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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

DEON GENTRY and DEON GENTRY, JR.,
as individuals and on behalf of all others
similarly situated,

Plaintiffs,

vs.

PINNACLE DRIVEAWAY, INC., a
Wyoming corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No.: CIVSB2314325

*[Assigned for all purposes to the Hon. Jessica
Morgan, Dept. S-26]*

**DECLARATION OF SCOTT M. LIDMAN
IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: January 10, 2025
Time: 9:00 a.m.
Dept.: S-26

1 I, SCOTT M. LIDMAN, declare as follows:

2 1. I am a shareholder and principal of the law firm Lidman Law, APC, and counsel
3 for the named Plaintiffs Deon Gentry and Deon Gentry, Jr. (collectively, "Plaintiffs") and the
4 proposed Settlement Class in the above-captioned matter. I am a member in good standing of the
5 bar of the State of California and am admitted to practice in this Court. I have personal knowledge
6 of the facts stated in this declaration and could testify competently to them if called upon to do
7 so.

8 2. I am a 1998 graduate of Santa Clara University School of Law, where I graduated
9 *summa cum laude*. During law school, I worked as a summer associate for the international
10 employment law firm of Littler Mendelson, P.C., located in Los Angeles, California.

11 3. Since graduating from law school, my practice has focused exclusively on
12 employment litigation. In September 1998, I began working as an associate attorney at the
13 international law firm of Littler Mendelson P.C., at its Los Angeles office, which according to its
14 website is the largest law firm in the world exclusively devoted to representing management in
15 employment, employee benefits and labor law matters.

16 4. In 2000, I left Littler Mendelson to work at the Los Angeles office of Jones Day,
17 which was at the time one of the largest international firms in the world. During my employment
18 at Jones Day, I worked exclusively in the labor and employment department. In or around 2003,
19 I went to work at the law firm of Loeb & Loeb, again working exclusively in the Labor &
20 Employment department. In 2008, I returned to Littler Mendelson, was promoted to Shareholder
21 in 2009, and from 2008 until the end of 2017, I practiced exclusively labor and employment law,
22 with a strong emphasis and most of my time working on wage and hour class actions venued in
23 both state and federal courts. During that time and my legal career in general, I also worked on a
24 number of single and multi-plaintiff wage and hour matters as well.

25 5. During my employment at Littler Mendelson, I played a significant role in the
26 class actions that I was staffed on, and ran many on my own both as an Of Counsel and as a
27 Shareholder. In particular, I received a wide-array of wage and hour class action experience
28 performing the following types of tasks: drafting demurrers, motions to strike and/or dismiss;

1 removing actions from state court to federal court; drafting and responding to written discovery;
2 drafting and opposing discovery related motions; arguing discovery related motions; drafting
3 motions to consolidate related matters; interviewing putative class members and obtaining
4 declarations in connection with class certification; drafting oppositions to motions for class
5 certification; drafting motions for decertification following class certification; conducting
6 exposure analyses to assess the strengths and weaknesses of asserted claims, the likelihood of
7 prevailing at class certification and potential damages resulting from such claims; drafting
8 mediation briefs; serving as the primary contact to in-house counsel; deposing named plaintiffs
9 and putative class members; deposing retained expert witnesses; and defending the depositions
10 of corporate witnesses. I also was involved in the negotiations and settlements of many large
11 wage and hour class actions. In short, I played an integral role in all aspects of litigation from the
12 inception of a matter through and beyond class certification. I also supervised the work of several
13 junior attorneys who were staffed on the same wage and hour class actions.

14 6. Although not exhaustive, below is a list of many of the wage and hour class and
15 PAGA actions that I performed substantial work on while I was a shareholder at Littler
16 Mendelson:

- 17 ► *Ortega v. J.B. Hunt Transport, Inc.*, Case No. 07-cv-8336-RGK-AFMx,
18 United States District Court, Central District of California, Honorable Gary
19 Klausner, presiding¹.
- 20 ► *Aceves v. J.B. Hunt Transport, Inc.*, Case No. CIVDS1306133, California
21 Superior Court, County of San Bernardino, Honorable Michael Sachs,
22 presiding.
- 23 ► *Moreno v. J.B. Hunt Transport, Inc.*, Case No. BC388612, California
24 Superior Court, County of Los Angeles, Honorable Mel Red Recana,
25 presiding.

27 ¹ My work on this matter including proceedings not only in District Court, but also work before the United States
28 Court of Appeals for the Ninth Circuit as well as the United States Supreme Court.

- 1 ▶ *Newcomb v. J.B. Hunt Transport, Inc.*, Case No. RG16815734, California
2 Superior Court, County of Alameda, Honorable Winifred Smith, presiding.
- 3 ▶ *Vaquero v. Stoneledge Furniture, LLC, et al.*, Case No. 12-cv-08590-PA-
4 MAN, United States District Court, Central District of California,
5 Honorable Percy Anderson, presiding.
- 6 ▶ *Vaquero v. Stoneledge Furniture, LLC, et al.*, Case No. BC388612,
7 California Superior Court, County of Los Angeles, Honorable Elihu Berle,
8 presiding.²
- 9 ▶ *Dugan v. Stoneledge Furniture, LLC*, Case No. 16-cv-01125-PA-FFMx,
10 United States District Court, Central District of California, Honorable Percy
11 Anderson, presiding.
- 12 ▶ *Klune v. Stoneledge Furniture, LLC*, Case No. 14-cv-03986-PA-FFMx,
13 United States District Court, Central District of California, Honorable Percy
14 Anderson, presiding.
- 15 ▶ *Diaz v. ABM Industries, Inc.; Ampco Parking*, Case No. BC362932,
16 California Superior Court, County of Los Angeles, Honorable Jane
17 Johnson, presiding.³
- 18 ▶ *Adams v. Luxottica Retail North America, Inc.*, Case No. 07CC01346,
19 California Superior Court, County of Orange, Honorable Thierry Patrick
20 Colaw, presiding.
- 21 ▶ *Sakkab v. Luxottica Retail North America, Inc.*, Case No. 12-cv-00436-
22 GPC-KSC, United States District Court, Southern District of California.⁴
- 23
- 24

25
26 ² My work on this matter included proceedings not only in the trial court, but also before the California Courts of
27 Appeal and the California Supreme Court.

28 ³ This matter was consolidated and litigated collectively with Case Nos. BC380923, BC 381523 and BC 406663.

⁴ The work I performed on this case included work in the United States Court of Appeals for the Ninth Circuit.

- 1 ▶ *Page v. Oakley, Inc.*, Case No. FCS041512, California Superior Court,
2 County of Solano, Honorable Paul Berman, presiding.
- 3 ▶ *Ramirez v. Oakley, Inc.*, Case No. 30-2014-00731617-CU-OE-CJC
4 California Superior Court, County of Orange, Honorable William Claster,
5 presiding.
- 6 ▶ *Ramirez v. Oakley, Inc.*, Case No. 30-2014-00723846-CU-DE-CXC,
7 California Superior Court, County of Orange, Honorable William Claster,
8 presiding.
- 9 ▶ *Sierra v. Oakley, Inc.*, Case No. 13-cv-00319-AG-JPR, United States
10 District Court, Central District of California, Honorable Andrew Guilford,
11 presiding.⁵
- 12 ▶ *Cordova v. Comerica Bank, et al.*, Case No. 09-cv-08905-MMM-PLAx,
13 United States District Court, Central District of California, Honorable
14 Margaret Morrow, presiding.
- 15 ▶ *Cordova v. Comerica Bank, et al.*, Case No. 09-cv-08905-MMM-PLAx,
16 United States District Court, Central District of California, Honorable
17 Margaret Morrow, presiding.
- 18 ▶ *Khelghatian v. Comerica Bank, et al.*, Case No. 11-cv-7689-DSF-FFMx,
19 United States District Court, Southern District of California, Honorable
20 John A. Houston, presiding.
- 21 ▶ *Babasa v. Comerica Bank, et al.*, Case No. 11-cv-0595-JAH-BGS, United
22 States District Court, Central District of California, Honorable Margaret
23 Morrow, presiding.
- 24 ▶ *Bernal v. Comerica Bank, et al.*, Case No. 11-cv-01298-JAH-BGS, United
25 States District Court, Central District of California, Honorable Margaret
26 Morrow, presiding.

⁵ The work I performed on this case included work in the United States Court of Appeals for the Ninth Circuit.

- 1 ▶ *Khalili v. Comerica Bank, et al.*, Case No. 09-cv-08905-MMM-PLAx,
2 United States District Court, Northern District of California.
- 3 ▶ *Granata v. Comerica Bank, et al.*, Case No. 37-2011-00086316-CU-OE-
4 CTL, California Superior Court, County of San Diego, Honorable Jeffrey
5 B. Barton, presiding.
- 6 ▶ *Mathews v. Comerica Bank, et al.*, Case No. 111CV194781, California
7 Superior Court, County of Santa Clara.
- 8 ▶ *Gallegos v. Comerica Bank, et al.*, Case No. BC455515, California
9 Superior Court, County of Los Angeles, Honorable Terry Green, presiding.
- 10 ▶ *Rumohr v. Comerica Bank, et al.*, Case No. CGC-11-508433, California
11 Superior Court, County of San Francisco.
- 12 ▶ *Smith v. Werner Enterprises*, Case No. 15-cv-02978-RS, United States
13 District Court, Northern District of California, Honorable Richard
14 Seeborg, presiding.

15 7. In January 2018, I voluntarily resigned from Littler Mendelson in order to open
16 my own law firm, Lidman Law, APC, to represent employees with work-related claims, including
17 primarily wage and hour claims and almost exclusively on a class-action basis. I am the President
18 and Shareholder of Lidman Law. Currently, over ninety percent (90%) of my practice is
19 dedicated exclusively to the prosecution of wage and hour class actions, and I am currently
20 responsible for prosecuting over sixty-five (65) wage and hour class actions filed in State courts
21 throughout California, with several of them having been removed to Federal courts. I believe that
22 my professional experience renders me more than qualified to serve as class counsel in this
23 lawsuit involving claims of underpaid overtime and minimum wages, meal and rest period
24 violations, and derivative penalty claims. Not only have I litigated dozens of wage and hour cases
25 throughout my career involving similar claims, including the wage and hour class actions
26 identified above, I have litigated similar claims from both plaintiff and defense perspectives. As
27 a result, I am able to realistically assess and evaluate the facts and legal arguments that can be
28 made in pursuit and defense of similar wage and hour claims, as well as those facts and arguments

1 in support and in opposition to class certification. Consequently, I am able to appreciate the
2 significant risks, uncertainties, and delay involved in wage and hour class action litigation.

3 8. I have been appointed Class Counsel in: *Guardado v. Wesley Allen, Inc.*, Case
4 No. BC683027, California Superior Court, County of Los Angeles, Honorable Judge Carolyn B.
5 Kuhl presiding; *Rodriguez v. Satco, Inc.*, Case No. BC682137, California Superior Court,
6 County of Los Angeles, Honorable Judge Ann I. Jones presiding; *Ong v. Howard's Appliances,*
7 *Inc.*, Case No. 30-2017-00964213-CU-OE-CXC, California Superior Court, County of Orange,
8 Honorable Judge William Claster presiding; *Hanke v. C&W Facility Services, Inc.*, Case No.
9 CIVDS1814412, California Superior Court, County of San Bernardino, Honorable Judge David
10 Cohn presiding; *Molina v. Mader News, Inc.*, Case No. BC685960, California Superior Court,
11 County of Los Angeles, Honorable Judge Yvette M. Palazuelos presiding; *Alvarez v.*
12 *Salamander Fire Protection, Inc.*, Case No. BC688326, California Superior Court, County of
13 Los Angeles, Honorable Judge William F. Highberger presiding; *Rodriguez v. H.F. Cox, Inc.*,
14 Case No. BC653164, California Superior Court, County of Los Angeles, Honorable Judge
15 Carolyn B. Kuhl presiding; *Fregoso v. Amerigas Propane, Inc.*, Case No. BC697973, California
16 Superior Court, County of Los Angeles, Honorable Judge Rafael A. Ongkeko presiding; *Teran*
17 *v. Western Plastics, Inc.*, Case No. RIC1722619, California Superior Court, County of Riverside,
18 Honorable Judge Sunshine Sykes presiding; *Villegas de Torres v. El Monte Superstore Inc.*,
19 Case No. BC688477, California Superior Court, County of Los Angeles, Honorable Judge
20 Daniel J. Buckley presiding; *Huynh v. Polypeptide Laboratories, Inc.*, Case No. BC680872,
21 California Superior Court, County of Los Angeles, Honorable Judge Rafael A. Ongkeko
22 presiding; *Guzman v. Century Blinds*, Case No. RIC1723654, California Superior Court, County
23 of Riverside, Honorable Judge Sunshine S. Sykes presiding; *George v. Convergence Marketing,*
24 Case No. CIVDS1901039, California Superior Court, County of San Bernardino, Honorable
25 Judge David S. Cohn presiding; *Coffee, et al. v. Flyers Transportation Energy, LLC*, Case No.
26 34-2017-00222084, California Superior Court, County of Sacramento, Honorable Judge Alan G.
27 Perkins presiding; *Romero v. Fillmore Hospitality, LLC*, Case No. BC705667, California
28 Superior Court, County of Los Angeles, Honorable Judge Maren E. Nelson presiding;

1 *Wennerstrom, et al. v. Giant Inland Empire R.V. Center*, Case No. CIVDS1617291, California
2 Superior Court, County of San Bernardino, Honorable Judge David S. Cohn presiding;
3 *Contreras, et al. v. Letter Ride, LLC*, Case No. 37-2018-00020841-CU-OE-CTL, California
4 Superior Court, County of San Diego, Honorable Judge Eddie C. Sturgeon presiding; *Davis v.*
5 *WeDriveU*, Case No. 18CV322578, California Superior Court, County of Santa Clara,
6 Honorable Judge Brian C. Walsh presiding; *Acuna v. Canton Food Co., Inc.*, Case No.
7 BC685001, California Superior Court, County of Los Angeles, Honorable Judge David S.
8 Cunningham presiding; and *Contreras v. Worldwide Flight Services, Inc.*, Case No. 2:18-cv-
9 06036-PSG-SS, United States District Court for the Central District of California, the Honorable
10 Judge Philip S. Gutierrez presiding.

11 9. As co-lead counsel for Plaintiffs and the proposed Settlement Class, I have been
12 intimately involved in every aspect of this case from its inception through the present, and I
13 believe that the proposed Settlement is a favorable result for the Settlement Class Members under
14 the circumstances presented.

15 10. Defendant Pinnacle Driveaway, Inc. (“Defendant”) is a non-forced dispatched
16 operation that has independent contractor drivers deliver utility trucks, buses and other vehicles
17 from manufacturers to dealers or customers, across the USA and Canada. Pinnacle Driveaway
18 has locations in Pennsylvania, Tennessee, Indiana, Texas, Connecticut, Minnesota and California.
19 On June 23, 2023, Plaintiffs filed the instant putative class action complaint against Defendant in
20 San Bernardino County Superior Court alleging the following class action claims against
21 Defendant: (a) failure to pay all minimum wages owed; (b) failure to provide accurate, itemized
22 wage statements; (c) unlawful deductions from wages; (d) failure to reimburse all business
23 expenses; (e) failure to pay all wages upon termination of employment; and (f) unfair business
24 practices. On June 22, 2023, Plaintiff sent a letter to the California Labor Workforce
25 Development Agency (“LWDA”) regarding Defendant’s alleged Labor Code violations and
26 Plaintiffs’ intent to bring a claim for civil penalties under the Labor Code Private Attorneys
27 General Act (“PAGA”). After exhausting their administrative requirements under the PAGA,
28 Plaintiffs filed a First Amended Class and Representative Action Complaint on August 28, 2023

1 adding a causes of action for civil penalties under the PAGA.

2 11. After agreeing to participate in private mediation, Defendant informally produced
3 documents and information relevant to the claims alleged in advance of mediation, including
4 without limitation the relevant independent contractor agreement, data regarding the amount of
5 deductions made from payments to the class members, data regarding miles driven by the class
6 members, data regarding pay rates and amount, the number of settlement statements provided
7 during the relevant class and PAGA periods, as well as financial documents and information
8 regarding Defendant's financial status. After a review and analysis of the documents and
9 information produced by Defendant, Class Counsel drew on their extensive experience in similar
10 cases to assess the strengths and weaknesses of Plaintiffs' case. This discovery allowed the parties
11 to assess the merits and value of Plaintiffs' claims and Defendant's defenses thereto, if a
12 settlement could not be reached.

13 12. In light of Defendant's financial status, the Parties selected former U.S.
14 Bankruptcy Judge and current mediator, Hon. Mitchell Goldberg, as he could assist the Parties in
15 evaluating Defendant's financial status and ability to pay a settlement and/or eventual judgment.
16 After Defendant shared in advance of mediation various financial documents to Judge Goldberg
17 and participated in several conference calls, on June 14, 2024, a mediation was held. During
18 mediation, the parties vigorously debated their opposing legal positions, the likelihood of
19 certification of Plaintiffs' claims, the legal basis for the claims and defenses, and Defendant's
20 financial stability. Ultimately, through a mediator's proposal, the Parties agreed on a class-wide
21 resolution. In the weeks that followed, the parties finalized the terms of settlement and executed
22 the Stipulation of Class Action and PAGA Settlement ("Settlement"). A true and correct copy of
23 the Settlement is attached hereto as **Exhibit 1**. The proposed Class Notice is attached as Exhibit
24 B to the Settlement.

25 13. If the Court approves this Settlement, Defendants will pay a Gross Settlement
26 Amount ("GSA") of \$375,000⁶ to approximately 300 Settlement Class members. Significantly,

27 ⁶ Defendant represents that there are an estimated 300 Class Members during the Class Period. If the number of Class
28 Members during the Class Period is more than 10% greater than this figure (i.e., if there are 331 or more Class
Members during the Class Period), Defendant agrees to increase the Gross Settlement Amount on a proportional
basis (i.e., if there was an 11% increase in the number of workweeks worked during the Class Period by Class
Members, Defendant will increase the Gross Settlement Amount by 11%). See Settlement ¶ 4.E.

this Settlement is **non-reversionary**, and no Settlement Class member will have to submit a claim form to receive a Settlement Award. *Id.* Each Settlement Class member will automatically receive a Settlement Award unless he or she affirmatively opts out of the Settlement. *Id.* The monetary terms of the Settlement are summarized below:

Gross Settlement Amount (“GSA”):	\$375,000.00
Minus Court-approved attorneys’ fees (1/3 of GSA):	\$125,000.00
Minus Court-approved, verified costs (up to):	\$25,000.00
Minus Court-approved Class Representative Service Awards (up to \$7,500 each):	\$15,000.00
Minus Settlement Administration Costs:	\$8,000.00
Minus PAGA civil penalties:	\$20,000.00
Net Settlement Amount (“NSA”):	\$187,000.00

The Gross Settlement Amount shall be deposited by Defendant into a qualified settlement fund set up by the Settlement Administrator for the benefit of participating Settlement Class members and PAGA Employees. Defendant agrees to deposit the Gross Settlement Amount and the required employer-side taxes with the Settlement Administrator within thirty (30) calendar days after the “Effective Date” which is defined as the latter of: (a) the Court's final approval of the settlement if no objections by or on behalf of Settlement Class members have been filed; (b) the time for appeal has expired if an objection has been filed and no appeal has been filed or all appeals have been dismissed; or (c) the final resolution overruling any objection and denying the basis of any appeal that has been filed. Exh. 1 (Settlement ¶ 4.B).

After deducting amounts for the Court-approved attorneys’ fees and verified costs, Service Awards to Plaintiffs, Settlement Administrator costs, and the PAGA civil penalties, the Settlement requires Defendants to pay a Net Settlement Amount (“NSA”) of at least **\$187,000.00** to all Settlement Class Members who do not timely opt out. This amount does not include the \$5,000.00 Aggrieved Amount to be paid to the PAGA Employees.

14. According to Defendant, there are approximately 300 total Settlement Class members defined as:

1 All current and former drivers classified by Defendant Pinnacle Driveaway, Inc. as
2 independent contractors during the Class Period and: (i) who drove more than 50%
3 of their miles within California; and/or (ii) who did not drive a majority of miles in
4 any single state but were assigned to a California terminal.” For purposes of this
5 Settlement Agreement, the “Class Period” shall mean the time period between June
6 23, 2019 and June 30, 2024.

7 Thus, the average Individual Settlement Awards (assuming there are no opt-outs) is
8 projected to be approximately **\$623.33, exclusive of any PAGA civil penalties**

9 In addition, PAGA Employees is defined as: “All current and former drivers classified by
10 Defendant Pinnacle Driveaway, Inc. as independent contractors during the PAGA Period and: (i)
11 who drove more than 50% of their miles within California; and/or (ii) who did not drive a majority
12 of miles in any single state but were assigned to a California terminal.” For purposes of this
13 Settlement Agreement, the “PAGA Period” shall mean the time period between June 23, 2022
14 and June 30, 2024.”.

15 15. Settlement Class members’ claims arise from Defendants’ common, uniform
16 policies and practices that applied to Settlement Class members during the class period.
17 Specifically, Plaintiffs allege that Defendant’s common and uniform policies and practices of
18 misclassifying them and other drivers as independent contractors resulted in that Defendant: (1)
19 failed to pay all minimum wages owed; (2) failed to provide accurate, itemized wage statements;
20 (3) failed to reimburse all business expenses; (4) made unlawful deductions from wages; (5)
21 failed to timely pay all wages upon separation of employment; (6) engaged in unlawful business
22 practices; and (7) is liable for civil penalties under the PAGA.

23 16. As described in the accompanying Motion for Preliminary Approval, Plaintiffs
24 allege that Defendant failed to compensate its non-exempt employees for all time worked.
25 Specifically, Plaintiff alleges that Defendant failed to account for unproductive time spent not
26 actually driving. As a result, Plaintiffs contend that Defendant failed to pay them and other
27 independent contractor drivers for all minimum wages owed. Defendant contends that it
28 compensated Settlement Class members for all of their time worked, as they were paid per trip
which included each and every activity and minute they spent performing their jobs. Lidman

Decl., ¶ 24. Defendant further asserts that Plaintiff would be unable to certify an unpaid wages class given the individualized inquiries that would be required. In light of these defenses and evaluation of the applicable law, Plaintiff discounted the maximum exposure on this claim to 0.

17. Plaintiffs further allege that Defendant issued inaccurate wage statements in violation of Labor Code § 226. Specifically, Plaintiffs contend that because they were misclassified as independent contractors, the pay statements they received did not fully comply with Labor Code § 226(a). Therefore, Plaintiffs calculated Defendant's maximum exposure for wage statement violations at \$205,847.00 (based on the 2,212 settlement statements issued during the relevant time period and applying \$50 for the first violation and \$100 for each subsequent violation.

18. Defendant argues that its alleged wage statement violations could not be shown to be "knowing and intentional," and that Plaintiff cannot show that he or any other employee "suffer[ed] injury" as a result of the alleged wage statement violations, as required by Lab. Code § 226(e) for imposition of penalties. As such, Plaintiff discounted the calculated exposure by 20% for a risk of non-certification and an additional 20% for a risk of being unsuccessful on the merits to arrive at an estimated total of \$131,742.08.

19. Plaintiffs allege that Defendant is also liable for waiting time penalties under Labor Code section 203 as a result of its failure to pay all wages upon separation of employment. Based on the data provided by Defendant, there were approximately 255 Settlement Class Members who separated their employment with Defendant during the relevant time period who could be entitled to waiting time penalties. *Id.* Therefore, Plaintiff calculated Defendant's maximum exposure for waiting time penalties at approximately \$4,538,160 (255 separated employees x \$63.03 x 8 hrs a shift x 30 days).

20. Defendant asserts it has strong defenses to the waiting time claim because there exist good-faith disputes as to Plaintiffs' underlying claims, precluding imposition of penalties. *See also* 8 Cal. Code Regs. § 13520 (a "good faith dispute that any wages are due will preclude imposition of waiting time penalties"); *Kao v. Joy Holiday*, 12 Cal.App.5th 947, 963 (2017) (holding that "good faith dispute" over whether employee was exempt precluded imposition of waiting time penalties over contested wages owed). Defendant also asserts that the exposure is

1 highly inflated because work for the drivers was very intermittent such that they did not regularly
2 work, and that the hourly rate is also highly inflated. *Id.* Accordingly, Plaintiff discounted the
3 maximum exposure by 45% for the risk of non-certification, and an additional 65% to account
4 for Defendant's defenses on the merits to arrive at an estimated exposure of approximately
5 \$873,595.80.

6 21. Plaintiffs allege that Defendant required its employees to incur certain business
7 expenses and/or had deductions taken from their pay to cover expenses. Plaintiffs further allege
8 that Defendants knew or should have known that Plaintiffs and the other drivers were necessarily
9 incurring expenses due to their classification as independent contractors. Plaintiffs estimate
10 based on the information provided by Defendant that approximately \$100,000.00 were made in
11 total deductions for all class members. Plaintiffs further estimate that each class member incurred
12 approximately \$500 in additional expenses that should have been reimbursed. Thus, Plaintiffs
13 calculate exposure on this claim at approximately \$250,000.00

14 22. Defendant contends that despite any deduction, the class members received
15 significantly more than minimum wage such that there can be no liability since it is a matter of
16 contract. Defendant further contends that any purportedly necessary expenses incurred by drivers
17 were minimal. *Id.* Accordingly, Plaintiff discounted the maximum exposure on this claim by
18 10% for the risk of non-certification, and an additional 35% to account for Defendant's defenses
19 on the merits and financial condition, to arrive at an estimated exposure of \$146,250.00.

20 23. Plaintiffs also seeks civil penalties under the PAGA as a result of the foregoing
21 alleged Labor Code violations, including the misclassification itself. Pursuant to Labor Code
22 section 226.8(a) and (b), Plaintiffs calculated Defendant's civil penalty exposure for
23 misclassifying the drivers as independent contractors at a rate of \$5,000 for each violation,
24 applied to each of the 300 drivers. Thus, the exposure was calculated to be \$1,500,000.00.

25 24. Defendant argues that Plaintiffs' PAGA claim will fail for the same reasons that
26 their underlying claims will fail. Defendant also maintains that, given its good faith defenses,
27 this Court would exercise its discretion to substantially reduce any PAGA penalties if it were to
28 find Defendant liable for any of Plaintiffs' claims. *See* Lab. Code § 2699(e)(2); *Thurman v.*
Bayshore Transit Mgmt., Inc. (2012) 203 Cal.App.4th 1112, 1135 (affirming reduction of PAGA

penalties); *Fleming v. Covidien Inc.* (C.D. Cal. 2011) Case No. ED CV10-01487 RGK (OPx), 2011 WL 7563047, at *4 (reducing PAGA penalties from \$2.8 million to \$500,000). *Id.* Therefore, Plaintiffs discounted the maximum exposure figure by 15% for a risk of being unsuccessful on the merits, and an additional 60% to account for the possibility of this Court reducing penalties, to arrive at an estimated exposure of approximately \$510,000.00.

25. Using these estimated figures for each of the claims described above, Plaintiffs predicted the realistic total recovery for the Settlement Class would be approximately \$1,661,587.88. The proposed settlement of \$375,000.00 therefore represents approximately 22.6% of the reasonably forecasted recovery for the Settlement Class. *Id.* Preliminary approval is appropriate as the settlement will provide tangible monetary relief to Settlement Class Members.

26. Here, Class Counsel will also apply for an attorneys' fees award of one-third of the GSA, which is currently estimated to be \$125,000.00, and up to \$25,000 in verified costs reimbursement. *See* Settlement, ¶ 4.C.(4). Plaintiffs submit the requested fee is fair compensation for undertaking complex, risky, expensive, and time-consuming litigation on a purely contingent fee basis. Class Counsel has incurred substantial attorney fees conducting pre-filing investigation, analyzing Plaintiffs' claims, conducting legal research, reviewing Defendant's documents and policies, analyzing Settlement Class Members' timekeeping data and payroll records, preparing for and attending mediation, negotiating and revising the long-form Settlement, preparing this Motion, and otherwise litigating the case. Class Counsel expect to expend additional attorney time in attending the hearing on this Motion, overseeing the Notice process and fielding questions from Settlement Class Members, preparing the final approval papers and attending the Final Approval hearing

27. Plaintiffs have provided written approval of the split of attorneys' fees in this action.

28. Plaintiffs will each seek a service award of \$7,500.00 at the time of seeking final approval, and I believe this is reasonable given Plaintiffs' efforts in this case and the risks they undertook on behalf of the Settlement Class members, including the risk that they could be liable for Defendant's costs if this case was unsuccessful. Plaintiffs were integral in the prosecution of

1 this action, by, among other things, providing substantial factual information and documents to
2 Class Counsel, attending multiple meetings and conferences with Class Counsel to discuss the
3 claims and theories at issue in the litigation, and otherwise actively participating in the prosecution
4 of his claims.

5 29. Although the parties engaged in informal discovery throughout this action, the
6 parties still had significant discovery to complete in formal litigation had the matter not settled.
7 Moreover, Plaintiff still had to file for class certification, and faced the prospect of appeals in
8 the wake of a disputed class certification ruling for Plaintiff and/or an adverse summary
9 judgment ruling. Even if the classes sought to be certified by Plaintiff were in fact certified, the
10 parties would incur considerably more attorneys' fees and costs through a possible
11 decertification motion, trial, and possible appeal. This Settlement avoids those risks and the
12 accompanying expense.

13 30. I have directed my office to submit a copy of the instant Motion for Preliminary
14 Approval and all supporting documents via the LWDA's website on the same date concurrently
15 herewith and will have a supplemental proof of service filed after the Motion for Preliminary
16 Approval and all supporting documents are submitted to the LWDA.

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

19 Executed on August 29, 2024 at El Segundo, California.

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EXHIBIT 1

EXHIBIT 1

STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT

This Stipulation of Settlement ("Settlement Agreement") is reached by and between Plaintiffs Deon Gentry, Sr. and Deon Gentry, Jr. (collectively, "Plaintiffs"), individually and on behalf of all members of the Settlement Class and PAGA Employees (both terms defined below), on one hand, and Defendant Pinnacle Driveaway., Inc. ("Defendant"), on the other hand. Plaintiffs and Defendant are referred to herein collectively as the "Parties." Plaintiffs, the Settlement Class and the PAGA Employees are represented by Paul K. Haines of Haines Law Group, APC and Scott M. Lidman and Milan Moore of Lidman Law, APC (collectively, "Class Counsel"). Defendant is represented by Adam C. Smedstad of Scopelitis, Garvin, Light, Hanson & Feary, P.C..

On June 23, 2023, Plaintiffs filed a class action Complaint against Defendant in San Bernardino County Superior Court, in the matter entitled *Deon Gentry and Deon Gentry, Jr., as individuals and on behalf of all others similarly situated v. Pinnacle Driveaway, Inc., a Wyoming corporation; and Does 1 through 100, inclusive*, Case No. CIVSB2314325 (the "Class Action") alleging the following class action claims against Defendant: (a) failure to pay all minimum wages owed; (b) failure to provide accurate, itemized wage statements; (c) failure to reimburse all business expenses; (d) unlawful deductions; and (e) failure to pay all wages upon termination of employment. As a result of the foregoing alleged violations, Plaintiff contends in the Class Action that Defendant is further liable to Plaintiff and the Settlement Class and PAGA Employees (both terms defined below) because it engaged in unlawful business practices pursuant to Business and Professions Code section 17200 that could have been premised on the facts, claims, causes of action or legal theories described above. Defendant denies the allegations.

After having exhausted their administrative remedies with the California Labor & Workforce Development Agency ("LWDA") by way of a letter submitted to the LWDA on June 22, 2023 (a true and correct copy of which is attached hereto as **Exhibit A**), on August 28, 2023, Plaintiffs filed a First Amended Complaint in the Class Action that added a cause of action for violations of the California Labor Code Private Attorney General Act ("PAGA) premised on the alleged Labor Code violations set forth in the June 22, 2023 letter to the LWDA.

Given the uncertainty of litigation and Defendant's denial of Plaintiffs' claims, Plaintiffs and Defendant wish to settle both individually and on behalf of the Settlement Class, PAGA Employees and the State of California. Accordingly, Plaintiffs and Defendant agree as follows:

1. **Settlement Class.** For the purposes of this Settlement Agreement only, Plaintiffs and Defendant stipulate to the certification of the following Settlement Class:

All current and former drivers classified by Defendant Pinnacle Driveaway, Inc. as independent contractors during the Class Period and: (i) who drove more than 50% of their miles within California; and/or (ii) who did not drive a majority of miles in any single state but were assigned to a California terminal.

For purposes of this Settlement Agreement, the "Class Period" shall mean the time period of June 23, 2019 through June 30, 2024.

The Parties agree that certification for purposes of this Settlement Agreement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure. If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

2. **PAGA Employees.** For the purposes of this Settlement Agreement only, Plaintiffs and Defendant stipulate to the following definition of PAGA Employees:

All current and former drivers classified by Defendant Pinnacle Driveaway, Inc. as independent contractors during the PAGA Period and: (i) who drove more than 50% of their miles within California; and/or (ii) who did not drive a majority of miles in any single state but were assigned to a California terminal.

For purposes of this Settlement Agreement, the “PAGA Period” and release under the PAGA shall mean the time period between June 23, 2022 through June 30, 2024.

3. **Release by Settlement Class Members and Plaintiff.** Plaintiffs and every member of the Settlement Class (except those who timely and properly submit a Request for Exclusion as set forth below) will fully and forever completely release and discharge Defendant, and all of its past and present officers, directors, shareholders, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, and its respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys, (collectively the “Released Parties”), as follows:

- A. Settlement Class Members’ Release: All Participating Class Members shall release and discharge Released Parties from any and all causes of action, claims, rights, damages, punitive or statutory damages, penalties, interest, attorneys’ fees, costs, liabilities, expenses, and losses based on or arising from factual predicates alleged, or reasonably could have been alleged, in the operative complaint in the Class Action (which is the operative First Amended Complaint), or which could have been pled in the operative First Amended Complaint, including, but not limited to: (a) any alleged failure to pay all minimum wages due; (b) any alleged failure to timely pay wages at separation of employment; (c) any alleged failure to provide compliant and accurate wage statements; (d) any alleged failure to reimburse business expenses; (e) any alleged unlawful deductions from wages; (f) any right or claim for unfair business practices in violation of California Business & Professions Code § 17200 *et seq.* based on the foregoing alleged claims; and (g) any right or claim for civil penalties pursuant to the California Labor Code, the California Industrial Welfare Commission Wage Orders, the California Private Attorneys General Act of 2004 (Cal. Lab. Code § 2698, *et seq.*) based on the foregoing alleged claims, during the Class Period (collectively, “Released Class Claims”).
- B. The time period for the release of the Released Claims shall be the same time period as the Class Period.

- C. PAGA Release: All PAGA Employees shall release and discharge, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all individual and representative claims for civil penalties under PAGA that were alleged, or reasonably could have been alleged, in the operative First Amended Complaint in the Class Action including, but not limited to: (a) any alleged failure to pay all minimum wages due; (b) any alleged failure to timely pay wages at separation of employment; (c) any alleged failure to provide compliant and accurate wage statements; (d) any alleged failure to reimburse business expenses; (e) any alleged unlawful deductions from wages; (f) any right or claim for unfair business practices in violation of California Business & Professions Code § 17200 *et seq.* based on the foregoing alleged claims; (g) any alleged failure to properly classify them as independent contractors; and (h) any right or claim for civil penalties pursuant to the California Labor Code, the California Industrial Welfare Commission Wage Orders, the California Private Attorneys General Act of 2004 (Cal. Lab. Code § 2698, *et seq.*) based on the foregoing alleged claims, during the PAGA Period (collectively, “Released PAGA Claims”).
- D. The time period for the release of the PAGA Released Claims shall be the same time period as the PAGA Period.
- E. Plaintiffs’ Release. Plaintiffs and their spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties, in exchange for consideration provided in this Agreement, from any and all causes of action, claims, rights, damages, punitive or statutory damages, penalties, interest, attorneys’ fees, costs, liabilities, expenses, and losses arising from or related to all facts, transactions, and occurrences – known or unknown – as of the date they execute this Settlement Agreement, including, but not limited to, all Released Class Claims, and Released PAGA Claims, as defined in Paragraphs **Error! Reference source not found.** through D above (“Plaintiffs’ Release”). Plaintiffs’ Release does not extend to any claims or actions to enforce this Settlement Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers’ compensation benefits that arose at any time, or to claims or actions based on occurrences after they execute this Settlement Agreement. Plaintiffs acknowledge they may discover facts or law different from, or in addition to, the facts or law that they now know or believe to be true but agrees, nonetheless, that Plaintiffs’ Release shall be and remain effective in all respects, notwithstanding such different or additional facts, or their discovery thereof.

For purposes of Plaintiffs’ Release only, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing

the release, and that if known by him or her would have materially affected his or her settlement with the debtor or released party.

- F. The releases identified herein will only be effective upon the date that Defendant fully funds the Gross Settlement Amount.

4. **Gross Settlement Amount.** As consideration, Defendant agree to pay a “Gross Settlement Amount” of Three Hundred Seventy Five Thousand Dollars and Zero Cents (\$375,000.00) (unless such Gross Settlement Amount is increased pursuant to Paragraph 4.E. below) in full and complete settlement of the Action, as follows:

- A. The Parties have agreed to engage Phoenix Settlement Administrator as the “Settlement Administrator” to administer this Settlement. All administrative costs due and owing to the Settlement Administrator shall be paid from the Gross Settlement Amount.
- B. The Gross Settlement Amount shall be deposited by Defendant into a qualified settlement fund set up by the Settlement Administrator for the benefit of participating Settlement Class members and PAGA Employees. Defendant agrees to deposit the Gross Settlement Amount with the Settlement Administrator within thirty (30) calendar days after the “Effective Date” which is defined as the latter of: (a) the Court's final approval of the settlement if no objections by or on behalf of Settlement Class members have been filed; (b) the time for appeal has expired if an objection has been filed and no appeal has been filed or all appeals have been dismissed; or (c) the final resolution overruling any objection and denying the basis of any appeal that has been filed.
- C. This is a non-reversionary settlement. The Gross Settlement Amount includes:
- (1) All payments (including interest) to the Settlement Class members;
 - (2) All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater than Eight Thousand Dollars and Zero Cents (\$8,000.00);
 - (3) Up to Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) to each Plaintiff (for a total of \$15,000.00) for their Class Representative Service Awards, in recognition of their contributions to the Action, and their service to the Settlement Class. Even in the event that the Court reduces or does not approve the requested Class Representative Service Awards, Plaintiffs shall not have the right to revoke this Settlement Agreement, and this Settlement shall remain binding;
 - (4) Up to one-third of the Gross Settlement Amount in Class Counsel's attorneys' fees [currently estimated to be One Hundred Twenty Five Thousand Dollars and Zero Cents (\$125,000.00), unless the Gross Settlement Amount is increased pursuant to Paragraph 4.E. below], plus actual costs and expenses incurred by Class Counsel related to the Action

as supported by declaration, which are currently estimated to be no greater than Twenty Five Thousand Dollars and Zero Cents (\$25,000.00). In the event that the Court reduces or does not approve the requested Class Counsel attorneys' fees and/or costs, Class Counsel shall not have the right to revoke this Settlement Agreement, and it will remain binding; and

- (5) Twenty Thousand Dollars and Zero Cents (\$20,000.00) of the Gross Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Fifteen Thousand Dollars and Zero Cents (\$15,000.00) will be payable to the Labor & Workforce Development Agency ("LWDA"), and the remaining twenty-five percent (25%), or Five Thousand Dollars and Zero Cents (\$5,000.00), will be payable to PAGA Employees as the "PAGA Amount," as described below.

- D. **Unexpected Class Members Escalator Clause.** Defendant represents that there are an estimated 300 Class Members from June 23, 2019 through June 30, 2024. If the number of Class Members during the Class Period is more than 10% greater than this figure (i.e., if there are 331 or more Class Members during the Class Period), Defendant agrees to increase the Gross Settlement Amount on a proportional basis (i.e., if there was an 11% increase in the number of Class Members during the Class Period, Defendant will increase the Gross Settlement Amount by 11%).

5. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment ("Settlement Award") from the Settlement. Settlement Awards will be determined and paid as follows:

- A. The Settlement Administrator shall first deduct from the Gross Settlement Amount the amounts approved by the Court for Class Counsel's attorneys' fees, Class Counsel's costs and expenses, Plaintiffs' Class Representative Service Awards, the Settlement Administrator's fees and expenses for administration, and the amounts designated as PAGA civil penalties payable to the LWDA and the PAGA Employees. The remaining amount shall be known as the "Net Settlement Amount."
- B. From the Net Settlement Amount, the Settlement Administrator will calculate each Settlement Class member's Settlement Award based on the following formula:
 - i. The Net Settlement Amount shall be allocated to Settlement Class members who worked during the Class Period, as follows: each participating Settlement Class member shall receive a proportionate settlement share based upon the number of trips worked as an independent contractor driver during the Class Period that either began or ended in California, the numerator of which is the Settlement Class member's total trips worked as an independent contractor driver during the Class Period that either began or ended in California, and the denominator of which is the total trips

worked as independent contractor drivers by all Settlement Class members (who do not opt out) who worked during the Class Period that either began or ended in California.

- C. PAGA Amount: Five Thousand Dollars and Zero Cents (\$5,000.00) of the Gross Settlement Amount has been designated as the “PAGA Amount” as described above. Each PAGA Employee shall receive a portion of the PAGA Amount proportionate to the number of trips that he or she worked during this PAGA Period which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the PAGA Employee’s number of trips worked as an independent contractor driver during this time period that either began or ended in California, and the denominator of which is the total number of trips worked by all PAGA Employees that either began or ended in California.
- D. Within ten (10) calendar days following Defendant’s deposit of the Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator will calculate Settlement Award amounts and provide the same to counsel for the Parties for review and approval. Within seven (7) calendar days of approval by counsel for the Parties, the Settlement Administrator will prepare and mail Settlement Awards, to participating Settlement Class members.
- E. For purposes of calculating applicable taxes and withholdings, each Settlement Award shall be allocated as follows: Any portion of each Settlement Award that is provided for the PAGA Amount shall be allocated as penalties. For the remainder of each Settlement Award, twenty percent (20%) of each Settlement Award shall be allocated as penalties, and eighty percent (80%) of each Settlement Award shall be allocated as expense reimbursements. The Settlement Administrator will be responsible for issuing to participating Settlement Class members IRS Forms 1099 for the amounts allocated as penalties and interest. Each Settlement Class member who receives a Settlement Award will be responsible for correctly characterizing the payment for tax purposes and for payment of any taxes owing on said amount. Notwithstanding the treatment of the payments to each Settlement Class member above, none of the payments called for by this Settlement Agreement, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.
- F. Each member of the Settlement Class who receives a Settlement Award must cash the check(s) within 180 days from the date the Settlement Administrator mails it/them. Any funds payable to Settlement Class members whose checks were not cashed within 180 days after mailing will escheat to the California Secretary of State- Unclaimed Property Fund under the unclaimed property laws in the name of the Settlement Class member.

6. **Attorneys’ Fees and Costs.** Defendant will not object to Class Counsel’s request for a total award of attorneys’ fees of one-third of the Gross Settlement Amount, which is currently estimated to be One Hundred Twenty Five Thousand Dollars and Zero Cents (\$125,000.00) (unless the Gross Settlement Amount is increased pursuant to Paragraph 4.E. above in which case the

attorneys' fees shall increase accordingly). Additionally, Class Counsel will request an award of actual costs and expenses as supported by declaration, in an amount not to exceed Twenty Five Thousand Dollars and Zero Cents (\$25,000.00) from the Gross Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when the Settlement Administrator pays the fee award allowed by the Court.

7. **Class Representative Service Award.** Defendant will not object to a request for Class Representative Service Awards of up to Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) to each Plaintiff (for a total of \$15,000.00) for their time and risk in prosecuting this case and their service to the Settlement Class. This award will be in addition to Plaintiffs' Settlement Awards as Settlement Class members and shall be reported on an IRS Form 1099 issued by the Settlement Administrator. Even in the event that the Court reduces or does not approve the requested Class Representative Service Awards, Plaintiffs shall not have the right to revoke this Settlement, and it will remain binding.

8. **Settlement Administrator.** Defendant will not object the appointment of Phoenix Settlement Administrator as Settlement Administrator. Defendant will not object to Plaintiffs seeking permission to pay up to Eight Thousand Dollars and Zero Cents (\$8,000.00) for its services from the Gross Settlement Amount. The Settlement Administrator shall be responsible for sending notices and for calculating Settlement Awards and preparing all checks and mailings, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay itself from the Gross Settlement Amount by Class Counsel only after Settlement Awards have been mailed to all participating Settlement Class members.

9. **Preliminary Approval.** The Parties, Plaintiffs and Defendant agree to the following procedures regarding obtaining approval of this settlement:

Plaintiffs shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
- B. Appointing Paul K. Haines of Haines Law Group, APC and Scott M. Lidman and Milan Moore of Lidman Law, APC as Class Counsel;
- C. Appointing Deon Gentry, Sr. and Deon Gentry, Jr. as Class Representatives for the Settlement Class;
- D. Approving Phoenix Settlement Administrator as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;

- F. Approving the form and content of the Notice Packet (which is comprised of the Notice of Pendency of Class Action and Settlement and Notice of Settlement Award, drafts of which are attached collectively hereto as **Exhibit B**) in both English and Spanish, and directing the mailing of same; and
- G. Scheduling a Final Approval hearing.

10. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within ten (10) business days after entry of an order preliminarily approving this Agreement, Defendant will provide the Settlement Administrator with the names, last known addresses, phone numbers, social security numbers, and number of trips worked by each Settlement Class Member during the Class Period and PAGA Period that either began or ended in California (collectively referred to as the “Class Data”). The Class Data shall be provided to the Settlement Administrator in an electronic format satisfactory to the Settlement Administrator.
- B. Within ten (10) business days from receipt of this information, the Settlement Administrator shall (i) run the names of all Settlement Class Members through the National Change of Address (“NCOA”) database to determine any updated addresses for Settlement Class Members; (ii) update the address of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Settlement Award for each Settlement Class member; and (iv) mail a Notice Packet to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Requests for Exclusion. Any Settlement Class member who wishes to opt-out of the Settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator within sixty (60) calendar days of the date of the initial mailing of the Notice Packets (the “Response Deadline”).
 - i. The Notice Packet shall state that Settlement Class members who wish to exclude themselves from the Settlement must submit a Request for Exclusion by the Response Deadline. The Request for Exclusion must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the Settlement, except a Request for Exclusion not containing a Class Member’s telephone number and/or last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been

timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the Settlement or have any right to object, appeal or comment thereon.

- ii. The Parties agree there is no statutory or other right for any Settlement Class member to opt out or otherwise exclude himself or herself from the PAGA portion of the Settlement. A Settlement Class member who is also a PAGA Employee who submits a valid and timely Request for Exclusion shall still receive his or her proportionate share of the PAGA Amount.
- D. Objections. Members of the Settlement Class who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by mailing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant's counsel). Class Counsel shall file any objections with the Court. Defendant's counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval. To be valid, any written objection must: (1) contain the objecting Settlement Class member's full name and current address, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence, if any; and (4) be postmarked no later than the Response Deadline. Members of the Settlement Class who do not request exclusion may also object to the Settlement by appearing at the Final Approval Hearing in person or virtually irrespective of whether they submitted any written objections.
- E. Notice of Settlement Award / Disputes. Each Notice Packet mailed to a Settlement Class member shall disclose the amount of the Settlement Class member's estimated Settlement Award as well the Settlement Class member's number of trips worked as an independent contractor driver during the Class Period that either began or ended in California. Settlement Class members will have the opportunity, should they disagree with Defendant's records regarding the information stated in the Notice of Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Settlement Awards under the terms of this Settlement Agreement.
- F. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within three (3) business days of receiving the returned Notice Packet. If an updated mailing address is identified before the Response

Deadline, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member within three (3) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. Settlement Class members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have fourteen (14) calendar days from the date of re-mailing, or until the Response Deadline has expired, whichever is later, to submit a Request for Exclusion, Objection, or dispute. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline. If a Settlement Class member's Notice Packet is returned to the Settlement Administrator more than once before the Response Deadline, the Settlement Administrator shall continue to make reasonable efforts to obtain an updated mailing address. Nothing else shall be required of, or done by, the Parties, Class Counsel, or Defendant's Counsel to provide notice of the proposed settlement.

11. **Administrator's Declaration.** No later than fourteen (14) days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class and Collective Notices returned as undeliverable, the re-mailing of Class and Collective Notices, attempts to locate Class Members or Collective Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid) from Class Members, the number of written objections received from Class Members, and attach a list of the names and other identifying information of Class Members who have submitted timely and valid Requests for Exclusion ("Exclusion List"). The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

12. **Defendant's Right to Withdraw.** If the number of valid Requests for Exclusion identified in the Exclusion List to be prepared by the Settlement Administrator exceeds 10% of the total number of Class Members, Defendant may, within its sole discretion, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be null and void *ab initio*, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, that Defendant remains responsible for paying all Settlement Administration Expenses actually incurred up to that time. Defendant must notify Class Counsel and the Court of its election to withdraw no later than seven (7) calendar days after the Administrator sends the final Exclusion List to Defense Counsel.

13. **Final Approval.** Following preliminary approval and the close of the period for filing requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiffs shall apply to the Court for entry of an Order:

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;

- B. Approving Plaintiffs' and Class Counsel's application for attorneys' fees and costs, Class Representative Service Award, and settlement administration costs; and
- C. Entering judgment pursuant to California Rule of Court 3.769 and posting notice of the judgment on a static website created and maintained by the Settlement Administrator.

14. **Non-Admission of Liability.** Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this Settlement. In particular, but without limiting the generality of the foregoing, nothing about this Settlement Agreement shall be offered or construed as an admission of liability, wrongdoing, impropriety, responsibility, or fault whatsoever on the part of Defendant and/or the Released Parties, and it shall not be construed as or deemed to be evidence of, or an admission or concession that the any Settling Class member has suffered any damage. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

15. **Non-disclosure and Non-publication.** Prior to the filing of the Motion for Preliminary Approval, Plaintiffs and Class Counsel agree not to disclose or publicize the Settlement Agreement contemplated herein, the fact of the Settlement Agreement, its terms or contents, or the negotiations underlying the Settlement Agreement, in any manner or form, directly or indirectly, to any person or entity, except to Settlement Class members and as shall be contractually required to effectuate the terms of the Settlement Agreement as set forth herein. However, for the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class Counsel may disclose the names of the Parties in this Action, the venue/case number of this Action, and a general description of the Action, to a court in a declaration by Class Counsel. Class Counsel may also include a general description of the Settlement on their respective websites but may not include the name(s) of any of the Parties, or the case name or case number of the Action.

16. **Legal Developments.** The Parties agree that Plaintiffs will submit to the Court a motion for preliminary approval and final approval of this Settlement containing all of the terms and conditions contained herein notwithstanding any new legal developments regarding the Released Claims.

17. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

18. **Attorneys' Fees:** In the event of any dispute arising out of the interpretation, performance, or breach of any provision of this Settlement Agreement, the prevailing party in such dispute(s) shall be entitled to recover her and/or its reasonable attorneys' fees and costs incurred arising from such dispute.

19. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Defendant: Adam Smedstad of Scopelitis, Garvin, Light, Hanson & Feary, P.C., 5470 Shilshole Avenue NW, Suite 520, Seattle, Washington 98107; asmedstad@scopelitis.com

if to Plaintiff: Scott M. Lidman and Milan Moore of Lidman Law, APC, 2155 Campus Drive, Suite 150, El Segundo, California 90245; slidman@lidmanlaw.com and mmoore@lidmanlaw.com

Paul K. Haines, Haines Law Group, APC, 2155 Campus Drive, Suite 180, El Segundo, California 90245; phaines@haineslawgroup.com

20. **Cooperation.** The Parties agree to work cooperatively, diligently and in good faith to ensure that all documents necessary to effectuate this Settlement are properly and timely filed.

21. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

22. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

DATED:

7/2/2024

DEFENDANT PINNACLE DRIVEAWAY, INC.

By:


Justin Prann

Its:

COO for Pinnacle Driveway, Inc.

DATED:

PLAINTIFF DEON GENTRY, SR.

By:

Plaintiff and Settlement Class Representative

19. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Defendant: Adam Smedstad of Scopelitis, Garvin, Light, Hanson & Feary, P.C., 5470 Shilshole Avenue NW, Suite 520, Seattle, Washington 98107; asmedstad@scopelitis.com

if to Plaintiff: Scott M. Lidman and Milan Moore of Lidman Law, APC, 2155 Campus Drive, Suite 150, El Segundo, California 90245; slidman@lidmanlaw.com and mmoore@lidmanlaw.com

Paul K. Haines, Haines Law Group, APC, 2155 Campus Drive, Suite 180, El Segundo, California 90245; phaines@haineslawgroup.com

20. **Cooperation.** The Parties agree to work cooperatively, diligently and in good faith to ensure that all documents necessary to effectuate this Settlement are properly and timely filed.

21. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

22. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

DATED: DEFENDANT PINNACLE DRIVEAWAY, INC.

By: _____

Its: _____

DATED: Jul 2, 2024

PLAINTIFF DEON GENTRY, SR.

By:  _____
Deon Gentry (Jul 2, 2024 12:27 PDT)

Plaintiff and Settlement Class Representative

DATED: Jun 27, 2024

PLAINTIFF DEON GENTRY, JR.

By: 
Deon gentry jr (Jun 27, 2024 14:14 PDT)

Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED:

SCOPELITIS, GARVIN, LIGHT, HANSON &
FEARY, P.C.

By: _____
Adam Smedstad
Attorneys for Defendant

DATED: July 2, 2024

HAINES LAW GROUP, APC

By: 
Paul K. Haines
Attorneys for Plaintiffs

DATED: July 2, 2024

LIDMAN LAW, APC

By: 
Scott M. Lidman
Attorneys for Plaintiffs

DATED:

PLAINTIFF DEON GENTRY, JR.

By: _____
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: July 8, 2024

SCOPELITIS, GARVIN, LIGHT, HANSON &
FEARY, P.C.

By: Adam Smedstad
Adam Smedstad
Attorneys for Defendant

DATED:

HAINES LAW GROUP, APC

By: _____
Paul K. Haines
Attorneys for Plaintiffs

DATED:

LIDMAN LAW, APC

By: _____
Scott M. Lidman
Attorneys for Plaintiffs

EXHIBIT A

EXHIBIT A

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245
OFFICE: (424) 322-4772
FAX: (424) 322-4775

June 22, 2023

VIA LWDA WEBSITE

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

**VIA U.S. CERTIFIED MAIL – RETURN
RECEIPT REQUESTED**

Pinnacle Driveaway, Inc., a Wyoming
corporation
c/o C T Corporation System, Registered Agent
330 N. Brand Blvd.
Glendale, CA 91203

Re: *Deon Gentry, et al., v. Pinnacle Driveaway, Inc., a Wyoming corporation*

To Whom It May Concern:

Please be advised that this law firm represents Deon Gentry and Deon Gentry, Jr. (collectively, “Plaintiffs”) in claims arising from their employment with Pinnacle Driveaway, Inc., a Wyoming corporation (“Defendant”). Plaintiffs are each an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, an “aggrieved employee” should be considered to include all current and former drivers working for Defendant in California and whom Defendant classified as independent contractors, at least in part, during the one year immediately preceding the date of this letter through the present date, and continuing through a civil judgment if the LWDA takes no action and Plaintiffs file a civil lawsuit seeking civil penalties.

Deon Gentry, a current employee, has been employed by Defendants as a driver since 2021 through the present.

Deon Gentry, Jr., a former employee, was employed by Defendants as a driver since 2020 to around February 2023.

During their employment, Plaintiffs have been drivers who transport various types of vehicles from one location to another for Defendant’s customers. During Plaintiffs’ employment, Defendant unlawfully and willfully misclassified Plaintiffs and other drivers as independent contractors. Thus, Defendant willfully and wrongfully denied Plaintiffs and the members of the Classes of their rights to the protections afforded to employees under the California Labor Code and applicable Wage Order of the Industrial Welfare Commission. Indeed, Plaintiffs are informed and believe, and based thereon allege, that, during all relevant times herein mentioned, Defendant knew or should have known that it

had a duty to properly classify Plaintiffs and other drivers as employees, and properly compensate them, and that Defendant had the financial ability to do so and pay such compensation, but willfully, knowingly, and intentionally failed to do so in order to increase their profits.

Plaintiffs and the other similarly situated drivers provide vehicle delivery services which are directly part of Defendant's regular business as a vehicle delivery company. The services they provide to Defendant are the kind of work typically done by an employee under the direction of an employer. Defendant maintains/controls the vehicles at its storage lot in Victorville, California, which serves as the base of operations for Plaintiffs and other similarly situated drivers.

In connection with their employment with Defendant, Plaintiffs and other similarly situated drivers would be required to drive and/or use other transportation to the vehicles to be transported and delivered. Defendant controlled and directed Plaintiffs and the other drivers in connection with the performance of their work, in terms of when and how to pick up the vehicles, when and how to pick up and make deliveries, and how to otherwise perform their job duties.

While unlawfully and willfully misclassified by Defendant as independent contractors, Plaintiffs and the and other similarly situated drivers were/are paid on a piece-rate basis – by the mile. As a result, Plaintiffs and the and other similarly situated drivers were not separately compensated for time spent working on tasks unrelated to actual driving of the vehicles to be delivered, including, without limitation, time spent on pre- and post-trip inspections, time spent fueling the vehicles, time spent completing paperwork, time spent maintaining/washing the vehicles, time waiting, travel time, and other non-productive time. As a result, Plaintiffs and other similarly situated drivers were not paid at least the minimum wage for all hours worked.

As a result of Defendant's failure to pay all minimum wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Plaintiffs and other similarly situated drivers. Nevertheless, because Defendant misclassified Plaintiffs and other similarly situated drivers as independent contractors, they failed to provide Plaintiffs with any accurate wage statements as required by Labor Code section 226.

Defendant also failed to reimburse Plaintiffs for necessary business expenses incurred throughout the relevant time period. Defendant required their drivers who were misclassified as independent contractors, including Plaintiffs, to pay for, among other things, expenses related to any travel required as part of their duties, equipment repair/damage costs, "pullout" fees and other expenses. Despite these requirements, Defendant did not reimburse Plaintiffs for incurring these necessary business expenses in violation of California law. Further, Defendant illegally deducted at least some of these expenses from wages owed, in further violation of California law.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 9 ("Wage Order 9"):

Willful Misclassification as Independent Contractors (Labor Code section 226.8)

Labor Code section 226.8(a)(1) makes it unlawful for any person or employer to engage in the willful misclassification of an individual as an independent contractor. Labor Code section 226.8(i)(4) defines "willful misclassification" as "avoiding employee status for an individual by voluntarily and knowingly misclassifying that individual as an independent contractor."

Labor Code section 2750.3 provides the legal framework for determining whether a person providing labor or services for remuneration is an employee or independent contractor. Pursuant to Labor Code section 2750.3:

“...a person providing labor or services for remuneration shall be considered an employee rather than an independent contractor unless the hiring entity demonstrates that all of the following conditions are satisfied:

- (A) The person is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.
- (B) The person performs work that is outside the usual course of the hiring entity’s business.
- (C) The person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.” (Cal. Labor Code § 2750.3).”

As alleged herein, Defendant exercises a great amount of control over the aggrieved employees in the performance of their work. As a result, Defendant cannot demonstrate that the conditions set forth in Labor Code section 2750.3(A) are satisfied with respect to the employment of the aggrieved employees.

As alleged herein, the aggrieved employees perform work which is within the Defendant’s usual course of business. As a result, Defendant cannot demonstrate that the conditions set forth in Labor Code section 2750.3(B) are satisfied with respect to the employment of the aggrieved employees.

As alleged herein, the aggrieved employees are not customarily engaged in the business of providing delivery services. As a result, Defendant cannot demonstrate that the conditions set forth in Labor Code section 2750.3(C) are satisfied with respect to the employment of the aggrieved employees.

Because Defendant cannot demonstrate that any of the conditions set forth in Labor Code section 2750.3(A-C) are satisfied with respect to the employment of the aggrieved employees, the aggrieved employees should have been properly classified as employees entitled to the protections and benefits of the California Labor Code and applicable IWC Wage Orders.

Pursuant to Labor Code section 226.8(b):

“If the Labor and Workforce Development Agency or a court issues a determination that a person or employer has engaged in any of the enumerated violations of subdivision (a), the person or employer shall be subject to a civil penalty of not less than five thousand dollars (\$5,000) and not more than fifteen thousand dollars (\$15,000) for each violation, in addition to any other penalties or fines permitted by law.”

Pursuant to Labor Code section 226.8(c):

“If the Labor and Workforce Development Agency or a court issues a determination that a person or employer has engaged in any of the enumerated violations of subdivision (a) and the person or employer has engaged in or is engaging in a pattern or practice of these violations, the

person or employer shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than twenty-five thousand dollars (\$25,000) for each violation, in addition to any other penalties or fines permitted by law.”

Defendant has engaged, and continues to engage in an unlawful pattern and practice of avoiding employee status for the aggrieved employees by voluntarily, knowingly, and willfully misclassifying those individuals as independent contractors, in violation of Labor Code section 226.8(a)(1).

Unlawful Fees and Deductions (Labor Code section 226.8)

Pursuant to Labor Code section 226.8(a)(2): “It is unlawful for any person or employer to engage in any of the following activities: ...

- (2) Charging an individual who has been willfully misclassified as an independent contractor a fee, or making any deductions from compensation, for any purpose, including for goods, materials, space rental, services, government licenses, repairs, equipment maintenance, or fines arising from the individual’s employment where any of the acts described in this paragraph would have violated the law if the individual had not been misclassified.” (Cal. Labor Code § 226.8(a)).”

Labor Code section 226.8(i)(4) defines “willful misclassification” as “avoiding employee status for an individual by voluntarily and knowingly misclassifying that individual as an independent contractor.”

As alleged herein, Defendant exercises a great amount of control over the aggrieved employees in the performance of their work. As a result, Defendant cannot demonstrate that the conditions set forth in Labor Code section 2750.3(A) are satisfied with respect to the employment of the aggrieved employees.

As alleged herein, the aggrieved employees perform work which is within the Defendant’s usual course of business. As a result, Defendant cannot demonstrate that the conditions set forth in Labor Code section 2750.3(B) are satisfied with respect to the employment of the aggrieved employees.

As alleged herein, the aggrieved employees are not customarily engaged in the business of providing delivery services. As a result, Defendant cannot demonstrate that the conditions set forth in Labor Code section 2750.3(C) are satisfied with respect to the employment of the aggrieved employees.

Because Defendant cannot demonstrate that any of the conditions set forth in Labor Code section 2750.3(A-C) are satisfied with respect to the employment of the aggrieved employees, the aggrieved employees should have been properly classified as employees entitled to the protections and benefits of the California Labor Code and applicable IWC Wage Orders.

Plaintiffs are informed and believe, and based thereon allege, that Defendant has a policy and practice of charging aggrieved employees unlawful fees and making unlawful deductions from their compensation, in violation of Labor Code section 226.8(a)(2).

Pursuant to Labor Code section 226.8(b):

“If the Labor and Workforce Development Agency or a court issues a determination that a person or employer has engaged in any of the enumerated violations of subdivision (a), the person or employer shall be subject to a civil penalty of not less than five thousand dollars (\$5,000) and not more than fifteen thousand dollars (\$15,000) for each violation, in addition to any other penalties or fines permitted by law.”

Pursuant to Labor Code section 226.8(c):

“If the Labor and Workforce Development Agency or a court issues a determination that a person or employer has engaged in any of the enumerated violations of subdivision (a) and the person or employer has engaged in or is engaging in a pattern or practice of these violations, the person or employer shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than twenty-five thousand dollars (\$25,000) for each violation, in addition to any other penalties or fines permitted by law.”

As alleged herein, Defendant has engaged, and continues to engage in an unlawful pattern and practice of charging unlawful fees and making unlawful deductions from the aggrieved employees' compensation, after voluntarily, knowingly, and willfully misclassifying those individuals as independent contractors, in violation of Labor Code section 226.8(a)(2).

Minimum Wage Violations

Defendant was required to pay Plaintiffs and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197, 1197.1; The Wage Order 9, § 4. Plaintiffs and other aggrieved employees were not paid for all hours worked due to Defendant's practice of paying their employees misclassified as independent contractors on a piece-rate basis, which deprive them of pay for all hours worked. As alleged above, Defendant caused Plaintiffs and other aggrieved employees to work hours in a workweek but did not properly compensate them at least minimum wages for all such hours, due to Defendant's unlawful piece-rate compensation plan. These practices by Defendant resulted in Defendant not paying Plaintiffs for all wages owed for the work he performed, including failing to pay him all required minimum wages.

Failure to Reimburse Business Expenses

Defendant failed to reimburse Plaintiffs and other aggrieved employees for necessary work expenses, including, but not limited to, expenses related to travel required as part of their duties, equipment repair/damage costs, “pullout” fees, and other expenses. Defendant's policy of not providing reimbursement for necessary work-related expenses is in violation of Wage Order 9 § 9, and Labor Code § 2802 (“An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.”) Plaintiffs and other aggrieved employees are therefore entitled to reimbursement of such unpaid work expenses with interest.

Unlawful Deductions from Wages

Defendant unlawfully deducted from the wages rightfully and lawfully owed to Plaintiffs and other aggrieved employees for various work expenses. Defendant's policy of deducting from wages

owed for work-related expenses is in violation of Labor Code § 221. Plaintiffs and other aggrieved employees are therefore entitled to reimbursement of such unlawfully deducted wages.

Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Plaintiffs and other aggrieved employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum wages earned, total gross wages earned, total net wages earned, in violation of Labor Code § 226 *et seq.* Defendant's failure to furnish Plaintiffs and other aggrieved employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum wages earned, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Deon Gentry, Jr. and other aggrieved employees all of their final wages at the time of separation, which included, among other things, underpaid minimum wages.

Pursuant to Labor Code § 203, Defendant's failure to pay all final wages due to their aggrieved employees was willful and, consequently, entitles the aggrieved employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day Defendant failed to pay their final wages after their separation, up to a maximum of thirty days.

As "aggrieved employees," Plaintiffs will initiate a civil action on behalf of themselves and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Plaintiffs' own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §226.8 by engaging in, and continuing to engage in, an unlawful practice of avoiding employee status for the aggrieved employees by voluntarily, knowingly and willfully misclassifying those individuals as independent contractors;
- b) Defendant violated Labor Code §226.8 by engaging, and continuing to engage in, an unlawful pattern and practice of charging unlawful fees and making unlawful deductions from the aggrieved employees' compensation, after voluntarily, knowingly and willfully misclassifying those individuals as independent contractors;
- c) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Plaintiffs and other aggrieved employees the statutory minimum wage for all hours worked;
- d) Defendant violated Labor Code § 226 by failing to furnish Plaintiffs and other aggrieved employees with accurate and compliant itemized wage statements;
- e) Defendant violated Labor Code §§ 204 and 210 by failing to pay Plaintiffs and other aggrieved employees all earned wages at least twice during each calendar month;

- f) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Plaintiffs and other aggrieved employees;
- g) Defendant violated Labor Code § 2802 by failing to reimburse Plaintiffs and other aggrieved employees for all necessary expenditures incurred;
- h) Defendant violated Labor Code § 221 by unlawfully deducting from wages owed to Plaintiffs and other aggrieved employees for all certain work-related expenses; and
- i) Defendant violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Deon Gentry, Jr. and other aggrieved employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW APC



Scott M. Lidman

EXHIBIT B

EXHIBIT B

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

DEON GENTRY and DEON GENTRY, JR. on behalf
of themselves and on behalf of all persons similarly
situated,

Plaintiffs,

vs.

PINNACLE DRIVEAWAY, INC., a Wyoming
corporation; and DOES 1 through 100, inclusive,

Defendants.

Case No. CIVSB2314325

**NOTICE OF PENDENCY OF CLASS
ACTION AND PROPOSED SETTLEMENT**

To: All current and former drivers classified by Defendant Pinnacle Driveaway, Inc. as independent contractors at any time between June 23, 2019 and June 30, 2024 and: (i) who drove more than 50% of their miles within California; and/or (ii) who did not drive a majority of miles in any single state but were assigned to a California terminal. Collectively, these individuals will be referred to as "Settlement Class Members."

**PLEASE READ THIS NOTICE CAREFULLY
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. In exchange for the settlement payment, you will release claims against the Defendant as detailed below. Your estimated Settlement Award is explained in the accompanying Notice of Settlement Award. After final approval by the Court, the payment will be mailed to you at the same address as this notice. If your address has changed, you must notify the Settlement Administrator as explained below.
Exclude Yourself	To exclude yourself, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Settlement. However, if you are a PAGA Employee who requests exclusion, you will still receive an amount as your share of the PAGA civil penalties described below. You are a "PAGA Employee" if you worked for Defendant Pinnacle Driveaway, Inc. in California at any time during the time period between June 23, 2022 and June 30, 2024 and during that time you drove more than 50% of your miles in California, or you did not drive a majority of your miles in any single state but were assigned to a California terminal. Instructions are set forth below.
Object	Write to the Court about why you do not agree with the Settlement, and/or appear at the Final Approval Hearing to make an oral objection. Directions are provided below.

Why should you read this notice?

The Court has granted preliminary approval of a proposed class action settlement (the “Settlement”) entitled *Deon Gentry and Deon Gentry, Jr., on behalf of themselves and on behalf of all persons similarly situated, v. Pinnacle Driveaway, Inc.*, San Bernardino County Superior Court Case No. CIVSB2314325 (the “Lawsuit”). Because your rights may be affected by the Settlement, it is important that you read this notice carefully.

You may be entitled to money from this Settlement. Defendant Pinnacle Driveaway, Inc.’s (“Defendant”) records show that you worked as an independent contractor driver for Defendant at some time from June 23, 2019 to June 30, 2024 (the “Class Period”) and drove more than 50% of your miles within California; and/or you did not drive a majority of miles in any single state but were assigned to a California terminal. The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this Notice is to provide you with a brief description of the Lawsuit, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment.

What is this case about?

Plaintiffs Deon Gentry, Sr. and Deon Gentry, Jr. (collectively, “Plaintiffs”) brought this Lawsuit against Defendant, seeking to assert claims on behalf of a class of current and former drivers classified by Defendant Pinnacle Driveaway, Inc. as independent contractors at any time between June 23, 2019 and June 30, 2024 and: (i) who drove more than 50% of their miles within California; and/or (ii) who did not drive a majority of miles in any single state but were assigned to a California terminal. Plaintiffs are known as the “Class Representatives,” and their attorneys, who also represent the interests of all Settlement Class members, are known as “Class Counsel.”

The Lawsuit alleges that Defendant misclassified the drivers as independent contractors and failed to provide Settlement Class members all minimum wages, unlawfully deducted amounts from wages owed, failed to provide accurate, itemized wage statements, failed to reimburse all necessary business expenses, and failed to pay all wages upon separation of employment. As a result of the foregoing alleged violations, Plaintiffs also allege that Defendant engaged in unfair business practices and is liable for civil penalties under the California Labor Code Private Attorney General Act of 2004 (“PAGA”).

Defendant denies that it has done anything wrong. Defendant further denies that it owes Settlement Class members any wages, restitution, penalties, or other damages. No Court has made any determination as to the factual allegations in the Lawsuit. Rather, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Defendant, and it expressly denies all liability.

The Court has not ruled that Defendant violated any laws or whether Plaintiff or any other person is entitled to damages or other relief. However, to avoid additional expense, inconvenience, and interference with their business operations, Defendant has concluded that it is in their best interests and the interests of Settlement Class members to settle the Lawsuit on the terms summarized in this Notice. After Defendant provided relevant information to Class Counsel, the Settlement was reached after mediation and arm’s-length negotiations between the Parties.

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to Defendant, the risk of denial of class certification, the inherent risks of trial on the merits, and the delays and uncertainties associated with litigation.

If you are still providing services to Defendant, your decision about whether to participate in the Settlement will not affect your relationship with Defendant. California law and Defendant’s policies strictly prohibit unlawful retaliation. Defendant will not take any adverse action against or otherwise target, retaliate, or discriminate

against any Settlement Class member because of the Settlement Class member's decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for the Plaintiffs/ Settlement Class Members:	Attorneys for Defendant
LIDMAN LAW, APC Scott M. Lidman slidman@lidmanlaw.com Milan Moore mmoore@lidmanlaw.com 2155 Campus Drive, Suite 150 El Segundo, California 90245 Tel: (424) 322-4772 Fax: (424) 322-4775 www.lidmanlaw.com	SCOPELITIS, GARVIN, LIGHT, HANSON & FEARY, P.C. Adam C. Smedstad asmedstad@scopelitis.com 5470 Shilshole Avenue NW, Suite 520 Seattle, Washington 98107 Telephone: (206) 288-6192 Fax: (206) 299-9375
HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com 155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 www.haineslawgroup.com	

What are the terms of the Settlement?

On [INSERT DATE OF PRELIMINARY APPROVAL], the Court preliminarily certified a class, for settlement purposes only, of all current and former drivers classified by Defendant Pinnacle Driveaway, Inc. as independent contractors at any time between June 23, 2019 and June 30, 2024 and: (i) who drove more than 50% of their miles within California; and/or (ii) who did not drive a majority of miles in any single state but were assigned to a California terminal. Settlement Class members who do not opt out of the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Defendant as described below.

Defendant has agreed to pay \$375,000.00 (the "Gross Settlement Amount") to fully resolve all claims in the Lawsuit, which includes payments to Settlement Class members, attorneys' fees and expenses, payment to the Labor Workforce Development Agency ("LWDA"), settlement administration costs, and the Class Representatives' Service Awards.

The following deductions from the Gross Settlement Amount will be requested by the Parties:

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the "Settlement Administrator," who is sending this Notice to you and will perform many other duties relating to the Settlement. The Court has approved setting aside an amount not to exceed \$8,000.00 from the Gross Settlement Amount to pay the Settlement administration costs.

Attorneys' Fees and Expenses. Class Counsel have been prosecuting the Lawsuit on behalf of the Settlement Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys' fees, which will be paid from the Gross Settlement Amount. Settlement Class members are not personally responsible for any of Class Counsel's attorneys' fees or expenses. Class Counsel will ask for fees of

up to one-third of the Gross Settlement Amount, which is estimated to be \$125,000.00, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit through Settlement finalization. Class Counsel also will ask for reimbursement in an amount not to exceed \$25,000.00 for verified costs Class Counsel incurred in connection with the Lawsuit.

Service Award to Class Representative. Class Counsel will ask the Court to award the Class Representatives service awards in the amount not to exceed \$7,500.00 each (for a total of \$15,000.00), to compensate them for their services and extra work provided on behalf of the Settlement Class members.

LWDA Payment. Class Counsel will ask the Court to approve a payment in the total amount of \$20,000.00 as and for alleged civil penalties, payable pursuant to the California Labor Code Private Attorney General Act ("PAGA"). Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Fifteen Thousand Dollars and Zero Cents (\$15,000.00) will be payable to the LWDA, and the remaining twenty-five percent (25%), or Five Thousand Dollars and Zero Cents (\$5,000.00), will be payable to PAGA Employees as the "PAGA Amount," as described below.

Calculation of Individual Settlement Class Members' Settlement Award. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Amount ("NSA"), which will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion (described below). The NSA is estimated at approximately \$<< >>, to be shared among an up to << >> estimated Settlement Class members. The NSA will be divided as follows:

- (i) The Net Settlement Amount shall be allocated to Settlement Class members who worked during the Class Period, as follows: each participating Settlement Class member shall receive a proportionate settlement share based upon the number of trips worked as an independent contractor driver during the Class Period, the numerator of which is the Settlement Class member's total trips worked as an independent contractor driver during the Class Period, and the denominator of which is the total trips worked as independent contractor drivers by all Settlement Class members (who do not opt out) who worked during the Class Period.

PAGA Amount. In addition, Five Thousand Dollars and Zero Cents (\$5,000.00) of the Gross Settlement Amount has been designated as the "PAGA Amount" as described above. Each PAGA Employee shall receive a portion of the PAGA Amount proportionate to the number of trips that he or she worked during the time period between June 23, 2022 and June 30, 2024 ("PAGA Period") which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the PAGA Employee's number of trips worked as an independent contractor driver during this time period that began or ended in California, and the denominator of which is the total number of trips worked by all PAGA Employees during the same time period that began or ended in California. The payments to PAGA Employees shall be reported as penalties on a Form 1099.

Payments to Settlement Class Members. If the Court grants final approval of the Settlement, Settlement Awards will be mailed to all Settlement Class members who did not submit a valid and timely Request for Exclusion.

If you submit a Request for Exclusion, you will still receive a proportionate share of the PAGA Amount regardless of whether you exclude yourself from the Settlement if you are a PAGA Employee.

Each member of the Settlement Class who receives a Settlement Award must cash the check(s) within 180 days from the date the Settlement Administrator mails it/them. Any funds payable to Settlement Class Members or PAGA Employees whose checks were not cashed within 180 days after mailing will be transferred to the California Secretary of State - Unclaimed Property Fund under the unclaimed property laws in the name of the Settlement Class Member or PAGA Employee.

Payment by Defendant of Gross Settlement Amount. The Gross Settlement Amount shall be deposited by Defendant into a qualified settlement fund set up by the Settlement Administrator for the benefit of participating Settlement Class members and PAGA Employees. Defendant agrees to deposit the Gross Settlement Amount with the Settlement Administrator within thirty (30) calendar days after the "Effective Date" which is defined as the latter of: (a) the

Court's final approval of the settlement if no objections by or on behalf of Settlement Class members have been filed; (b) the time for appeal has expired if an objection has been filed and no appeal has been filed or all appeals have been dismissed; or (c) the final resolution overruling any objection and denying the basis of any appeal that has been filed.

Within ten (10) calendar days following Defendant's deposit of the final Settlement Installment of Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator will calculate Settlement Award amounts and provide the same to counsel for the Parties for review and approval. Within seven (7) calendar days of approval by counsel for the Parties, the Settlement Administrator will prepare and mail Settlement Awards to participating Settlement Class members.

Allocation and Taxes. For purposes of calculating applicable taxes and withholdings, each Settlement Award shall be allocated as follows: Any portion of each Settlement Award that is provided for the PAGA Amount shall be allocated as penalties. For the remainder of each Settlement Award, twenty percent (20%) of each Settlement Award shall be allocated as penalties, and eighty percent (80%) of each Settlement Award shall be allocated as expense reimbursements. The Settlement Administrator will be responsible for issuing to participating Settlement Class members IRS Forms 1099 for the amounts allocated as penalties and interest. Each Settlement Class member who receives a Settlement Award will be responsible for correctly characterizing the payment for tax purposes and for payment of any taxes owing on said amount. Notwithstanding the treatment of the payments to each Settlement Class member above, none of the payments called for by this Settlement Agreement, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans. The Settlement Administrator, Defendant and its counsel, and Class Counsel cannot provide tax advice. Accordingly, Settlement Class members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Settlement Class Members' Release. If the Court approves the Settlement, the Settlement Class, and each Settlement Class member who has not submitted a timely and valid Request for Exclusion, will fully and forever completely release and discharge Defendant, and all of its past and present officers, directors, shareholders, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, and its respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys (collectively the "Released Parties"), from causes of action, claims, rights, damages, punitive or statutory damages, penalties, interest, attorneys' fees, costs, liabilities, expenses, and losses based on or arising from factual predicates alleged, or reasonably could have been alleged, in the operative First Amended Complaint, or which could have been pled in the operative First Amended Complaint, including, but not limited to: (a) any alleged failure to pay all minimum wages due; (b) any alleged failure to timely pay wages at separation of employment; (c) any alleged failure to provide compliant and accurate wage statements; (d) any alleged failure to reimburse business expenses; (e) any alleged unlawful deductions from wages; (f) any right or claim for unfair business practices in violation of California Business & Professions Code § 17200 et seq. based on the foregoing alleged claims; and (g) any right or claim for civil penalties pursuant to the California Labor Code, the California Industrial Welfare Commission Wage Orders, the California Private Attorneys General Act of 2004 (Cal. Lab. Code § 2698, et seq.) based on the foregoing alleged claims, during the Class Period (collectively, the "Released Class Claims"). The Class Members do not release any claims other than those set forth above, including without limitation claims for vested benefits, wrongful termination, violations of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

The time period of the Released Claims shall be the same time period as the Class Period.

PAGA Employees' PAGA Release. If the Court approves the Settlement, all PAGA Employees, including Plaintiffs (and also including those who opt-out from the Class portion of the Settlement), will release and forever discharge the Released Parties from all individual and representative claims for civil penalties under PAGA that were alleged, or reasonably could have been alleged, in the operative First Amended Complaint, including, but not limited to, (a) any alleged failure to pay all minimum wages due; (b) any alleged failure to timely pay wages at separation of employment; (c) any alleged failure to provide compliant and accurate wage statements; (d) any alleged failure to reimburse business expenses; (e) any alleged unlawful deductions from wages; (f) any right or claim for unfair business practices in violation of California Business & Professions Code § 17200 et seq. based on the foregoing alleged claims; (g) any alleged failure to properly classify them as independent contractors; and (h) any right or claim for civil penalties pursuant to the California Labor Code, the California Industrial Welfare Commission Wage Orders, the California

Private Attorneys General Act of 2004 (Cal. Lab. Code § 2698, et seq.) based on the foregoing alleged claims, during the PAGA Period (collectively, “Released PAGA Claims”).

The time period of the PAGA Released Claim is between June 23, 2022 and June 30, 2024 (“PAGA Period”).

You cannot submit a Request for Exclusion from the PAGA Release.

The releases are null and void if Defendant fails to fully fund the Settlement. The releases identified herein will only be effective upon the date on which Defendant fully funds the Gross Settlement Amount and employer’s share of payroll taxes (“Effective Date of the Release”). Upon the Effective Date of the Release, all Class Members shall be deemed to have, and by operation of Judgment shall have, released, waived and relinquished the Released Claims.

Conditions of Settlement. The Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate and in the best interests of the Settlement Class, and the entry of Judgment.

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your share of the Settlement based on the proportionate number of workweeks you worked during the Class Period (as explained above), and as stated in the accompanying Notice of Settlement Award. You also will be bound by the Settlement, including the release of claims stated above.

If your address is incorrect or has changed, you must notify the Settlement Administrator. It is your responsibility to ensure that the Settlement Administrator has your current address on file, or you may not receive important information or a settlement payment. The Settlement Administrator is: [REDACTED] (800) [REDACTED].

What other options do I have?

Dispute Information in Notice of Settlement Award. Your award is based on the proportionate number of trips you worked during the Class Period that began or ended in California, and the number of trips you worked during the PAGA Period, if any that began or ended in California. The information contained in Defendant’s records regarding all of these factors, along with your estimated Settlement Award, is listed on the accompanying Notice of Settlement Award. If you disagree with the information in your Notice of Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>. Send disputes directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>.

DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.

The Parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class members. The Settlement Administrator’s decision regarding any dispute will be final.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending a written “Request for Exclusion from the Class Action Settlement” letter or card to the Settlement Administrator postmarked no later than <<RESPONSE DEADLINE>>, with your name, address, telephone number, last four digits of your social security number, your signature, and a statement indicating that you would like to be excluded from the Class Action Settlement. The Request for Exclusion should state something to the effect of:

“I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN *DEON GENTRY V. PINNACLE DRIVEAWAY, INC.* LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THIS LAWSUIT.”

Send the Request for Exclusion directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Any person who files a timely Request for Exclusion from the Settlement shall, upon receipt by the Settlement Administrator, no longer be a Settlement Class member, shall be barred from participating in any portion of the Settlement, and shall receive no benefits from the Settlement.

If you submit a Request for Exclusion, you will only be excluded from the Released Claims. You cannot submit a Request for Exclusion from the PAGA Release. You will receive a proportionate share of the PAGA Payment regardless of whether you exclude yourself from the Settlement if you worked between June 23, 2022 and June 30, 2024.

Do not submit both a Dispute and a Request for Exclusion. If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you may mail a written objection to the Settlement Administrator. Your written objection must include your name, address, as well as contact information for any attorney representing you regarding your objection, the case name and number, each specific reason in support of your objection, and any legal or factual support for each objection together with any evidence in support of your objection. Written objections must be postmarked on or before <<RESPONSE DEADLINE>>. Send written objections directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>.

If you choose to object to the Settlement, you may also appear at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department S-26 of the San Bernardino County Superior Court, located at 247 W 3rd St., San Bernardino, California 92408. You have the right to appear either remotely, in person or through your own attorney at this hearing. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before <<RESPONSE DEADLINE>>. All objections or other correspondence must state the name and number of the case (*Sergio Rodriguez v. Superior Tank Co., Inc.* Kern County Superior Court, Case Nos. BCV-23-100144 and BCV-23-100926).

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class members who do not object.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department S-26 of the San Bernardino County Superior Court, located at 247 W 3rd St., San Bernardino, California 92408. The Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses and the Service Award to the Class Representative. The Final Approval Hearing may be postponed without further notice to Settlement Class members. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing.**

Any changes to date, time, or location of the Final Approval Hearing will be posted on the Settlement Administrator's website (<http://.com>). The Court's final judgment will also be posted on the Settlement Administrator's website.

How can I get additional information?

This Notice is only a summary of the Lawsuit and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the San Bernardino County Superior Court, located at 247 W 3rd St., San Bernardino, California 92408. You may get more details by examining the Court's file on the Court Access website for the California Superior Court for the County of San Bernardino (<https://www.cap.sb-court.org/search>) and entering the Case No. CIVSB2314325 in the Case Number Search field. You may also contact Class Counsel using the contact information listed above for more information.

**PLEASE DO NOT CALL OR WRITE THE COURT, DEFENDANT OR ITS ATTORNEYS FOR INFORMATION
ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS**

REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is <<RESPONSE DEADLINE>>. These deadlines will be strictly enforced.

BY ORDER OF THE COURT ENTERED ON <<PRELIM APPROVAL DATE>>.

NOTICE OF SETTLEMENT AWARD

Deon Gentry, et al. v. Pinnacle Driveaway, Inc.

SAN BERNARDINO COUNTY SUPERIOR COURT, CASE NO. CIVSB2314325

Please complete, sign, date and return this form to <<ADMINISTRATOR CONTACT INFO>> **ONLY IF** (1) your personal contact information has changed, and/or (2) you wish to dispute any of the items listed in Section (III), below. It is your responsibility to keep a current address on file with the Settlement Administrator.

(I) Please type or print your name:

(First, Middle, Last)

(II) Please type or print the following identifying information if your contact information has changed:

Former Names (if any)

New Street Address

City

State

Zip Code

(III) Information Used to Calculate Your Individual Settlement Award:

According to the records of Pinnacle Driveaway, Inc. ("Defendant"):

- (a) You worked for Defendant as an independent contractor driver and worked a total of [] trips that began or ended in California between June 23, 2019 and June 30, 2024.
- (b) You worked for Defendant as an independent contractor driver and worked a total of [] trips that began or ended in California between June 23, 2022 and June 30, 2024.

Based on the above, your Individual Settlement Award is estimated to be \$ [].

(IV) If you disagree with items (a) or (b) in Section (III) above, please explain why in the space provided below and include copies of any supporting evidence or documentation with this form:

If you dispute the above information from Defendant's records, Defendant's records will control unless you are able to provide documentation that establishes that Defendant's records are mistaken. If there is a dispute about whether Defendant's information or yours is accurate, and the dispute cannot be resolved informally, the dispute will be resolved by the Parties and the Settlement Administrator as described in the "Notice of Pendency of Class Action and Proposed Settlement" that accompanies this Form. Any unresolved disputes will be submitted to the Court for a final determination.

**ANY DISPUTES, ALONG WITH ANY SUPPORTING DOCUMENTATION, MUST BE POSTMARKED
NO LATER THAN <<RESPONSE DEADLINE>>**