lab. Code §226.7; applicable IWC Wage Order, §12(B) ("If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided").

Moreover, under California law rest periods must be a "net" ten minutes in a suitable rest area. *Id.* at 268 (relying on January 3, 1986 and February 22, 2002 DLSE Letters wherein the DLSE ruled that the net ten-minute language for rest periods means ten minutes of time in a rest area and cannot include time it takes to get to and from the rest area). The employer must show that it clearly articulates the right to a net ten minutes, which means it must clearly communicate what "net" ten minutes means (i.e., regardless of what happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the "onus is on the employer to clearly communicate the authorization and permission [to take rest periods] to their employees.").

DEFENDANTS did not properly authorize and provide PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES with legally compliant rest periods at a rate of every four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the middle of the work period, as required by law.

PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were not adequately informed, authorized, instructed about, nor permitted an opportunity to take proper rest breaks per California law. Based on information and belief, DEFENDANTS had no policy in place nor instruction as to the taking of duty-free rest periods. Based on information and belief, DEFENDANTS did not have a compliant written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in practice.

For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were frequently unable to take compliant rest periods due to their need to complete assigned job duties and/or were unable to take a net ten-minute rest period in a suitable rest area and/or had purported rest periods restricted to DEFENDANTS' premises.

For example, per DEFENDANTS' unlawful rest period policy and practice, PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were afforded no more than two (2) purported rest periods, if any, per shift even on shifts lasting longer than ten (10) hours, and PLAINTIFF was frequently required to work through one or both of her two purported rest periods each shift due to explicit instruction from management to do so, understaffing, lack of coverage, the need to meet

production and/or other work deadlines, respond to work-related communications and/or complete other work tasks.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES' rest periods were interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and constraints of their job duties, and/or due to commentary from supervisors/ managers pressuring NON-EXEMPT AGGRIEVED EMPLOYEES to skip rest breaks completely or otherwise take non-compliant rest periods.

Moreover, based on information and belief, DEFENDANTS failed to provide any form of a third rest period on shifts lasting longer than ten hours. For example, when PLAINTIFF worked shifts lasting longer than ten (10) hours, PLAINTIFF was not afforded with any version of a third rest period.

Based on information and belief, DEFENDANTS implemented policies and/or practices that failed to relieve PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and DEFENDANTS' control during rest periods.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were pressured to complete their work duties according to a designated schedule such that rest breaks were only taken once tasks were completed, and/or as time permitted.

Furthermore, DEFENDANTS failed to pay a rest period premium for each day in which NON-EXEMPT AGGRIEVED EMPLOYEES experienced a missed or otherwise unlawful rest period in violation of California law. *Bluford v. Safeway Stores, Inc.* (2013) 216 Cal. App. 4th 864, 872. DEFENDANTS failed to pay PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of pay for each workday a proper rest period was not provided. DEFENDANTS either failed to pay a rest period premium at all for each workday a lawful rest period was not provided and/or failed to pay the proper rest period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the regular rate of compensation for purposes of calculating the owed rest period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, and 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject DEFENDANTS to civil penalties under Labor Code sections 558, 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.⁴

⁴ See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); and All applicable IWC Wage Orders, §20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

Failure to Provide Suitable Resting Facilities: Per section 13 of all applicable IWC Wage Orders, including but not limited to Wage Order 1, employees shall be provided with suitable resting facilities. Section 13(B) of the Wage Orders provides: “Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours.”

DEFENDANTS’ locations/facilities are generally similar in layout and design, and there was, and continue to be, space that allows for a resting facility that employees may use to cease work and recover during meal or rest periods. DEFENDANTS could have provided NON-EXEMPT AGGRIEVED EMPLOYEES with a resting facility within DEFENDANTS’ facilities/locations with reasonable or no modification, but instead denied and continue to deny, employees with suitable areas to rest (e.g. a suitable breakroom). As a result, NON-EXEMPT AGGRIEVED EMPLOYEEES were forced to adjust to areas not conducive to resting, including but not limited to leaning up against the wall, or search for facilities outside of DEFENDANTS’ premises which are not designated or reserved for rest, such as their personal vehicles.

DEFENDANTS did not provide NON-EXEMPT AGGRIEVED EMPLOYEES with suitable resting facilities during their hours of work, particularly during meal and/or rest periods.

DEFENDANTS’ failure to provide suitable resting facilities to NON-EXEMPT AGGRIEVED EMPLOYEES violated and continue to violate the applicable Wage Order, section 13(B) and the California Labor Code, including but not limited to section 1198.

Minimum Wage Violations: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys’ fees, and costs of suit.” Labor Code section 1194.

Labor Code section 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. The minimum wage standard applies to each hour employees worked for which they were not paid. Pursuant to section 4 of the applicable Wage Order, “Every employer shall pay to each employee not less than the applicable minimum wage for all hours worked in the payroll period...” The applicable Wage Order defines “hours worked” as “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.” See §2 of all applicable Wage Orders. Therefore, employers are required to pay employees for all time spent subject to the control of the employer and all time the employee is suffered or permitted to work. An employer’s failure to pay for any particular hour worked by an employee is unlawful even if averaging an employee’s total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324. Furthermore, “in any action under Section 98, 1193.6, 1194, or 1197.1 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon...” *Cal. Lab. Code* § 1194.2.

DEFENDANTS failed to compensate PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked by virtue of DEFENDANTS' automatic deduction and time rounding policies for shift start and shift end times and meal period start and end times, and failure to relieve employees of all duties/employer control during unpaid meal periods or otherwise unlawful practices for missed or improper meal periods as explained above.

Based on information and belief, DEFENDANTS implemented a policy and/or practice of rounding meal period start and end times and/or automatically deducting at least thirty minutes per shift for meal periods, despite having actual and/or constructive knowledge that PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were subject to DEFENDANTS' control during purported meal periods and/or were otherwise not afforded with lawful meal periods, depriving PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES of all wages owed.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were not paid for all hours worked due to DEFENDANTS' policy and/or practice of paying according to scheduled hours worked instead of actual time worked, and/or mandated off-the clock work policies and/or practices. For example, based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES to be at their assigned workstations at the start of a scheduled shift, thereby forcing NON-EXEMPT AGGRIEVED EMPLOYEES to gather work related equipment and/or safety gear prior to their scheduled shift and/or prior to clocking in/signing in, thereby resulting in pre-shift off-the-clock work.

Based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES to undergo security screenings before and/or after a scheduled shift and/or before or after clocking in/out for work, resulting in pre-shift and/or post-shift off-the-clock work.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were required to form a line and spend time waiting to access DEFENDANTS' electronic employee timekeeping terminal before they could clock in for the start of their shifts on most if not all shifts worked as well as when clocking back in from purported meal periods. For example, PLAINTIFF was frequently required to wait in line for at least several minutes before PLAINTIFF could access the terminal to clock in for the start of PLAINTIFF's shift. This time spent under DEFENDANTS' control, including but not limited to, time spent waiting in line behind other employees to access DEFENDANTS' electronic / timekeeping system, time spent initiating and/or reinitiating the system was not recorded and not compensated, resulting in DEFENDANTS' failure to pay PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES for all time worked.

Based on information and belief, at times, DEFENDANTS' electronic employee time-keeping system malfunctioned such that NON-EXEMPT AGGRIEVED EMPLOYEES were required to either reinitiate and/or otherwise troubleshoot the system prior to being able to clock in and/or were unable to clock in at all for the start of their shifts and/or clock back in from meal periods, resulting in off-the-clock work and the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES experienced the same issues when clocking out for shifts and/or back in for meal

periods. This time spent under DEFENDANTS' control was not recorded and not compensated and resulted in unpaid minimum wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES to undergo COVID-19 temperature screenings and/or complete questionnaires prior to beginning their scheduled shift and/or prior to clocking/signing in, thereby, resulting in pre-shift off-the-clock work.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were required to complete other off-the-clock work tasks after clocking out for the end of their shifts and/or during uncompensated meal periods, resulting in off-the-clock work and the underpayment of minimum and overtime wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES. For example, on numerous occasions, PLAINTIFF's manager required PLAINTIFF to clock out for the end of PLAINTIFF's shift but to continue working, resulting in consistent off-the-clock work and the underpayment of minimum wages and overtime wages owed to PLAINTIFF.

Based on information and belief, DEFENDANTS have a policy and practice of requiring, suffering and/or permitting other NON-EXEMPT AGGRIEVED EMPLOYEES to clock out for the end of their shifts but to continue performing work tasks, resulting in the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES, among other violations of the Labor Code described herein, including without limitation, the failure to list the total hours worked by NON-EXEMPT AGGRIEVED EMPLOYEES on wage statements issued by DEFENDANTS to NON-EXEMPT AGGRIEVED EMPLOYEES.

Additionally, PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were required to perform other off-the-clock work for which they were not compensated. For example, based on information and belief, DEFENDANTS did not compensate NON-EXEMPT AGGRIEVED EMPLOYEES for time spent donning and doffing personal protective equipment, safety equipment and/or uniforms (e.g., safety goggles/glasses, gloves and/or face masks) during meal periods, rest periods, before the start of a scheduled shift, and after completing a scheduled shift.

Moreover, based on information and belief, DEFENDANTS failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES split shift premium wages when they worked split shifts during the relevant period. For example, based on information and belief, at times, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES to work two separate shifts in the same day. Based on information and belief, DEFENDANTS failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES split shift compensation whenever PLAINTIFF's and/or other NON-EXEMPT AGGRIEVED EMPLOYEES' work schedules were interrupted by non-paid non-working periods established by DEFENDANTS, which resulted in a violation of the applicable Wage Order (See section 4 of all applicable Wage orders, "When an employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to the minimum wage for that workday..."). See, also, Cal. Code Regs. Tit. 8, § 11050 (when an employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to the minimum wage for that workday, except when the employee resides at the place of employment). DEFENDANTS also failed to separately itemize these split shift premium wages on PLAINTIFF's and/or other NON-EXEMPT AGGRIEVED EMPLOYEES' wage statements, in violation of Labor Code sections 510, 1194

and all applicable IWC Wage Orders. See, https://www.dir.ca.gov/dlse/split_shift.htm. (The employer must itemize the premium payment on the pay stub provided to the employee, and it should be shown as a separate category such as “Split Shift Premium” and should not be lumped into another category such as wages, bonus, etc. DEFENDANTS failed to separately account for the split shift premiums earned by PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES on their wage statements.

Based on information and belief, DEFENDANTS failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES for time they were required to spend completing orientation, policy questionnaires, and/or time spent completing the onboarding process including but not limited to reviewing various documents and policies provided by DEFENDANTS. Based on information and belief, this work time was completed off-the-clock and was not compensated.

Based on further information and belief, DEFENDANTS implemented a time-rounding system that as applied systematically deprived PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES of compensable time because the time-rounding system implemented by DEFENDANTS would almost always, if not always, result in understating actual compensable work time. DEFENDANTS’ failure to pay for all time worked by virtue of their time-rounding practices resulted in the underpayment of minimum wages owed to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

DEFENDANTS’ failure to pay for all time worked by virtue of their time rounding, auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of minimum wages owed to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

Based on information and belief, DEFENDANTS had actual and/or constructive knowledge that their time rounding policies/practices, auto-deduction policies and practices, failure to provide lawful meal periods and/or other off-the-clock work resulted in the underpayment of minimum wages owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's minimum wage laws.

These violations subject DEFENDANTS to civil penalties under Labor Code sections 558, 558.1, 1197.1 and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁵

⁵ See Lab. Code §1197.1(a) (establishing that the civil penalty is “for each underpaid employee for each pay period for which the employee was underpaid”); All applicable IWC Wage Orders, §20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

Overtime Violations: California law requires employers to pay overtime equal to one and one-half times the regular hourly rate of pay for each hour worked beyond eight (8) hours per workday and each hour worked beyond forty (40) hours per work week. Lab. Code §510; IWC Wage Order All applicable IWC Wage Orders §3. Employers must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in a work week. *Ibid.*

Based on information and belief, DEFENDANTS violated California's overtime laws by, among other things, failing to correctly calculate, or record, the total number of hours worked by PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES and not paying proper overtime rates for overtime worked by virtue of same.

Namely, DEFENDANTS' automatic deduction and time rounding policies and practices for meal periods and shift start times and shift end times, payment according to scheduled hours worked rather than actual time worked, off-the-clock/unpaid work completed during meal periods and/or time spent restricted to DEFENDANTS' premises and/or subject to DEFENDANTS' control during off-the-clock meal periods (described above), and/or other off-the-clock work resulted in the failure to account for all hours worked and thus the denial of minimum wages as well as overtime wages owed to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day or more than forty (40) hours in a week.

Based on information and belief, DEFENDANTS failed and continue to fail to pay a premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours in a week.

Based on information and belief, DEFENDANTS failed and continue to fail to pay twice NON-EXEMPT AGGRIEVED EMPLOYEES' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in violation of California's overtime laws.

Based on information and belief, DEFENDANTS failed to incorporate all non-discretionary remuneration, including but not limited to, shift differential pay, bonus pay, multiple base rates of pay and/or other non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES.

This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1, 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject DEFENDANTS to civil penalties under Labor Code sections 558, 558.1, 218.5, and 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁶

⁶ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Lab. Code §558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the

Violation of California Labor Code §§ 245-248.5: Throughout the relevant time period, DEFENDANTS failed to provide proper paid sick leave to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES. DEFENDANTS either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the sick leave rate of pay owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES by failing to base the accrued sick leave hours on the correct number of hours worked (as a result of the rounding/automatic deduction policies and practices for meal periods and/or shift start and end times/other required off-the-clock work including but not limited to work completed during unpaid meal periods and by failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but not limited to, non-discretionary bonuses, shift differential pay, commission and/or piece-rate compensation and/or other non-discretionary compensation into the sick leave pay rate calculation.

Based on information and belief, DEFENDANTS further failed to provide notice of the correct sick leave amount balance available to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES on their wage statements or other written statements.

Based on information and belief, DEFENDANTS failed to put NON-EXEMPT AGGRIEVED on notice of their paid sick leave rights—or thereby putting their entitlement to sick leave in a Labor Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used sick leave and the balance of paid sick leave left to the NON-EXEMPT AGGRIEVED EMPLOYEE throughout the relevant time period.

Based on information and belief, throughout the relevant period, DEFENDANTS failed to provide notice of sick leave amount balance left for PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, thus affecting their intelligent exercise of their paid sick leave. But for this failure, PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES would have used their paid sick leave at least prior to their respective separations, for as on several occasions thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate compensation.

This illegal retention of paid sick leave is unlawful, and PLAINTIFF seeks all forms of injunctive relief, restitution, and declaratory relief as permitted by California law, on behalf of PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES.

In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES, permitting the presumption that PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES were entitled to the maximum number of hours accruable under this article.

employee was underpaid”); All applicable Wage Orders, §20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

Upon information and belief, DEFENDANTS further failed and continue to fail to comply with Labor Code section 246, by failing to provide PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES with a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays wages.

DEFENDANTS unlawfully retained and continue to retain paid sick leave that should have been paid but was not, as a result of DEFENDANTS' failure to properly institute a paid sick leave program.

On information and belief, PLAINTIFF alleges that all of these practices were experienced and continue to be experienced by other NON-EXEMPT AGGRIEVED EMPLOYEES.

PLAINTIFF requests all appropriate relief under the PAGA and these statutes, including but not limited to the restitution of earned paid sick leave that could have been used, but was not due to DEFENDANTS' sole failure to institute such a paid sick leave entitlement or paid sick leave bank as required by California law.

Accordingly, PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to injunctive relief, attorney's fees, declaratory relief, restitution, and penalties as permitted by law. PLAINTIFF requests all relief pursuant to the aforementioned code provisions, including but not limited to Labor Code sections 233 and 234, which incorporates the paid sick leave requirements.

Failure To Provide Supplemental Paid Sick Leave: Labor Code section 248.2 provides that all employers with 26 or more employees are required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related. Based on information and belief, DEFENDANTS violated Labor Code section 248.2 by not providing NON-EXEMPT AGGRIEVED EMPLOYEES with required 2021 COVID-19 Supplemental Paid Sick Leave. Based on information and belief, DEFENDANTS failed to provide Supplemental Paid Sick Leave in 2022 in violation of Labor Code section 248.6.

Refusal to Make Payment: Labor Code section 216 declares unlawful an employer's refusal to pay wages due and payable and/or denial of the validity of any claim to wages due.

DEFENDANTS violated and continue to violate Labor Code section 216 by failing to pay PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked at the proper wage rate and by failing to pay PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for each meal and/or rest period not provided or that was invalid. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155.

These violations subject DEFENDANTS to civil penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute's provisions were violated.⁷

Wage Statement Violations: California law requires every employer semi-monthly or at the time of each payment of wages to furnish each of his or her employees with an accurate itemized wage statement in writing that contains the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Cal. Lab. Code. section 226(a).

As DEFENDANTS failed to provide PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES with meal and rest periods that complied with Labor Code section 226.7, the wage statements DEFENDANTS issued to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES failed and continue to fail to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

DEFENDANTS' issued wage statements to PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES that also failed to indicate the earned gross and net wages earned during the pay period, the correct applicable rates of pay for all hours worked, and the "total hours worked" by PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES (by virtue of rounded time entries, automatic deduction for meal periods/failure to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and employer control during unpaid meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or other off-the-clock work policies and practices described above), which results in a violation of Labor Code section 226(a). Failure to list all hours worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

Based on information and belief, wage statements issued by DEFENDANTS failed to list the inclusive dates of the pay period for which the NON-EXEMPT AGGRIEVED EMPLOYEE or EXEMPT AGGRIEVED EMPLOYEE is being paid.

DEFENDANTS' failure to accurately list all hours worked on all wage statements caused confusion to PLAINTIFF and caused and continue to cause confusion to the NON-EXEMPT

⁷ Labor Code § 225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee") (emphasis added).

AGGRIEVED EMPLOYEES over whether they received all wages owed to them. PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES were injured by DEFENDANTS' failure to provide accurate wage statements.

In addition, because of the violations detailed above, including but not limited to, not paying regular and overtime wages for all hours worked, not paying all sick leave wages at the proper rates, and failing to provide meal and rest break premiums, DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES with accurate, itemized wage statements. As described herein, based on information and belief, DEFENDANTS also failed to incorporate all forms of non-discretionary compensation earned during the pay period into the overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour of overtime worked by PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, wage statements issued by DEFENDANTS failed to list all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

Moreover, based on information and belief, DEFENDANTS issued wage statements to PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES that further violate Labor Code section 226(a), by among other things, failing to list the correct name and/or address of the legal entity that is the employer.

As a result, the wage statements provided to PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not accurate and did not include all of the statutorily required information.

These violations subject DEFENDANTS to civil penalties under Labor Code section 226. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE and each EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated.⁸

Unlawful Deductions: Labor Code section 221 prohibits an employer from “collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer to said employee.” Based on information and belief DEFENDANTS made unlawful deductions from NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES paychecks during the relevant period. Such a practice is in violation of including but not limited to, Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties under Labor Code Section 2699.

Each violation results in a separate civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE and EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated. See Lab. Code §225.5 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who

⁸ See Lab. Code §226.3 (establishing that the civil penalty is “per employee per violation”).

unlawfully withholds wages due any employee in violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee”).

Semimonthly Payment Violations: Labor Code section 204 requires that all earned wages must be paid to employees twice during each calendar month. DEFENDANTS violated this section by, including but not limited to, failing to pay PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for meal and rest periods not provided and/or otherwise unlawful, by failing to compensate employees for all hours worked, and by failing to pay proper premium wage rates for all hours worked. These violations subject DEFENDANTS to civil penalties under Labor Code section 210. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute’s provisions were violated.

Reporting Time Pay Violations:

Section 5 of all applicable IWC Wage Orders, provides as follows:

(A) Each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less than the minimum wage. (B) If an employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were not paid reporting time wages in accordance with California law, including but not limited to the applicable IWC Wage Order. For example, based on information and belief, at times, PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES reported to work for a scheduled shift but were sent home and/or were not put to work and were not paid all owed reporting time pay wages in accordance with California law.

Based on information and belief, DEFENDANTS have a policy and practice of failing to pay all reporting time wages to NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California law, including but not limited to, the applicable IWC Wage Order, Section 5. DEFENDANTS’ failure to pay all reporting time wages to NON-EXEMPT AGGRIEVED EMPLOYEES violated and continue to violate the applicable Wage Order, including but not limited to IWC Wage Order 1-2001, section 5(A)-(B) and the California Labor Code, including but not limited to section 1198.

Violation of California Day of Rest Law

Under California law, every employee in California is "entitled" to "one day's rest [from labor] in seven"; and, no employer may "cause" their employees "to work more than six days in seven." *See* Labor Code Sections 551 and 552. Labor Code section 553 provides that a violation of the foregoing sections is a misdemeanor.

Based on information and belief, DEFENDANTS have and continue to have a uniform policy and practice of requiring NON-EXEMPT AGGRIEVED EMPLOYEES to work at least seven days consecutively in a workweek, in violation of including but not limited to, Labor Code Section

551. Based on information and belief, PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES were suffered, permitted, or required to work at least seven (7) days consecutively in a workweek, in violation of California law, including but not limited to Labor Code Section 551.

Seating Violations: Per section 14(A-B) of all applicable IWC Wage Orders, employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats and when they are not actively engaged in the work duties that would not permit them to be seated.

All applicable IWC Wage Orders, Section 14(A-B) provides:

(A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.

(B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

Suitable seating is one of the worker protections covered by California's Wage Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

Based on information and belief, DEFENDANTS failed to provide NON-EXEMPT AGGRIEVED EMPLOYEES with suitable seating, and when such employees were not engaged in duties which required them to stand, no seating was placed in reasonable proximity to their workstations.

Moreover, based on information and belief, the nature of the work reasonably permitted the use of seats for at least part of the time that NON-EXEMPT AGGRIEVED EMPLOYEES were working. Lastly, based on information and belief, there were periods of time when NON-EXEMPT AGGRIEVED EMPLOYEES were not engaged in active duties of their employment, yet there were no suitable seats in reasonable proximity to the work area and use of seats would not interfere with the performance of their duties.

DEFENDANTS' NON-EXEMPT AGGRIEVED EMPLOYEES worked in various positions. The nature of NON-EXEMPT AGGRIEVED EMPLOYEES' work reasonably permitted the use of seats. However, DEFENDANTS failed to provide suitable seating in reasonable proximity to NON-EXEMPT AGGRIEVED EMPLOYEES' work areas in violation of section 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting DEFENDANTS to civil penalties under Labor Code sections 1199 and 2699. Each violation of each Labor Code

section and IWC Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.⁹

Standard Conditions of Labor Violations: Together, Labor Code sections 1198 and 1199 make unlawful any employment of any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal, or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including sections 1174, 1197, and 1198, or order or ruling of the commission.

Therefore, DEFENDANTS' violations, including but not limited to, with respect to meal periods, rest periods, recordkeeping provisions, minimum wages and overtime wages, business expenses, seating, suitable resting, reporting time pay, day of rest and other violations described herein result in separate violations of sections 1198 and 1199, which subject DEFENDANTS to civil penalties under Labor Code sections 1197.1 and 2699.

Statutory Wage Violations: Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

As described above, DEFENDANTS willfully and systematically denied PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES of minimum and overtime wage compensation for all hours worked which resulted in the payment of less than statutorily required wages owed to them. DEFENDANTS acted with the intent to deprive them of statutory wages, including, but not limited to, overtime wages and minimum wages, to which they were entitled to under California law.

Thus, DEFENDANTS paid PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES lower wages than those they were entitled to while purporting that PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES were properly paid. As such, PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code § 2699(f)-(g).

Failure to Pay Vested Vacation/Paid Time Off:

California Labor Code section 227.3 provides that when an employer policy provides for paid vacations and/or paid time off, and an employee is terminated without having taken off his, her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the employee's final rate in accordance with such contract of employment or employer policy respecting eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time off upon termination. Based on information and belief, DEFENDANTS had and continue to have a uniform policy and practice of failing to allow NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to use their earned vacation/paid time off during their employment and failing to pay all vested, accrued paid time off to (including but not limited to, all owed vacation pay/paid time off paid at the final rate including non-discretionary compensation, including but not limited to, shift differentials) NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES upon separation of employment, in violation of California law, including but not limited to, Labor Code section 227.3.

⁹ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

Final Pay Violations: Labor Code section 201 requires employers to pay all wages earned and unpaid at the time of discharge, immediately upon discharge. California Labor Code section 201(a) provides, in relevant part, that “[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” California Labor Code section 202(a) provides, in relevant part, that “[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 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.” Pursuant to Labor Code section 203, an employer that willfully fails to pay wages due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid. This 30-day waiting time penalty is recoverable under the PAGA via Labor Code Section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also, *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

Based on information and belief, DEFENDANTS failed to timely pay NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES all wages that were due and owing upon termination or resignation. Based on information and belief, DEFENDANTS untimely provide final wages to NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES without regard to the timing requirements of Labor Code sections 201-202.

Upon separation of employment, NON-EXEMPT AGGRIEVED EMPLOYEES’ and EXEMPT AGGRIEVED EMPLOYEES’ final paychecks were not timely provided and/or were not timely provided with all owed vacation pay and/or paid time off. Moreover, NON-EXEMPT AGGRIEVED EMPLOYEES’ final paychecks, once provided, did not include all wages owed as they were devoid of, including but not limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or paid time off wages at the properly accrued rates (including but not limited to, all owed vacation pay/paid time off paid at the final rate including non-discretionary compensation, including but not limited to, shift differentials).

For example, DEFENDANTS did not furnish PLAINTIFF with any final paycheck until at least forty-eight hours following PLAINTIFF's date of termination, and PLAINTIFF's late final paycheck was devoid of all wages owed, including but not limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, and all owed sick leave and/or paid time off wages at the properly accrued rates.

Based on further information and belief, DEFENDANTS failed to timely provide all owed wages immediately upon discharge of employment. Based in information and belief, at times, NON-EXEMPT AGGRIEVED EMPLOYEES experienced breaks in employment caused by DEFENDANTS whereby NON-EXEMPT AGGRIEVED EMPLOYEES would not be called in for work for longer than a single pay period due to including but not limited to DEFENDANTS’ lack of work or lack of assignments. Such instances qualify as a discharge of employment. Yet, DEFENDANTS failed to timely pay all owed wages at the end of such periods of employment, in violation of including but not limited to Labor Code section 201-202.

These violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or 256. Each violation results in a *separate* civil penalty, for each EXEMPT AGGRIEVED EMPLOYEE and each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute provisions were violated.¹⁰

Business Expense Violations: California law requires employers to indemnify their employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of their duties or of their obedience to the directions of the employer. *See* Cal. Lab. Code § 2802(a) and all applicable Wage Orders, § 9 (b). Furthermore, “for purposes of [section 2802], the term ‘necessary expenditure or losses’ shall include all reasonable costs, including, but not limited to, attorneys’ fees incurred by the employee enforcing the rights granted by this section.”

Among other things, under California law, when tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft. *See* applicable IWC Wage Order, § 9 (b).

Among other things, under California law, when employees must use their personal cellphones for work-related purposes, the employer must reimburse them for a reasonable percentage of their cell phone bills. *See Cochran v. Schwan’s Home Services, Inc.* (2014) 228 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was required to use their personal cellphone for work-related purposes and not reimbursed for the use. *Id.* 1144-1145

California law also requires employers to reimburse employees for automobile expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554.

Further, “any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled to under the laws of this State.” *See* Cal. Lab. Code § 2804.

Based on information and belief, PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to provide and maintain work tools that are supposed to be the responsibility of the employer.

Based on information and belief, DEFENDANTS shifted the costs of doing business onto NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES by requiring them to pay for their business expenses including but not limited to, uniforms/work clothing/work shoes/personal protective/safety gear and the use of NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES’ personal mobile phone, internet and/or data usage for work related purposes, including but not limited to, to receive and respond

¹⁰ (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, 1197.5, shall be subject to a civil penalty...for each failure to pay each employee”).

to work related messages and/or phone calls. For example, DEFENDANTS required PLAINTIFF to purchase her own steel-toed boots but did not provide any reimbursement for these business expenses. Based on information and belief, other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES were also not reimbursed for the cost of purchasing and/or maintaining work uniforms/clothing/shoes and/or protective gear (e.g., gloves and/or face masks).

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES were at times required to make and/or respond to work-related calls and/or messages on their personal cell phones/mobile devices regarding scheduling and/or other work tasks but were not reimbursed by DEFENDANTS at all and/or in full for these business expenses. For example, PLAINTIFF regularly received and was required to respond to text messages from her supervisor on her personal cellphone / mobile device throughout most if not all shifts PLAINTIFF worked but was not reimbursed by DEFENDANTS for this business use of her personal cell phone/mobile device.

Based on information and belief, DEFENDANTS failed to reimburse NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES for expenses associated with having to purchase and/or maintain their own hand tools and/or equipment required to perform their assigned job duties.

Based on information and belief, at times, NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES were not reimbursed for the business use of their personal vehicles, including mileage, wear and tear, and cost of fuel when they were required to drive around and/or between job sites, and/or use their personal vehicles in carrying out the duties assigned by DEFENDANTS. As such, DEFENDANTS failed to compensate NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES at the legally mandated Internal Revenue Service (IRS) per mile compensation rates in effect during the relevant period.

As explained above, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not reimbursed for the cost of using their personal phone for work related purposes and/or the cost of purchasing and/or maintaining work uniforms/work clothing/work shoes, personal protective/safety gear.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to pay for business expenses that are supposed to be the responsibility of DEFENDANTS.

As a pattern and practice, DEFENDANTS regularly failed to reimburse and indemnify NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses. Pursuant to California Labor Code section 2802, PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were entitled to be reimbursed for all reasonable expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties assigned by DEFENDANTS.

As described herein, DEFENDANTS regularly failed to reimburse and indemnify PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for all reasonable expenses associated with carrying out their job duties. DEFENDANTS' failure to provide PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES with full reimbursement for all reasonable expenses associated with carrying out their duties required that PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

Unlawful Agreements/ Unlawful Criminal History Inquiries:

Unlawful Agreements

Labor Code section 432.5 provides that "no employer...shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer...to be prohibited by law." Based on information and belief, DEFENDANTS required PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful conditions of employment including but not limited to unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

The California Labor Code places certain procedural and substantive limit on employers' ability to conduct employee background checks and on how employers can use the information they obtain through those background checks. Labor Code section 1024.5 states that employers, except for financial institutions, may order a credit check only if the individual works (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions, and certain government positions). Additionally, the Investigative Consumer Reporting Agencies Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act (FCRA - 15 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an employee background check, including but not limited to identifying an appropriate reason for the background check, a separate consent form with required disclosures and certain formatting requirements, additional forms such as a summary of rights, a way by which to request a copy of the report, as well as proper notice of adverse actions taken, among other statutory requirements.

Based on information and belief, DEFENDANTS ordered unlawful financial credit checks on NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, in violation of Labor Code section 1024.5, and required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to provide ongoing written consent to the unlawful credit checks as a condition of employment, in violation of California and Federal law, which results in a further violation of Labor Code section 432.5.

Based on information and belief, DEFENDANTS also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to submit and/or agree to submit in writing to unlawful criminal background checks as a condition of obtaining and/or holding employment in violation of the ICRAA and the FCRA.

Based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to a background

check which failed to abide by the requirements set forth in CA Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by failing to provide a clear and conspicuous disclosure (and/or failing to provide any disclosure at all), failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for the background check, failing to provide a summary of rights under the ICRAA and/or the FRCA, failing to provide a way by which the individual could request a copy of the report, failing to disclose the name, address, and telephone number of the third party preparing the report, and failing to properly obtain authorization or consent to such a background check, and thus was an unlawful background check.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful criminal and/or financial checks not in conformance with the applicable laws, DEFENDANTS violated Labor Code section 432.5.

Based on information and belief, DEFENDANTS also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to provide ongoing consent to DEFENDANTS to conduct background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by requiring applicants and employees to agree to an unlawful provision as a condition of employment.

Based on further information and belief, DEFENDANTS knew that requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree to unlawful criminal and/or financial background checks as a condition of obtaining and/or holding employment was unlawful.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES agree in writing to unlawful provisions as a condition of employment, DEFENDANTS violated Labor Code section 432.5.

Unlawful Inquires into Criminal History

Labor Code section 432.7 prohibits an employer from asking applicants about past arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on information and belief, DEFENDANTS asked NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES about arrests not resulting in convictions on their employment application, in violation of California law.

Upon information and belief, DEFENDANTS, in violation of California law, including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act (“FEHA”), asked NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES about convictions prior to extending an offer of employment and/or otherwise impermissibly inquired into criminal history on their employment application in violation of California law.

By asking about arrests not resulting in convictions, DEFENDANTS violated Labor Code section 432.7. By asking about convictions at the application phase or prior to extending an employment offer, DEFENDANTS violated California’s Fair Chance Act, and thereby violated Labor Code section 432.5 by unlawfully requiring NON-EXEMPT AGGRIEVED EMPLOYEES and

EXEMPT AGGRIEVED EMPLOYEES to agree in writing to disclose arrests and/or convictions as a condition of employment.

Unlawful PAGA Waiver

Additionally, DEFENDANTS violated Labor Code section 432.5 by requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to other unlawful agreements, including but not limited to, an unlawful waiver of PAGA and or representative actions as a condition of employment.

An action pursuant to PAGA “...is a representative action on behalf of the state” *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87. It is well settled that agreements purporting to waive an employee’s right to a trial of PAGA claims is contrary to California law and unenforceable. *See Iskanian v CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4th 348, 384 (“We conclude that where, as here, an employment agreement compels the waiver of representative claims under the PAGA, it is contrary to public policy and unenforceable as a matter of state law.”)

Moreover, the California Supreme Court has ruled that a court cannot compel arbitration of an aggrieved employee’s individual PAGA claim because there is no such thing as an individual PAGA claim. *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87 (“There is no individual component to a PAGA action because ‘every PAGA action ... is a representative action on behalf of the state.’”)

Upon information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to waive their right to a trial of PAGA claims in violation of California law. By requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree, in writing, to an unlawful PAGA waiver, DEFENDANTS required written agreement to an unlawful provision as a condition of employment which is a violation of labor code section 432.5.

As such, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES continue to be subject to various unlawful provisions as a condition of employment.

Failure to Provide a Safe and Healthful Workplace: Pursuant to California Labor Code sections 6400-6404 and 6406-6407 of the California Occupational Safety and Health Act (“Cal OSHA”), employers must maintain a safe and healthful place of employment.

Specifically, Labor Code section 6400, requires the following:

- (a) Every employer shall furnish employment and a place of employment that is safe and healthful for the employees therein...

Labor Code section 6401 provides as follows:

Every employer shall furnish and use safety devices and safeguards, and shall adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render such employment and place of employment safe and healthful. Every

employer shall do every other thing reasonably necessary to protect the life, safety, and health of employees.

Labor Code section 6402 prohibits the following:

No employer shall require, or permit any employee to go or be in any employment or place of employment which is not safe and healthful.

Similarly, Labor Code section 6404 provides as follows:

No employer shall occupy or maintain any place of employment that is not safe and healthful.

In addition to the above, Labor Code section 6403 requires that employees provide safety devices to their employees. Labor Code section 6403 states:

No employer shall fail or neglect to do any of the following:

- (a) To provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe.
- (b) To adopt and use methods and processes reasonably adequate to render the employment and place of employment safe.
- (c) To do every other thing reasonably necessary to protect the life, safety, and health of employees.

Similarly, Labor Code section 6406(d) states the following:

No person shall do any of the following ... (d) Fail or neglect to do every other thing reasonably necessary to protect the life, safety, and health of employees.

Finally, Labor Code section 6407 provides:

Every employer and every employee shall comply with occupational safety and health standards, with Section 25910 of the Health and Safety Code, and with all rules, regulations, and orders pursuant to this division which are applicable to his own actions and conduct.

Moreover, Labor Code section 6409.6 sets forth the actions an employer (or representative of employer) must take within one business day of receiving notice of potential exposure to COVID-19, including but not limited to employee-notice and reporting requirements.

At all relevant times, DEFENDANTS employed PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES subject to Labor Code sections 6400-6404, 6406, and 6407. At all relevant times, DEFENDANTS had and have a policy and practice of failing to furnish and use safety devices and safeguards and of failing to adopt and use practices, means, methods, operations, and/or processes which are reasonably adequate to render such employment and place of employment safe and healthful, pursuant to, including but not limited to, Labor Code section 6401. At all relevant times DEFENDANTS had a policy and practice of requiring or permitting employees to go or be in in any employment or place of employment which

is not safe and healthful, pursuant to Labor Code section 6402. At all relevant times, DEFENDANTS had and have a policy and practice of failing or neglecting to: provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe; adopt and use methods and processes reasonably adequate to render the employment and place of employment safe; and do every other thing reasonably necessary to protect the life, safety, and health of employees, pursuant to Labor Code section 6403.

PLAINTIFF is informed and believes and thereon alleges that these failures include, without limitation, failing to disinfect time clocks and other surfaces after use by PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES; failing to provide adequate protection equipment (e.g., face masks) to PLAINTIFF, other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES; and failing to provide adequate distance in working conditions between PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES.

At all relevant times, DEFENDANTS had a policy and practice of failing to give sufficient, adequate and proper notice to PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES of the COVID-19 exposure within one business day of receiving notice of potential COVID-19 workplace exposure from a qualifying individual as required by Labor Code section 6409.6. PLAINTIFF is informed and believes that numerous employees contracted COVID-19 during the relevant time periods, but that DEFENDANTS failed to provide notice to employees. Based on further information and belief, DEFENDANTS do not or did not keep adequate records of written notifications required in subdivision (a) for a period of at least three years.

At all relevant times, DEFENDANTS had and have a policy and practice of failing within one business day after DEFENDANTS or a representative of DEFENDANTS received notice of potential exposure to COVID-19 to provide written notice to PLAINTIFF, other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES and/or their exclusive representatives, who were on the premises at the same worksite as a qualifying individual who was within the infectious period that they may have been exposed to COVID-19. Based on further information and belief, DEFENDANTS had and have a policy and practice of failing within one business day after DEFENDANTS or a representative of DEFENDANTS received a notice of potential exposure to COVID-19 to provide PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES who were on the premises at the same worksite as the qualifying individual within the infectious period and the exclusive representative, if any, with information regarding COVID-19-related benefits to which the employee may be entitled under applicable federal, state or local laws, including but not limited to, workers' compensation, and options for exposed employees, including COVID-19-related leave, company sick leave, state-mandated leave, supplemental sick leave, or negotiated leave provisions, as well as antiretaliation and antidiscrimination protections of the employee. As such, DEFENDANTS violated, without limitation, Labor Code sections 6409.6 and 6432.

At all relevant times, DEFENDANTS had and have a policy and practice of failing within one business day after DEFENDANTS or a representative of DEFENDANTS received a notice of potential exposure to COVID-19 to notify PLAINTIFF and other NON-EXEMPT AGGRIEVED

EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES who were on the premises at the same worksite as the qualifying individual within the infectious period, and the employers of the subcontracted employees who were on the premises at the same worksite as the qualifying individual within the infectious period and the exclusive representative, if any, of the cleaning and disinfection plan that the employer is implementing per the guidelines of the federal Centers for Disease Control and Prevention and the COVID-19 prevention program per the CAL-OSHA COVID-19 Emergency Temporary Standards. As such, DEFENDANTS violated, without limitation, Labor Code sections 6409.6 and 6432.

At all relevant times, DEFENDANTS had and have a policy and practice of failing to notify the local public health agency in the jurisdiction of the worksite of the names, number, occupation and worksite of employees who had a laboratory-confirmed case of COVID-19, as defined by the State Department of Public Health; a positive COVID-19 diagnosis from a licensed health care provider; a COVID-19 related order to isolate provided by a public health official; or died due to COVID-19, in the determination of a county public health department or per inclusion in the COVID-19 statistics of a county. As such, DEFENDANTS violated, without limitation, Labor Code sections 6409.6 and 6432.

PLAINTIFF is informed and believes , and based thereon alleges that DEFENDANTS violated California Code of Regulations, title 8, sections 1527, 3366, 3457, and 8397.4 by failing to provide adequate and readily accessible sanitation facilities; a regular schedule for servicing, cleaning, and supplying each facility to ensure it is maintained in a clean, sanitary and serviceable condition; an adequate supply of suitable cleansing agents, water, single-use towels or blowers; and a sufficient number of toilets to be used by each of sex of employee.

PLAINTIFF is informed and believes and based thereon alleges that DEFENDANTS violated the Labor Code sections described herein, including without limitation, for failure to: furnish and use safety devices and safeguards; give sufficient, adequate and proper notice to employees of COVID-19 exposures, to provide written notice to PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES, who were on the premises at the same worksite as a qualifying individual who was within the infectious period that they may have been exposed to COVID-19 pursuant to California and local laws.

Based on information and belief, DEFENDANTS failed to protect NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES from exposure to COVID-19 due to, including but not limited to, failing to maintain/update DEFENDANTS' workplace safety plans and/or procedures to properly address hazards related to the COVID-19 virus.

As such, DEFENDANTS failed to comply with the occupational safety and health standards, failed to do everything reasonably necessary to protect the health and safety of employees, failed to maintain a safe and healthful workplace, and failed to provide the safety devices necessary to maintain a safe and healthful workplace.

As a result of DEFENDANTS' acts and omissions, DEFENDANTS violated Labor Code section 6400-6404, 6406-6407, and 6409.6 as to PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES and is subject to civil penalties.

Conclusion

DEFENDANTS have violated the above-referenced California Labor Code provisions, the applicable IWC Wage Order, including but not limited to all applicable Wage Orders, as well as other laws other laws, and is liable for all applicable premium wages, statutory and civil penalties, interest, attorneys' fees, and costs. The civil penalties PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES seek to recover include, but are not limited to, the statutory and civil penalties specified above.

Labor Code § 2699.3 requires that a claimant send a certified letter (i.e. this NOTICE) to the employer in question and file an online claim to the LWDA setting forth the claims and the basis for the claims, thereby giving the LWDA an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this NOTICE is to satisfy the requirements created by Labor Code §§ 2699, 2699.3(a), 2699.3(b), 2699.3(c), and 2699.5, prior to seeking penalties and premium wages allowed by law for the aforementioned statutory violations in a civil action. We look forward to determining whether the LWDA intends to take any action in reference to these claims. We kindly ask that you respond to this NOTICE according to the time frame contemplated by the code. Likewise, PLAINTIFF requests that the Division of Occupational Safety and Health investigate the above allegations and provide notice of the investigation and findings pursuant to PAGA's provisions. Alternatively, PLAINTIFF requests that the agency and division inform PLAINTIFF if they do not intend to investigate these violations so that PLAINTIFF may file a lawsuit with respect to the allegations discussed in this NOTICE.

If the LWDA and/or the Division of Occupational Safety and Health elect not to take any action with respect to any of the foregoing claims, PLAINTIFF will seek these penalties in a civil action, on behalf of PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES of DEFENDANTS within one year of the date of this letter as allowed by law.

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Please advise if your office intends to investigate any of the factual and legal allegations and provide notice within sixty-five days of the date of this NOTICE to our office and to that of other charged parties. Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Kiara Bramasco, Esq.
Crosner Legal, PC
9440 Santa Monica Blvd., Ste. 301
Beverly Hills, CA 90210
Main: 866.276.7637
Fax: 310.510.6429
Email: kiara@crosnerlegal.com

Thank you for your attention to this matter.

Best Regards,

A handwritten signature in black ink that reads "Kiara Bramasco". The signature is written in a cursive, flowing style.

Kiara Bramasco, Esq.
CROSNER LEGAL, PC

Exhibit 3