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8 Attorneys for Plaintiff MICHELLE THOMAS
on behalf of the State of California,
9 and others similarly situated and aggrieved

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF SACRAMENTO**

12 MICHELLE THOMAS, on behalf of the
State of California, and others similarly
13 situated and aggrieved,

14 Plaintiff,

15 v.

16
17 ELK GROVE MOTORS, INC., a California
Corporation; SELMA MOTORS, INC., a
California Corporation; SELMA AUTO
18 MALL, INC., a California Corporation;
SELMA AUTO MALL III, INC., a
19 California Corporation; and DOES 1-100,
20 inclusive,

21 Defendants.
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Case No.: 23CV007153

Assigned for All Purposes to:
Hon. Jill H. Talley
Dept. 23

**DECLARATION OF NIKKI TRENNER
IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date: January 9, 2026
Time: 9:00 a.m.
Dept.: 23

Reservation No.: A-07153-001

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DECLARATION OF NIKKI TRENNER

1. I am attorney duly licensed to practice before this Court and I am a partner with Crosner Legal, counsel of record for plaintiff. If called to testify as to the within facts, I would and could competently do so.

2. Attached hereto as Exhibit 1 is a true and correct, fully-executed copy of the Parties' Class Action and PAGA Settlement Agreement (the "Settlement Agreement"). Attached hereto as Exhibit 2 is a true and correct copy of the proposed Class Notice. Attached hereto as Exhibit 3 is a true and correct copy of Plaintiff's notice letter to the Labor & Workforce Development Agency ("LWDA") and proof of submission. Attached hereto as Exhibit 4 is proof of submission of the proposed settlement to the LWDA via its online portal.

3. I am unaware of any other pending matter that would overlap with this case in any or that would have claims extinguished by the settlement in this case. I have reviewed the Court's checklist for approval motions and believe Plaintiff's briefing complies with the checklist.

FACTUAL BACKGROUND AND PROCEDURAL POSTURE

4. Defendants own and operate multiple car dealerships. Plaintiff worked for Defendants at the Elk Grove Kia dealership as a Service Writer from March to August of 2022.

5. Plaintiff alleges a number of wage and hour violations by Defendants. First, she claims the company pressured employees to work off the clock both before and after shifts, and also work while purportedly on their breaks. She further alleges Defendants underpaid for overtime and sick pay by failing to pay those wages based on the correct "regular rate of pay." For meal and rest breaks, as noted Plaintiff contends breaks were non-compliant because employees frequently had to work through some or all of their breaks, and also that Defendants did not fully relinquish all control over the class members during the breaks. Finally, Plaintiff alleged she had to use her own cell phone on company business without any reimbursement.

6. Based on these allegations, Plaintiff initially filed a representative PAGA action against Defendants on August 21, 2023. On November 14, 2023, Plaintiff submitted an arbitration demand to ADR Services, Inc. asserting individual claims against Defendants for (1) failure to pay minimum wages and liquidated damages; (2) failure to pay overtime wages; (3) failure to provide

1 meal periods or compensation in lieu thereof; (4) failure to provide rest periods or compensation in
2 lieu thereof; (5) failure to provide accurate itemized wage statements; (6) failure to timely pay all
3 wages due upon separation of employment; (7) failure to reimburse business expenses,

4 7. Elk Grove Motors has at all times denied Plaintiff's allegations and maintained its
5 meal and rest break and payroll policies and procedures comply with California law, that it paid
6 the class member wages due and at the correct rates of pay, and provided them with required meal
7 and rest breaks. Additionally, Elk Grove Motors strongly contends the case cannot be maintained
8 as a class action, arguing for example that to the extent class members missed meal and/or rest
9 breaks, or that such breaks were non-compliant, it was intermittent and infrequent and evidence of
10 such missed breaks would be anecdotal, and therefore individualized issues would predominate.

11 8. Ultimately the Parties agreed to attempt mediation and further agreed on a protocol
12 for an exchange of additional documents and information before the mediation to facilitate the
13 settlement discussions. Consequently, Plaintiff's counsel reviewed payroll records, compensation
14 plans, personnel policies/handbooks, meal and rest break policies, personnel files, and a random
15 sampling of Class Member paystubs and time records. Plaintiff then had those records analyzed by
16 consulting experts at Berger Consulting Group to look for, inter alia, violation rates for missed,
17 late and/or short meal breaks, potential damages from unpaid overtime, etc. Defendants also
18 provided data regarding the total number of putative class members, the estimated total amount of
19 workweeks and pay periods they worked, average pay rates, and information regarding other non-
20 hourly compensation, among other relevant data.

21 9. The Parties then engaged Steve Mehta, Esq., a respected professional neutral with
22 substantial wage and hour and class action experience. In May 2025, the Parties participated in a
23 full day mediation with Mr. Mehta. Throughout the day, the arms-length negotiations were hard-
24 fought and adversarial as the Parties exchanged extensive information on their legal and factual
25 positions, and made numerous offers and counter-offers, and ultimately reached agreement on all
26 major issues. With Mr. Mehta's assistance, the Parties also agreed to resolve the claims on both a
27 class and PAGA basis. The Parties then collaboratively drafted the Class Action and PAGA
28 Settlement ("Settlement Agreement") setting forth the settlement terms now before the Court for

1 approval. A fully-executed, true and correct copy of the Settlement Agreement is attached to the
2 Trenner Declaration as Exhibit 1. Plaintiff filed a First Amended Complaint adding class actions
3 and otherwise amending her allegations to conform the operative complaint to the terms of the
4 proposed settlement.

5 **THE PROPOSED SETTLEMENT TERMS**

6
7 10. Under the settlement, Elk Grove Motors will pay \$495,000 into a common fund, the
8 Gross Settlement Amount (“GSA”). Attorney’s fees of up to \$164,835 (33.3% of the GSA),
9 litigation costs of up to \$30,000, settlement administration costs of no more than \$6,990, a service
10 award to Plaintiff of no more than \$10,000, and PAGA civil penalties of \$45,000, all will be paid
11 from the GSA. The balance of around \$238,175 will be allocated pro rata to the Class Members
12 based on their weeks worked during the Class Period. No portion of the GSA will revert to Elk
13 Grove Motors.

14 11. The settlement provides for conditional certification of a settlement class including
15 all current and former non-exempt employees that worked either directly or via a staffing agency
16 for Defendants at any location in California at any time during the Class Period of June 17, 2023 to
17 June 30, 2025. The Settlement Class consists of about 671 individuals.

18 12. As noted, the settlement obligates Elk Grove Motors to pay \$495,000 to resolve the
19 Settlement Class’s claims, inclusive of attorney’s fees and costs. At least \$238,175 from the GSA
20 will be distributed to the Participating Class Members. This is a cash settlement that does not require
21 Participating Class Members to submit a claim form to receive their settlement share. Participating
22 Class Members will receive their settlement checks automatically via First Class U.S. Mail. Twenty-
23 percent of each settlement share will be allocated to wages and the remaining eighty percent will be
24 allocated to expenses, penalties and interest, which allocation is consistent with Elk Grove Motors’s
25 potential liability. Elk Grove Motors will pay any and all applicable employer-side payroll taxes
26 separately and in addition to the GSA. Subject to the Court’s approval, any amounts not claimed
27 (because a class member does not cash their settlement check) will be forwarded to the State
28 Controller’s Unclaimed Property Fund.

1 13. Each Participating Class Member will receive a share of the Net Settlement Amount
2 based on his or her total weeks worked in California as a non-exempt employee during the Class
3 Period. Thus, each Class Member's Individual Settlement Payment will be calculated using criteria
4 typically used in determining appropriate amounts of unpaid wages, unpaid premium wages for
5 missed meal and rest breaks, and potential statutory penalties under applicable law. These methods
6 are intended to ensure each Class Member receives a settlement award corresponding to the relative
7 value of their potential claims. The proposed allocation provides a reasonable way to compensate
8 Class Members based on the amount of time they worked for Elk Grove Motors in California and
9 the amount unpaid wages, the number of missed meal breaks and/or rest breaks, etc. I estimate the
10 average class award will be around \$355, while the average PAGA award for the 671 Aggrieved
11 Employees will be about \$16 each. There are an estimated 33,000 work weeks, and the average net
12 work week value will be about \$7.22, and there are 16,500 PAGA pay periods and the average net
13 pay period value will be about \$0.68.

14 14. Subject to the Court's approval, the Parties have agreed on Apex Class Action
15 ("Apex") as the Settlement Administrator. Apex is qualified and has significant experience
16 administering class action settlements, including numerous wage and hour matters. Apex's fees and
17 costs will not exceed \$6,990.00. If the Court approves less than the above amount, the difference
18 will remain in the Net Settlement Amount for distribution to the Participating Class Members.

19 15. The proposed Notice of Class Action Settlement (Exhibit A to the Settlement
20 Agreement) sets out information about this case and explains the basic settlement terms in plain
21 language. The Notice also sets forth the individualized information used to calculate Class
22 Members' Individual Settlement Payments and each Class Member's estimated settlement award.
23 The Notice likewise details the procedures for Class Members to dispute their individual
24 information, the procedure for submitting an objection to the Settlement, the procedure to request
25 exclusion, and the fact that any final judgment will bind all class members who do not opt out. Cal.
26 Rules of Court 3.769(f) and 3.766(d). In sum, the Notice provides the Class Members with the
27 information necessary to evaluate the Settlement and decide to participate in, opt out of, or object
28

1 to the proposed Settlement, and meets all requirements imposed by the California Rules of Court.
2 Coupled with the notice procedure, the Notice provides the best notice practicable.

3 16. Class Members will have forty-five (45) days to dispute the information in their
4 Notice used to calculate their settlement award, and also have 45 days to submit any objections to
5 the settlement or to request exclusion. If a Class Member disputes their individual information,
6 the Settlement Administrator will review the Class Member's records and any other information
7 submitted, and make a final determination.

8 17. All Participating Class Members will release Elk Grove Motors from all claims
9 alleged in the operative complaint, or that could have been brought based on the factual
10 allegations in the complaint during the Class Period. The release is limited to the claims that were
11 actually pleaded or could have been pleaded based on the alleged facts in the complaint.

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

22 19. The terms of the Parties' settlement also allow Plaintiff's counsel to apply for an
23 award of attorney's fees of up to 33.3% of the GSA, or \$164,835.00 and reimbursement of actual
24 costs and expenses of up to \$30,000.00. While Plaintiff will request a fee award based on a
25 percentage of the common fund, as provided in the Court's Checklist, my office will submit a
26 request for attorney's fees and actual litigation costs at final approval per the terms of the
27 Settlement Agreement and applicable law, and will provide the Court with appropriate
28 information and evidence regarding hourly rates, tasks performed, and time expended on the case

1 in support of a full lodestar analysis for crosscheck purposes. If the Court approves less than the
2 above amounts, the difference will remain in the Net Settlement Amount for distribution to the
3 Participating Class Members. Further, Crosner Legal will not share any fees awarded with any
4 other attorney or law firm.

5 20. As noted, the Parties allocated \$45,000 to resolution of Plaintiff's alleged claims
6 under PAGA, which Plaintiff submits is fair, reasonable, and adequate, and furthers PAGA's
7 underlying purposes. Consistent with PAGA, \$33,750 of that amount will go to the LWDA for
8 the State's share of the civil penalties, while the remaining \$11,250 will be distributed pro rata to
9 eligible Aggrieved Employees.

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

11 21. The class is both sufficiently numerous, consisting of approximately 671
12 individuals, and ascertainable by reference to Defendants' personnel and payroll records.

13 22. Plaintiff is an adequate class representative, as her claims do not conflict with and
14 are not antagonistic to the claims of other class members. Further, her claims are typical as she is a
15 member of the class and her claims arise from the same employment practices and course of
16 conduct giving rise to the claims of the other class members.

17 23. Next, common questions of law and fact predominate – particularly for purposes of
18 a settlement class – as the Class Members all were paid via substantially similar company-wide
19 policies that resulting in off the clock work, underpaid overtime, missed/non-compliant meal and
20 rest breaks, etc. Since the focus of the claims against Elk Grove Motors concerns the legality of
21 common policies applied uniformly to the entire class, common issues predominate over
22 individualized inquiries concerning liability. For instance, Elk Grove Motors's compensation
23 plans either properly paid the class members for overtime hours worked or they did not.
24 Regardless of these determinations, it will decide liability for all Class Members one way or
25 another.

26 24. Resolving this matter as a class action is superior to other available means for the
27 fair and efficient adjudication of this controversy for multiple reasons, including inter alia: (a)
28 individual joinder of all members of the class is impractical, (b) class action treatment will permit

1 a large number of similarly situated persons to resolve their common claims in a single forum
2 simultaneously, efficiently, and without unnecessary duplication of effort and expense; and (c) the
3 damages suffered by many of the individual class members are relatively small and the expenses
4 and burden of individual litigation would make it difficult or impossible for them to seek redress
5 on their own.

6 **The Proposed Settlement Meets the Dunk and Kullar Factors and is within the Range of**

7 **Reasonableness**

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

18 26. Using that data, we ran various calculations and estimated Elk Grove Motors's
19 likely maximum exposure on the class claims at approximately \$7,650,140, including about
20 \$470,259 on the off the clock/unpaid wage claims, about \$198,000 on the regular rate claim,
21 approximately \$1,993,200 on the meal period claims, about \$1,993,200 on the rest period claims,
22 around \$165,000 on the expense reimbursement claims, approximately \$1,616,450 on the wage
23 statement claims, and \$1,214,040 on the waiting time penalty claims.

24 27. We estimated these amounts as follows:

25 **Unpaid Wages/Off the Clock**

26 33,000 workweeks * 1 hour OTC/week * \$14.25/hour avg. min. wage = \$470,250

27 **Underpaid Overtime/Regular Rate**

28 33,000 work weeks * 30% weekly violation rate * \$20/week avg. underpayment = \$198,000

1 **Meal Break Violations**

2 33,000 work weeks * 4 violations/week * \$15.10/hour avg. wage = \$1,993,200

3 **Rest Break Violations**

4 33,000 work weeks * 4 violations/week * \$15.10/hour avg. wage = \$1,993,200

5 **Expense Reimbursement**

6 33,000 work weeks * \$5/week phone reimbursement = \$165,000

7 **Wage Statement Violations**

8 671 initial violations * \$50/violation + 15,829 subsequent violations * \$100/violation =
9 \$1,616,450

10 **Waiting Time Penalties**

11 335 terminated employees * (\$15.10/hr * 240 hours) = \$1,214,040

12 28. The unpaid wage claims focus primarily on Elk Grove Motors's alleged failure to
13 pay Class Members at least minimum wages and/or overtime wages for all of their hours worked.
14 First, Plaintiff alleged a policy whereby management pressured Plaintiff and other class members
15 to work "off the clock" both before and after the scheduled start/stop times for their shifts, and
16 also to work during their meal periods. For instance, employees would have to spend several
17 minutes booting up their work computers and logging in to company systems in order to be ready
18 to work exactly on time, or would have to respond to customer calls and texts while purportedly
19 clocked out for a lunch break. Plaintiff also alleges Defendants failed to incorporate all employee
20 compensation into the regular rate of pay calculations when paying overtime and sick pay as
21 required by Alvarado v. Dart Container Corp. (2018) 4 Cal.5th 542 (2018), Here, Plaintiff alleges
22 class members earned various non-discretionary commissions and bonus compensation but were
23 paid for overtime and sick pay at 1.5x their base hourly wage instead the correct "regular rate." It
24 must be noted, however, that the regular rate calculation typically increases the overtime rate by
25 only a few dollars per hour and only applies to overtime hours.

26 29. In response, Elk Grove Motors argued its payroll policies are fully compliant, that
27 it properly tracked and paid for all hours worked at the appropriate hourly wage. Defendants also
28 argued that, if any class members failed to record and report time it was in violation of company

1 policy and would have occurred on a haphazard and individual basis. Accordingly Defendants
2 argued the issue would not be certifiable since it would require individualized inquiries whether
3 any compensable “off the clock” work occurred and why it was or was not documented and paid
4 for.

5 30. On the meal and rest break claims, Plaintiff contends Elk Grove Motors’s written
6 policies are not fully compliant, and as noted Plaintiff and other class members regularly during or
7 through their breaks at the behest of supervisors and/or to respond to customer inquiries. Plaintiff
8 further contends Defendants did not fully relinquish control over employees and restricted certain
9 activities, such as napping or using social media, while clocked in to include during breaks. Per
10 Plaintiff, she was required to perform at least some work during most meal breaks and rarely
11 received rest breaks at all under pressure to be more productive.

12 31. In response, Elk Grove Motors argued its written policies are fully compliant,
13 particularly after settling the prior wage and hour class action, and that it provided employees with
14 the opportunity to receive all required breaks. Defendants further maintained that, in light of their
15 compliant policies and the fact that it provided employees with the opportunity to all required
16 breaks, whether a class member missed a meal period, received a late meal period, or missed a rest
17 break would have been aberrational and against company policy. Thus, per Elk Grove Motors,
18 these issues are not amenable to class or representative treatment since their resolution would
19 require individualized inquiries as to why a break was missed or non-compliant.

20 32. On the expense reimbursement claim, Plaintiff alleges use of her personal cellular
21 phone was necessary and consequential to her employment duties for purposes of group messaging,
22 communicating with clients, and receiving work-related calls and texts. Defendants did not
23 reimburse employees for the cost associated with the use of the personal cellular phones for
24 Defendants’ benefit. In response, Elk Grove Motors argued it provided employees with all tools
25 and equipment necessary to perform their job duties and, to the extent employees used their own
26 phones, it was purely for personal convenience, was not necessary to their employment, and
27 therefore was not reimbursable under Labor Code § 2802.

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

6 34. As far as potential PAGA liability, the allegedly aggrieved employees theoretically
7 are entitled to penalties totaling around \$8.25 million in civil penalties should Plaintiff prevail on
8 all claims and establish violations of the multiple Labor Code sections at issue for every single
9 pay period. As with the class claims, Plaintiff discounted the potential PAGA penalties based on
10 Defendants’ various defenses on the merits and also accounted for the Court’s wide discretion to
11 reduce such penalties, or to decline to award penalties at all. Accordingly, the Parties allocated
12 \$45,000 to PAGA penalties, and Plaintiff submits this amount is reasonable under the
13 circumstances and in line with comparable settlements in other wage and hour class actions in
14 California. Additionally, the LWDA has been informed of the terms of the PAGA portion of the
15 settlement, and will be able to weigh in as necessary.

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

25 36. Plaintiff and I discounted the value of the class claims consistent with the risks
26 discussed above, and carefully weighed the likelihood of the class receiving substantially greater
27 benefit if the litigation continued. We concluded – in light of these very real and substantial risks –
28 settlement on the proposed terms and without prolonged and costly litigation was in the best

1 interests of the class, and the overall \$495,000 recovery represents a significant percentage of
2 Defendants' potential exposure. Given these risks, a total recovery for the class of \$495,000,
3 which will result in average award of over \$355 per class member, is a significant result well
4 within the range of reasonableness considering all potential outcomes, and it will provide direct
5 monetary awards to all Class Members without further delay.

6 **CROSNER LEGAL'S QUALIFICATIONS**

7 37. I graduated from Trinity Law School in 2017 and joined Mara Law Firm, PC
8 (formerly The Turley and Mara Law Firm, APLC) that same year. I later joined Crosner Legal in
9 2020 and am currently employed as a senior associate in the wage and hour department. I have
10 solely handled wage and hour class actions and PAGA lawsuits for six (6) years. I routinely
11 write and oppose motions, draft complaints, appear before the Court at law and motion and
12 settlement hearings, engage in the discovery process, including drafting Belaire-West notices
13 and meet and confer letters.

14 38. I have obtained class certification in the following matters: *Hernandez v. Aviation*
15 *Port Services, LLC*, Kern County Superior Court Case No. BCV-18-100141. I have also assisted
16 in obtaining millions of dollars for employees in the following court-approved class action
17 and/or representative PAGA settlements: *Michael Campbell, et al. v. Symons Emergency*
18 *Specialities, Inc.*, San Bernardino County Superior Court Case No. CIVDS1903158; *Amber*
19 *Collins v. Danbarb, Inc., et al.*, Los Angeles County Superior Court Case No. 20STCV44190;
20 *Michael Elridge v. LA Downtown Medical Center, LLC, et al.*, Los Angeles County Superior
21 Court Case No. 20STCV05951; *Anthony Leon, et al. v. Sierra Aluminum Company, et al.*, San
22 Bernardino County Superior Court Case No. CIVDS2010856; *Elaine Moyal v. Cabinets To Go,*
23 *LLC*, Los Angeles County Superior Court Case No. 20STCV32477; *Genevieve Rangel v. Bassett*
24 *Direct NC, LLC*, Orange County Superior Court Case No. 30-2018-01040101-CU-OE-CXC;
25 *Jacob Buys v. Sizewise Rentals, Inc., et al.*, Sacramento County Superior Court Case No. 34-
26 2018-00225848-CU-OE-GDS; *Alejandro Valencia v. VM Tree Service, Inc., et al.*, Riverside
27 County Superior Court Case No. RIC1819395; *Joshua Rael v. Intercontinental Hotels Group*
28 *Resources, Inc.*, Los Angeles County Superior Court Case No. 19STCV16010; *Angel Cervantez*

1 v. *Valley Pallet, Inc.*, Sacramento County Superior Court Case No. 34-2018-00234334-CU-OE-
2 GDS; *Tonja Edwards-Bloodsaw v. Sandburst Convalescent Group, LTD*, et al., Los Angeles
3 Superior Court Case No. 19STCV15797; *Moriah Holtegaard, et al. v. Howroyd-Wright*
4 *Employment Agency, Inc. dba AppleOne Corporation Services, et al.*, Central District Court of
5 California, Eastern Division, Case No. 5:20-cv-00509 JGB (KKx); *Jade Findley, et al. v.*
6 *Avenue5 Residential, LLC, et al.*, Los Angeles County Superior Court Case No. 20STCV34633;
7 *Keivan Keyhanzad v. Ryan Cars, LLC dba Pomona Kia, et al.*, Riverside County Superior Court
8 Case No. RIC1905276; *Luis Bolanos v. FSC Corporation dba Il Pastaio Restaurant, et al.*, Los
9 Angeles County Superior Court Case No. BC722758; *Loretta Cannon v. Pasadena Hospital*
10 *Association, LTD dba Huntington Hospital*, Los Angeles County Superior Court Case No.
11 19STCV14554; *Nathan Kapusta v. Cardinale Motors SLO, Inc., et al.*, Kern County Superior
12 Court Case No. BCV-20-101593; and *Jesse McCauley v. Mullahey Ford, Inc., et al.*, San Luis
13 Obispo County Superior Court Case No. 21CV0001.

14 39. Zach Crosner is a 2010 graduate of University San Diego School of Law, and has
15 some 15 years of experience as a practicing attorney, all of which have focused on litigation of
16 employment, labor law, consumer, and class action claims. Following graduation, he
17 immediately began working for a nationally recognized plaintiff's complex litigation firm,
18 CaseyGerry, where he had the fortune of working directly with past presidents of the consumer
19 attorneys and recipients of trial attorneys of the year awards. He also worked for former
20 CAALA and CLAY trial attorney of the year recipient, attorney Conal Doyle, as his sole
21 associate attorney. During his tenure at these firms, he focused on advocating for the rights of
22 consumers and employees in class action litigation, civil rights and employment litigation,
23 catastrophic injuries, insurance bad faith and appellate litigation.

24 40. In 2013, Mr. Crosner founded the law firm of Crosner Legal, P.C. which since its
25 inception has focused almost exclusively on wage and hour class actions and other labor and
26 employment law cases representing plaintiffs. Currently, over ninety percent (90%) of his
27 practice is dedicated exclusively to the prosecution of wage and hour class actions, and Crosner
28 Legal is currently responsible as lead counsel or co-lead counsel for prosecuting well over fifty

1 (50) wage and hour class actions and/or PAGA representative actions in both federal and state
2 courts throughout California.

3 41. Mr. Crosner currently is an executive board member of the Wage and Hour
4 Committee and the Legislative Committee for the California Employment Lawyers Association;
5 a member of the Grassroots Advocacy Team for the National Employment Lawyers Association;
6 Wage and Hour Committee member and Class Action Committee member for the National Trial
7 Lawyers; a member of the American Association for Justice; and member of the Pound Civil
8 Justice Institute. He was selected for 2018-20 by Super Lawyers as a “Southern California
9 Rising Star” for employment and labor law.

10 42. Jamie Serb is a partner with Crosner Legal and head of the firm’s Wage & Hour
11 practice group. She graduated from the University of California, San Diego in 2004 and
12 graduated from California Western School of Law in 2013, and has been a member of the
13 California Bar since 2013. She gained extensive experience in wage and hour litigation,
14 beginning work as a class action attorney in 2015 at the Mara Law Firm, PC (previously Turley
15 & Mara Law Firm, APLC; Turley Law Firm, APLC). She has handled wage and hour class
16 actions and PAGA lawsuits for some 10 years and has assisted in obtaining millions of dollars
17 for employees during her years of practice.

18 43. Crosner Legal, P.C. has obtained several multi-million dollar wage and hour class
19 action settlements while serving as lead class counsel in recent years, including but not limited to a
20 \$1.9 million wage and hour class action settlement in 2015 (*Smith v. Lux Retail North America,*
21 *Inc.*, Case No. 3:13-cv-01579-WHA (N.D. Cal.)); a \$4.1 million wage and hour class action
22 settlement in 2016 (*Aguirre v. Mariani Nut Company, Inc. et al.*, Case No. 34- 2016-00190252
23 (Sacramento Cty. Super Ct.)); a \$1.35 million wage and hour class action settlement in 2017
24 (*Montelone v. Ocean Cities Pizza, Inc.*, Case No. 56-2014-00458249 (Ventura Cty. Super. Ct.)), a
25 \$1.8 million wage and hour class action settlement in 2018 (*Latham v. K.W.P.H. Enterprises, Inc.*
26 *dba American Ambulance*, Case No. 17C-0162 (Kings Cty. Super Ct.)), a \$1.3 million wage and
27 hour class action settlement in 2019 (*Means, et al. v. AirGas USA, LLC*, Case No. 17-CV-2160
28 JGB (C.D. Cal.)), a \$1.5 million wage and hour settlement in 2020 (*Babouchian, et al. v.*

1 *Wyndham Vacation Ownership, et al.*, Case No. CV18-14601 (San Diego Cty. Super. Ct.), a \$1.15
2 million wage and hour class action settlement in 2020 (*Buford v. Medical Solutions LLC*, Case No.
3 4:18-CV-04864-YGR (N.D.Cal.)); a \$7.25 million wage and hour class action settlement in 2020
4 in *Avina, et al. v. First Alarm Security & Patrol, Inc.*, Case No. 18CV323753 (Santa Clara Cty.
5 Super Ct.); a \$2.2 million wage and hour class action settlement in 2021 (*Ghorchian, et al. v. West*
6 *Hills Hospital, et al.*, Case No. LS029737 (Los Angeles Cty. Super. Ct.)); a \$2.85 million dollar
7 wage and hour settlement in 2021 (*Valencia v. The Original Mowbray's Tree Service, Inc.*, Case
8 No. CIVDS1825518 (San Bernardino Cty. Super. Ct.)); a \$1 million wage and hour class action
9 settlement in 2022 (*Duong v. Loan Factory, Inc.*, Case No. 21CV382467 (Santa Clara Cty. Super.
10 Ct.)), a \$1.4 million wage and hour class action settlement in 2023 in *Correa, et al. v. FedEx*
11 *Supply Chain, Inc.*, Case No. CIVDS2023369 (San Bernardino Cty. Super. Ct.), a \$2.38 million
12 wage and hour class action settlement in 2023 in *Michel, et al. v. Valley Thrift Store, Inc.*, Case
13 No. 21STCV00925 (Los Angeles Cty. Super. Ct.); a \$2.5 million wage and hour class action
14 settlement in 2023 in *Jajuga v. Pilot Travel Centers*, Case No. CIVDS1931464 (San Bernardino
15 Cty. Super. Ct.); \$1.015 million wage and hour class action settlement in 2023 in *Gotishan v. Kyo*
16 *Autism Therapy*, Case No. CGC-21-596378 (San Francisco Cty. Super. Ct.); and a \$1.15 million
17 wage and hour PAGA settlement in 2023 in *Vaughn v. Public Health Foundation Enters., Inc.*,
18 Case No. 21STCV18512 (Los Angeles Cty. Super. Ct.); a \$1.5 million wage and hour class action
19 settlement in *McKinnie v. Iron Mountain*, Case No. 21STCV05707 (Los Angeles Cty. Super.
20 Court); a \$1.3 million wage and hour class action settlement in *Ellsworth, et al. v. Hallcon*, Case
21 No. 20STCV06618 (Los Angeles Cty. Super. Court); a \$1.925 million wage and hour class
22 settlement in 224 in *Lo v. Cyberpower, Inc.*, Case No. 21STCV31479 (Los Angeles Cty. Super.
23 Ct.); a \$1.19 million dollar wage and hour class action settlement in 2024 in *Herrera v. Signature*
24 *Flight Support LLC*, Case No. 22STCV18367 (Los Angeles Cty. Super. Ct.); a \$2.65 million wage
25 and hour class action settlement in 2024 in *Shilevinatz v. Airport Terminal Services*, Case No.
26 CIVSB2229072 (San Bernardino Cty. Super Ct.); a \$1 million wage and hour class action
27 settlement in 2025 in *Hernandez v YZER, LLC*, Case No. 23CV025345 (Alameda Cty. Superior
28 Ct.); a \$3.9 million wage and hour class action settlement in 2025 in *Bolanos et al. v. Newport*

1 *Fab*, Case No. 30-2022-01280696-CU-OE-CXC (Orange Cty. Super. Ct.); and a \$5,093,537.50
2 wage and hour class action settlement in 2025 in *Deaver et al. v Blue Diamond Growers*, Case No.
3 34-2022-00316490-CU-OE-GDS (Sacramento Cty. Super. Ct.); a \$5.6 million wage and hour
4 class action settlement in 2025 in *Goodwin et al. v Save Mart*, Case No. STK-CV-UOE-2023-
5 0002062 (San Joaquin Cty. Super. Ct.); a \$2.85 million wage and hour class action settlement in
6 2025 in *Munoz et al. v XPO Logistics*, Case No. 23CV003704 (Sacramento Cty. Super. Ct.); and a
7 \$1.3 million wage and hour class action settlement in 2025 in *Bui v. Spectrum Lifesciences*, Case
8 No. 22STCV12522 (Los Angeles Cty. Super. Ct.).

9 44. For the foregoing reasons, it is respectfully requested that the Court approve the
10 settlement.

11 I declare under penalty of perjury under the laws of the State of California that the
12 foregoing is true and correct. Executed on December 9, 2025, at Los Angeles, California.

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15 _____
16 Declarant
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Exhibit 1

CLASS AND REPRESENTATIVE PAGA ACTION SETTLEMENT AGREEMENT

This Class and Representative PAGA Action Settlement Agreement (“Agreement”) is made by and between Plaintiff Michelle Thomas (“Plaintiff”) and Defendants Elk Grove Motors, Inc., Selma Motors, Inc., Selma Auto Mall, Inc., and Selma Auto Mall III, Inc. (“Defendants”). The Agreement refers to Plaintiff and Defendants collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “**Action**” means Plaintiff’s lawsuit seeking civil penalties under the PAGA for Defendants alleged wage and hour violations, captioned *Michelle Thomas v. Elk Grove Motors, Inc., et al.*, filed on August 21, 2023, and pending in Superior Court of the State of California, County of Sacramento, Case No. 23CV007153.
- 1.2. “**Administrator**” means Apex Class Action Administration the neutral entity the Parties have agreed to appoint to administer the Settlement. In the event that Apex Class Action Administration is unable or unwilling to serve as Administrator in this matter, the Parties will agree on an alternative Administrator.
- 1.3. “**Administration Expenses Payment**” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “**Aggrieved Employee(s)**” means all current and former non-exempt employees that worked either directly or via a staffing agency for Defendants at any location in California at any time during the PAGA Period.
- 1.5. “**Class**” means all current and former non-exempt employees that worked either directly or via a staffing agency for Defendants at any location in California at any time during the Class Period.
- 1.6. “**Class Counsel**” means Nikki Trenner, Jamie Serb, and Zachary Crosner of Crosner Legal, P.C., the attorneys representing Plaintiff and the Class in the Action.
- 1.7. “**Class Counsel Fees Payment**” means the amount allocated to Class Counsel for reimbursement of reasonable attorneys’ fees incurred to prosecute the Action, in an amount not to exceed 33.3% (\$164,835.00) of the Gross Settlement Amount.
- 1.8. “**Class Counsel Litigation Expenses Payment**” means the amount allocated to Class Counsel for reimbursement of actual expenses incurred to prosecute the Action, in an amount not to exceed \$30,000.00.
- 1.9. “**Class Data**” means Class Member identifying information in Defendants’ possession including the Class Member’s name, last-known mailing address, Social Security number, e-mail addresses (if known), and number of Semi-Monthly Pay Periods (or their equivalent) during the Class Period.

- 1.10. **“Class Member”** or **“Settlement Class Member”** means a member of the Class, as either a Participating Class Member or Non-Participating Class Member.
- 1.11. **“Class Member Address Search”** means the Administrator’s investigation and search for current Class Member and Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.12. **“Class Notice”** means the Court approved notice of the proposed settlement, to be mailed to Class Members in English with a Spanish translation, in the form, without material variation, attached as **Exhibit A** and incorporated by reference into this Agreement.
- 1.13. **“Class Period”** means the period of time from June 17, 2023 to June 30, 2025.
- 1.14. **“Class Representative”** means the named Plaintiff, Michelle Thomas, in the operative complaint in the Action who is seeking Court approval to serve as a Class Representative.
- 1.15. **“Class Representative Service Payment”** means the payment to the Class Representative for initiating the Action and providing services in support of the Action, in an amount not to exceed \$10,000.00.
- 1.16. **“Court”** means the Superior Court of California, County of Sacramento.
- 1.17. **“Defendants”** means named Defendants Elk Grove Motors, Inc., Selma Motors, Inc., Selma Auto Mall, Inc., and Selma Auto Mall III, Inc.
- 1.18. **“Defense Counsel”** means Dave Reese and Tom Porter of Fine, Boggs & Perkins LLP.
- 1.19. **“Effective Date”** means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.20. **“Final Approval”** means the Court’s order granting final approval of the Settlement.
- 1.21. **“Final Approval Hearing”** means the Court’s hearing on the Motion for Final Approval of the Settlement.

- 1.22. **“Final Judgment”** means the Judgment entered by the Court upon granting Final Approval of the Settlement.
- 1.23. **“Gross Settlement Amount”** means \$495,000.00, which is the total amount Defendants agree to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, the Class Representative Service Payment and the Administrator’s Expenses.
- 1.24. **“Individual Class Payment”** means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of calendar semi-monthly pay periods during which the Participating Class Member worked during the Class Period relative to such calendar semi-monthly pay periods during which all Participating Class Members worked during the Class Period.
- 1.25. **“Individual PAGA Payment”** means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties, pursuant to Labor Code section 2699, subd. (m), calculated according to the number of calendar semi-monthly pay periods during which the Participating Class Member worked during the Class Period relative to such calendar semi-monthly pay periods during which all Participating Class Members worked during the Class Period.
- 1.26. **“Judgment”** means the judgment entered by the Court based upon the Final Approval.
- 1.27. **“LWDA”** means the California Labor and Workforce Development Agency.
- 1.28. **“LWDA PAGA Payment”** means the 75% share of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (m).
- 1.29. **“Net Settlement Amount”** means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.30. **“Non-Participating Class Member”** means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.31. **“Operative Complaint”** means the First Amended Complaint that will be filed in advance of filing Plaintiff’s Motion for Preliminary Approval in the Action, articulating class claims addressed during negotiations at mediation.
- 1.32. **“PAGA”** means the Private Attorneys General Act of 2004 (California Labor Code §§ 2698, *et seq.*).

- 1.33. **"PAGA Notice"** means Plaintiff's letter, submitted on June 16, 2023, to Defendants and the LWDA, providing notice pursuant to Labor Code section 2699.3, subd. (a).
- 1.34. **"PAGA/Class Pay Period"** means any calendar semi-monthly period during which an Aggrieved Employee worked for Defendants for at least one day during the PAGA Period and Class Period.
- 1.35. **"PAGA Penalties"** means the total amount of PAGA civil penalties (\$45,000.00) to be paid from the Gross Settlement Amount, of which 25% (\$11,250.00) is allocated to the Aggrieved Employees and 75% (\$33,750.00) is allocated to the LWDA in settlement of PAGA claims.
- 1.36. **"PAGA Period"** means the time period from June 17, 2023, to June 30, 2025.
- 1.37. **"Participating Class Member"** means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.38. **"Plaintiff"** means Michelle Thomas, the named plaintiff in the Action.
- 1.39. **"Preliminary Approval"** means the Court's Order Granting Preliminary Approval of the Settlement.
- 1.40. **"Preliminary Approval Order"** means the proposed Order Granting Preliminary Approval.
- 1.41. **"Released Class Claims"** means the claims being released as described in Paragraph 6.2 below.
- 1.42. **"Released PAGA Claims"** means the claims being released as described in Paragraph 6.3 below.
- 1.43. **"Released Parties"** means: (a) Defendants and all their parent, subsidiary, and affiliated entities, including all corporations, partnerships, members, divisions and joint ventures, all officers, directors, shareholders, managers, supervisors, partners, employees, agents, attorneys, successors and assigns; as well as (b) all officers, directors, shareholders, managers, supervisors, partners, employees, agents, attorneys, successors and assigns of each parent, subsidiary, and affiliated entity; as well as (c) all individuals or entities within the scope of Labor Code section 558.1 with respect to any of the claims released herein. Released Parties specifically includes, but is expressly not limited to, Dwight Nelson.
- 1.44. **"Request for Exclusion"** means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.45. **"Response Deadline"** means 45 days after the Administrator mails Notice to Class Members, and shall be the last date on which Class Members may: (a) fax, email, or

mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

- 1.46. “**Settlement**” means the disposition of the Action effected by this Agreement and the Judgment.

2. RECITALS.

- 2.1 On June 16, 2023, Plaintiff submitted notice of her claims under the PAGA to the LWDA and Defendants.
- 2.2 On August 21, 2023, Plaintiff commenced this Action by filing a Complaint for civil penalties, alleging Defendants’ violation of various Labor Code provisions under the PAGA.
- 2.3 On September 27, 2023, Defendants filed a petition to compel arbitration. After reviewing the arbitration agreement, Plaintiff agreed to stipulate to arbitration. On November 15, 2023, the Court granted the Parties’ stipulation to arbitrate Plaintiff’s individual claims and stay the representative claims.
- 2.4 On or around November 14, 2023, Plaintiff filed a demand for arbitration with ADR Services.
- 2.5 Defendants deny the allegations in the Operative Complaint and arbitration demand, denies any failure to comply with the laws identified in in the Operative Complaint and arbitration demand, and denies any and all liability for the causes of action alleged.
- 2.6 On May 8, 2025, the Parties participated in an all-day mediation presided over by Steve Mehta, Esq., which led to this Agreement to settle the Action.
- 2.7 Prior to mediation, Plaintiff obtained, through informal discovery, Plaintiff’s personnel records, class time and payroll records, and the wage and hour policies applicable to Class Members during the Class Period, as well as data regarding the number of Class Members, Aggrieved Employees, and worked PAGA/Class Pay Periods. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).
- 2.8 This Settlement was reached prior to the Court reaching a determination on class certification or on the merits. The Parties, Class Counsel, and Defense Counsel recognize the expense and length of continued proceedings necessary to continue the litigation against Defendants through class certification, trial, and through any possible appeals. Plaintiff and Class Counsel have considered the uncertainty and risk

of further litigation, the potential outcome, and the difficulties and delays inherent in such litigation. Plaintiff and Class Counsel have conducted extensive settlement negotiations. Based on the foregoing, Plaintiff and Class Counsel believe the Settlement set forth in this Agreement is a fair, adequate, and reasonable settlement, and is in the best interest of the Class. Defendants recognize that the defense of this litigation will be protracted and expensive. Substantial amounts of time, energy, and resources of Defendants has been and, unless this Settlement is made, will continue to be devoted to the defense of the claims asserted by Plaintiff. Defendants, therefore, have agreed to settle in the manner and upon the terms set forth in this Agreement to put to rest the Released Claims.

3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendants promise to pay \$495,000.00 and no more as the Gross Settlement Amount. Defendants further promise to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendants have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendants.
- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:
 - 3.2.1. To Plaintiff: The Class Representative Service Payment to the Class Representative of not more than \$10,000.00 (in addition to any Individual Class Payment the Class Representative is entitled to receive as a Participating Class Member). Defendants will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. Plaintiff will seek no later than 16 court days prior to the Final Approval Hearing Court approval for any Class Representative Service Payments. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.
 - 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33.3% of the Gross Settlement Amount, which is currently estimated to be \$164,835.00 and a Class Counsel Litigation Expenses Payment of not more than \$30,000.00. Defendants will not oppose requests for these payments provided they do not exceed these amounts. Plaintiff will seek no later than 16 court days prior to the Final Approval Hearing Court approval for the Class Counsel

Fees Payment and Class Litigation Expenses Payment. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion of the Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment using IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$6,900.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$6,900.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$45,000.00 to be paid from the Gross Settlement Amount, with 75% (\$33,750.00) allocated to the LWDA PAGA Payment and 25% (\$11,250.00) allocated to the Individual PAGA Payments.

3.2.4.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties by the number of PAGA/Class Pay Periods worked by all Aggrieved Employees during the PAGA Period; and (b) multiplying the result by the number of PAGA/Class Pay Periods worked by each individual Aggrieved Employee during the PAGA Period. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. All Aggrieved Employees will be entitled to payment for at least one PAGA/Class Pay Period.

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

3.2.5. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of PAGA/Class Pay Periods worked by all Participating Class Members during the Class Period; and (b) multiplying the result by the number of PAGA/Class Pay Periods worked by each individual Participating Class Member during the Class Period. All Participating Class Members will be entitled to payment

for at least one PAGA/Class Pay Period.

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

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

4. SETTLEMENT FUNDING AND PAYMENTS.

- 4.1. Class Estimates. Defendants estimate there are approximately 671 Class Members and Aggrieved Employees who collectively worked approximately 16,500 calendar semi-monthly pay periods between June 17, 2023 and March 31, 2025.
- 4.2. Class Data. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, Defendants will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendants have a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendants must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 4.3. Funding of Gross Settlement Amount. Defendants shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendants' share of payroll taxes by transmitting the funds to the Administrator no later than 14 days after Administrator confirms the final amounts required, taking into consideration the Gross Settlement Amount, any taxes required, and any Escalation as provided for herein.

- 4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendants fund the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.
- 4.4.1. Check Mailing. The Administrator will issue checks for the Individual Class Payments and Individual PAGA Payments and send them to the Class Members and Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Class Payments and Individual PAGA Payments to all Participating Class Members and Aggrieved Employees (including those for whom Class Notice was returned undelivered). Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
- 4.4.2. Undelivered Checks. The Administrator must conduct a Class Member Address Search for all other Class Members and Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members and Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member and Aggrieved Employee whose original check was lost or misplaced, requested by the Class Member or Aggrieved Employee prior to the void date.
- 4.4.3. Uncashed Funds. For any Class Member or Aggrieved Employee whose settlement check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member or Aggrieved Employee thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).
- 4.4.4. No Effect on Employee Benefits. The payment of Individual Class Payments shall not obligate Defendants to confer any additional benefits or make any additional payments to Class Members or Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

6. **RELEASES OF CLAIMS.** Effective on the date when Defendants fully fund the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members and Aggrieved Employees will release claims against all Released Parties as specified below:

6.1 Plaintiff's Release. Plaintiff and Plaintiff's respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint or ascertained during the Action and released under 6.2, below ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

6.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes 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.

6.2 Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint, including claims for: (a) recovery of unpaid minimum wages and liquidated damages; (b) recovery of unpaid overtime wages; (c) failure to provide meal periods or compensation in lieu thereof; (d) failure to provide rest periods or compensation in lieu thereof; (e) failure to furnish accurate itemized wage statements; (f) failure to timely pay all wages due upon separation of employment; (g) failure to reimburse business expenses; and (h) violations of the Unfair Competition Law. Except for the PAGA Released Claims, if applicable, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment

and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

- 6.3 Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA Penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice, including (a) failure to pay minimum wages; (b) failure to pay overtime wages; (c) failure to provide meal periods or compensation in lieu thereof; (d) failure to provide rest periods or compensation in lieu thereof; (e) failure to furnish accurate itemized wage statements; (f) failure to timely pay all wages upon separation of employment; (g) failure to reimburse business expenses; (h) failure to pay vested vacation/paid time off; (i) violation of Labor Code § 208; (j) unlawful deductions; (k) seating violations; (l) reporting pay violations; (m) failure to maintain accurate records; (n) failure to provide paid sick leave; (o) unlawful agreements and criminal inquiries; and (p) violation of Labor Code § 432.6.

7. **MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals.

- 7.1 Amended Compliant. Prior to filing the Motion for Preliminary Approval, the Parties will stipulate to the filing of a First Amended Complaint in the Action, which will add class claims for (a) recovery of unpaid minimum wages and liquidated damages pursuant to Labor Code §1194.2; (b) recovery of unpaid overtime wages; (c) failure to provide meal periods or compensation in lieu thereof; (d) failure to provide rest periods or compensation in lieu thereof; (e) failure to furnish accurate itemized wage statements; (f) failure to timely pay all wages due upon separation of employment; (g) failure to reimburse business expenses; (h) interest on unpaid wages pursuant to Labor Code § 218.6; (i) attorneys' fees pursuant to Code of Civil Procedure 1021.5; (j) secretly paying a lower wage in violation of Labor Code §223.3; and (k) violations of the Unfair Competition Law, Business and Professions Code §§ 17200 et seq.
- 7.2 Defendants' Declaration in Support of Preliminary Approval. In advance of the filing of the Motion for Preliminary Approval, Defendants will prepare and deliver to Class Counsel a signed Declaration from Defendants and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator, if any.
- 7.3 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the Motion for Preliminary Approval documents that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699; (ii) a draft proposed Order Granting Preliminary Approval of the Class and PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for

administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; and all facts relevant to any actual or potential conflict of interest with Class Members and the Administrator and the timely transmission to the LWDA of all necessary PAGA documents required by Labor Code section 2699; (vii) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court.

- 7.4 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.
- 7.5 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

8. SETTLEMENT ADMINISTRATION.

- 8.1 Selection of Administrator. The Parties have jointly selected Apex Class Action Administration, to serve as the Administrator and verified that, as a condition of appointment, Apex Class Action Administration agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 8.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 8.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that

meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.

8.4 Notice to Class Members.

- 8.4.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members and PAGA/Class Pay Periods in the Class Data.
- 8.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice with Spanish translation, substantially in the form attached to this Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and Individual PAGA Payment payable to the Class Member and Aggrieved Employee, and the number of PAGA/Class Pay Periods used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- 8.4.3 Not later than 3 business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- 8.4.4 The deadlines for Class Members’ written objections, challenges to PAGA/Class Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the Response Deadline otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- 8.4.5 If the Administrator, Defendants, or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline

dates in the Class Notice, which ever are later.

8.5 Requests for Exclusion (Opt-Outs).

8.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion by the Response Deadline (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

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

8.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraph 6.2 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

8.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.3 of this Agreement and are eligible for an Individual PAGA Payment.

8.6 Challenges to Calculation of PAGA/Class Pay Periods. Each Class Member shall have until the Response Deadline (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of PAGA/Class Pay Periods allocated to the Class Member or Aggrieved Employee in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the

challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the number of PAGA/Class Pay Periods contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of PAGA/Class Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of PAGA/Class Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

8.7 Objections to Settlement.

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

8.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so by the Response Deadline (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

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

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

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

8.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel

and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

8.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to PAGA/Class Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

8.8.4 PAGA/Class Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of PAGA/Class Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.

Administrator’s Declaration. Not later than 14 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable 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 Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the 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.

8.8.5 Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator’s declaration in Court.

9. **CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE.** Based on its records, Defendants estimate that, as of the date of mediation, there are (1) 671 Class Members/Aggrieved Employees who worked during all or part of 16,500 calendar semi-monthly periods during the Class Period and PAGA Period through March 31, 2025. The Gross Settlement Amount was agreed upon based on Defendants' representations of the total number of pay periods during the Class Period. If the number of periods during the Class Period exceeds 17,325 (*i.e.*, more than 5% higher than the estimate), the Gross Settlement Amount shall be increased on a pro rata basis per period exceeding 17,325. However, Defendants have the right to shorten the Class Period in lieu of increasing the Gross Settlement Amount.
10. **DEFENDANTS' RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5% of the total of all Class Members, Defendants may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendants withdraw, the Settlement shall be 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, Defendants will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendants must notify Class Counsel and the Court of the election to withdraw not later than seven days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.
11. **MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel as soon as practicable prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.
- 11.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 11.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, PAGA Payment, and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.
- 11.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are

permitted by law.

- 11.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.
- 11.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.
12. **AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.
13. **ADDITIONAL PROVISIONS.**
- 13.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Operative Complaint have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendants' defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendants reserve the right to contest certification of any class for any reasons, and Defendants reserve all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendants' defenses. The Settlement, this Agreement and the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for

proceedings to enforce or effectuate the Settlement and this Agreement).

- 13.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendants and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendants and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 13.3 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 13.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 13.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendants, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 13.6 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or

the Court for resolution.

- 13.7 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 13.8 No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 13.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 13.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 13.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 13.12 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 13.13 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 13.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendants in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendants unless, prior to the Court's discharge of the Administrator's obligation, Defendants make a written request to Class Counsel for the return, rather than the destructions, of Class Data.
- 13.15 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

- 13.16 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 13.17 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:
- To Plaintiff Michelle Thomas:
- Nikki Trenner (nikki@crosnerlegal.com)
Jamie Serb (jamie@crosnerlegal.com)
Zach Crosner (zach@crosnerlegal.com)
CROSNER LEGAL PC
9440 Santa Monica Blvd., Ste 301
Beverly Hills, CA 90210
Tel: 866-276-7637
- To Defendants:
- Dave Reese (dreese@employerlawyers.com)
Tom Porter (tporter@employerlawyers.com)
FINE, BOGGS & PERKINS LLP
111 West Ocean Blvd., Ste 2400
Long Beach, CA 90802
Tel: 562-366-0861
- 13.18 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 13.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

Dated: 09 / 10 / 2025



Michelle Thomas
Plaintiff

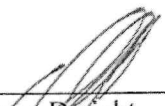
Dated:


Name: Dwight Nelson
On Behalf of Defendant Elk Grove Motors,
Inc.

Dated:


Name: Dwight Nelson
On Behalf of Defendant Selma Motors, Inc.

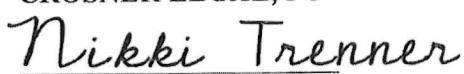
Dated:


Name: Dwight Nelson
On Behalf of Defendant Selma Auto Mall, Inc.

Dated:


Name: Dwight Nelson
On Behalf of Defendant Selma Auto Mall, III
Inc.

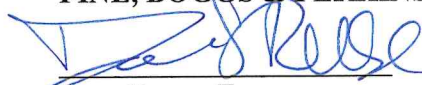
Dated: September 9, 2025

CROSNER LEGAL, PC

Nikki Trenner, Esq.
Jamie Serb, Esq.
Zach Crosner, Esq.

Attorneys for Plaintiff

Dated: 23 Sep 2025

FINE, BOGGS & PERKINS LLP

A handwritten signature in blue ink, appearing to read "Dave Reese", is written over a horizontal line.

Dave Reese, Esq.

Tom Porter, Esq.

Attorneys for Defendant

Title	CLASS AND REPRESENTATIVE PAGA ACTION SETTLEMENT AGREEMENT.
File name	Thomas_-_Class_PA...-_Final_Clean.pdf
Document ID	d5ea4ca343f3da11f641f571cb64c3964dcdffe6
Audit trail date format	MM / DD / YYYY
Status	● Signed

Document History



09 / 10 / 2025
21:15:40 UTC

Sent for signature to Michelle Thomas
(heymichelle2020@gmail.com) from mathew@crosnerlegal.com
IP: 97.190.117.238



09 / 10 / 2025
21:26:31 UTC

Viewed by Michelle Thomas (heymichelle2020@gmail.com)
IP: 174.83.225.243



09 / 10 / 2025
21:31:21 UTC

Signed by Michelle Thomas (heymichelle2020@gmail.com)
IP: 174.83.225.243



09 / 10 / 2025
21:31:21 UTC

The document has been completed.

Exhibit 2

**COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING
DATE FOR FINAL COURT APPROVAL**

Michelle Thomas v. Elk Grove Motors, Inc., et al.
Sacramento County Superior Court Case No. 23CV007153

The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.

You may be eligible to receive money from an employee class action lawsuit ("Action") against Defendants Elk Grove Motors, Inc., Selma Motors, Inc., Selma Auto Mall, Inc., and Selma Auto Mall III, Inc. ("Defendants" is used herein as a placeholder) for alleged wage and hour violations. The Action was filed by a former employee of Elk Grove Motors, Inc. ("Plaintiff") and seeks payment of (1) unpaid wages and penalties for a class of all current and former non-exempt employees that worked either directly or via a staffing agency for Defendants at any location in California ("Class Members") at any time during the Class Period (from June 17, 2023 to June 30, 2025); and (2) penalties under the California Attorney General Act ("PAGA") all current and former non-exempt employees that worked either directly or via a staffing agency for Defendants at any location in California during the PAGA Period (from June 17, 2023 to June 30, 2025) ("Aggrieved Employees").

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendants to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendants to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency ("LWDA").

Based on Defendants' records, and the Parties' current assumptions, your Individual Class Payment is estimated to be \$ (less withholding) and your Individual PAGA Payment is estimated to be \$. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendants' records you are not eligible for an Individual PAGA Payment under the Settlement because you didn't work during the PAGA Period.)

The above estimates are based on Defendants' records showing that you worked _____ pay periods during the Class Period and you worked ____ pay periods during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendants to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendants.

If you worked for Defendants during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

(1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendants.

(2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendants, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

Defendants will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement. If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendants that are covered by this Settlement (Released Claims).

You Can Opt-out of the Class Settlement but not the PAGA Settlement. The Opt-out Deadline is _____. If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.

You cannot opt-out of the PAGA portion of the proposed Settlement. Defendants must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement. Written objections must be submitted by **DATE**. All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff. Other than the PAGA portion of this Settlement, you can object to any aspect of this Settlement. See Section 7 of this Notice.

You Can Participate in the Final Approval Hearing. The Court's Final Approval Hearing is scheduled to take place on **DATE**. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.

You Can Challenge the Calculation of Your Pay Periods. Written challenges must be submitted by **DATE**. The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many pay periods you worked at least one day during the Class Period and how many pay periods you worked at least one day during the PAGA Period, respectively. The number Class Pay Period and number of PAGA Pay Periods you worked according to Defendants' records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by **DATE**. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former Elk Grove Motors, Inc. employee. The Action accuses Defendants of violating California labor laws by failing to pay overtime wages, minimum wages, wages due upon termination and reimbursable expenses and failing to provide meal periods, rest breaks and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys ("Class Counsel.") in the Action.

Defendants strongly deny violating any laws or failing to pay any wages and contend they complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Defendants or Plaintiff is correct on the merits. In the meantime, Plaintiff and Defendants hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendants have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants do not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendants have agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

Defendants will pay \$495,000.00 as the Gross Settlement Amount (Gross Settlement). Defendants have agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Defendants will fund the Gross Settlement not more than 14 days after the Administrator confirms the final payment amounts required, taking into account the Gross Settlement Amount, any taxes required, and any escalation. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

- Up to \$164,835.00 (one-third of the Gross Settlement] to Class Counsel for attorneys' fees and up to \$30,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
- Up to \$10,000.00 as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
- Up to \$6,990.00 to the Administrator for services administering the Settlement.
- Up to \$45,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.

Taxes Owed on Payments to Class Members. Plaintiff and Defendants are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages ("Wage Portion") and 80% to interest and penalties ("Non-Wage Portion."). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendants will separately pay employer

payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Defendants have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name. If the monies represented by your check is sent to the Controller's Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than **DATE**, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Defendants.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendants based on the PAGA Period facts alleged in the Action.

The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendants have agreed that, in either case, the Settlement will be void: Defendants will not pay any money and Class Members will not release any claims against Defendants.

Administrator. The Court has appointed a neutral company, Apex Class Action Administration (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.

Participating Class Members' Release. After the Judgment is final and Defendants have fully funded the Gross Settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

Participating Class Members will be bound by the following Class Release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint, including claims for: (a) recovery of unpaid minimum wages and liquidated damages; (b) recovery of unpaid overtime wages; (c) failure to provide meal periods or compensation in lieu thereof; (d) failure to provide rest periods or compensation in lieu thereof; (e) failure to furnish accurate itemized wage statements; (f) failure to timely pay all wages due upon separation of employment; (g) failure to reimburse business expenses; and (h) violations of the Unfair Competition Law. Except for the PAGA Released Claims, if applicable, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

Aggrieved Employees' Release. After the Court's judgment is final, and Defendants have paid the Gross Settlement and separately paid the employer-side payroll taxes, all Aggrieved Employees will be barred from asserting PAGA claims against Defendants, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendants or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

Aggrieved Employees' will be bound by the following PAGA Release:

All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA Penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice, including (a) failure to pay minimum wages; (b) failure to pay overtime wages; (c) failure to provide meal periods or compensation in lieu thereof; (d) failure to provide rest periods or compensation in lieu thereof; (e) failure to furnish accurate itemized wage statements; (f) failure to timely pay all wages upon separation of employment; (g) failure to reimburse business expenses; (h) failure to pay vested vacation/paid time off; (i) violation of Labor Code § 208; (j) unlawful deductions; (k) seating violations; (l) reporting pay violations; (m) failure to maintain accurate records; (n) failure to provide paid sick leave; (o) unlawful agreements and criminal inquiries; and (p) violation of Labor Code § 432.6.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Class Pay Periods worked by all Participating Class Members, and (b) multiplying the result by the number of Class Pay Periods worked by each individual Participating Class Member.

Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$11,250.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.

Pay Period Challenges. The number of Class Pay Periods you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendants' records, are stated in the first page of this Notice. You have until **DATE** to challenge the number of Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendants' calculation of Pay Periods based on Defendant's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendants' Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.

Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude

you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Michelle Thomas v. Elk Grove Motors, Inc., et al.*, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. The Administrator must be sent your request to be excluded by [REDACTED], or it will be invalid. Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendants are asking the Court to approve. At least 16 court days before the Final Approval Hearing, Class Counsel will file in Court a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website at [REDACTED] (url) or the Court's website at <https://www.saccourt.ca.gov/indexes/new-portal-info.aspx>.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. The deadline for sending written objections to the Administrator is [REDACTED]. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action *Michelle Thomas v. Elk Grove Motors, Inc., et al.*, and include your name, current address, telephone number, and approximate dates of employment for Defendants and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [REDACTED] at [REDACTED] (time) in Department 23 of the Sacramento Superior Court, located at 720 Ninth Street, Sacramento, CA 95814. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually. Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website at <https://www.saccourt.ca.gov/indexes/new-portal-info.aspx> beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendants and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to Apex Class Action Administration's website at [url](https://www.saccourt.ca.gov/indexes/new-portal-info.aspx). You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to <https://www.saccourt.ca.gov/indexes/new-portal-info.aspx>, creating an account, and entering the Case Number for the Action, Case No. 23CV007153. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

Class Counsel:

Nikki Trenner (nikki@crosnerlegal.com)

Jamie Serb (jamie@crosnerlegal.com)

Zach Crosner (zach@crosnerlegal.com)

CROSNER LEGAL PC

9440 Santa Monica Blvd., Ste 301

Beverly Hills, CA 90210

Tel: 866-276-7637

Settlement Administrator:

Apex Class Action Administration

Email Address:

Mailing Address:

Telephone:

Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

Exhibit 3



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

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

June 16, 2023

VIA PAGA ONLINE FILING ONLY:

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

VIA U.S. CERTIFIED MAIL:

Dwight G. Nelson
Agent for Service of Process for:
Elk Grove Motors, Inc.
3400 McCall Avenue, Suite 100
Selma California 93662

Elk Grove Motors, Inc.
Attn: Human Resources / Legal Department
3400 McCall Avenue, Suite 100
Selma California 93662

Dwight G. Nelson
Agent for Service of Process for:
Selma Motors, Inc.
Attn: Human Resources / Legal Department
3400 McCall Avenue, Suite 100
Selma, California 93662

Selma Motors, Inc.
Attn: Human Resources / Legal Department
3400 McCall Avenue, Suite 100
Selma California 93662

Dwight G. Nelson
Agent for Service of Process for:
Selma Auto Mall III, Inc.

Dwight G. Nelson
Agent for Service of Process for:
Selma Auto Mall, Inc.
3400 McCall Avenue, Suite 100
Selma, California 93662

Selma Auto Mall, Inc.
Attn: Human Resources / Legal Department
3400 McCall Avenue, Suite 100
Selma California 93662

3400 McCall Avenue, Suite 100
Selma, California 93662

Selma Auto Mall III, Inc.

Attn: Human Resources / Legal Department
3400 McCall Avenue, Suite 100
Selma, California 93662

NOTICE OF PRIVATE ATTORNEYS GENERAL ACT CLAIM

To: California Labor and Workforce Development Agency; Elk Grove Motors, Inc.;
Dwight G. Nelson; Selma Motors, Inc.; Selma Auto Mall, Inc.; and Selma Auto
Mall III, Inc.

Date: June 16, 2023

Subject: *Michelle Thomas v. Elk Grove Motors, Inc., et. Al.*

Introduction

This office represents PLAINTIFF, Michelle Thomas (hereinafter “PLAINTIFF”) in connection with PLAINTIFF’s claims under the California Labor Code. PLAINTIFF was, at all relevant times herein mentioned, an employee of the following entities and individual managing agents of said entities: Elk Grove Motors, Inc.; Dwight G. Nelson; Selma Motors, Inc.; Selma Auto Mall, Inc.; and Selma Auto Mall III, Inc. (hereinafter, these entities and their managing agents are collectively referred to as “DEFENDANTS”). DEFENDANTS may be contacted directly at the addresses listed above.

Pursuant to California Labor Code sections 2699.3 and 2699.5, PLAINTIFF, on behalf of PLAINTIFF, and on behalf of all current and former non-exempt employees employed by any one or more of the DEFENDANTS at any location in California within one year of the date of this notice (“NON-EXEMPT AGGRIEVED EMPLOYEES”) and on behalf of all current and former exempt employees employed by any one or more of the DEFENDANTS at any location in California within one year of the date of this notice (“EXEMPT AGGRIEVED EMPLOYEES”), hereby gives written notice (“NOTICE”) of PLAINTIFF’s claims against DEFENDANTS. This NOTICE is being provided via online filing to the California Labor and Workforce Development Agency (“LWDA”) and DEFENDANTS via certified mail to their Agent(s) for Service of Process and/or entity mailing address as provided to the California Secretary of State.

This NOTICE also serves to demonstrate PLAINTIFF’s reasonable attempt at settlement with DEFENDANTS. If DEFENDANTS are interested in settling this matter before a lawsuit is filed, DEFENDANTS may contact Crosner Legal, P.C., at the address listed at the close of this NOTICE.

This settlement attempt is in compliance with relevant California law. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal.4th 553, 561.

This NOTICE is sent in compliance with the reporting requirements of California Labor Code sections 2699.3 and 2699.5. This NOTICE further reserves any and all rights by PLAINTIFF to amend this notice to include, amend, or add further charges upon discovery of new violations of any of the provisions of the California Labor Code. In addition, to the extent that entities and/or other individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code sections including, but not limited to sections 558.1 and 1197.1—PLAINTIFF reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue. Any further amendments and changes to this notice shall relate back to the date of this NOTICE. Consequently, DEFENDANTS are on notice that PLAINTIFF continues its investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of *any* of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein. For violations that are curable under § 2699.3© and that DEFENDANTS intend to cure within the statutory time period set forth in §§ 2699 and 2699.3(c), the DEFENDANTS shall provide notice including a description of the actions taken to cure. If the alleged violation is not cured within the statutory time period, PLAINTIFF will commence a civil action pursuant to section 2699. For all other violations that are not curable, an action pursuant to section 2699(a) and 2699(f) will commence after the requirements under 2699.3 are fulfilled.

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

PLAINTIFF, on behalf of PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES, alleges that the specific provisions of California law that DEFENDANTS have violated, requiring this NOTICE, include but are not limited to: California Labor Code sections 201-203, 204, 216, 221-223, 226, 226.2, 226.7, 245-248.6, 432, 432.5, 432.7, 510, 512, 558, 558.1, 976, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2751, 2802, 2810.5, and all applicable Wage Orders.

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

California courts have recognized that the definition of “employer” for purposes of enforcement of the California Labor Code goes beyond the concept of traditional employment to reach irregular working arrangements for the purpose of preventing evasion and subterfuge of California's labor laws. *Martinez v. Combs* (2010) 49 Cal.4th 35, 65. As such, anyone who directly or indirectly, or

through an agent or any other person, engages, suffers, or permits any person to work or exercises control over the wages, hours, or working conditions of any person, may be liable for violations of the California Labor Code as to that person.

PLAINTIFF is informed and believes and thereon alleges that at all relevant times DEFENDANTS and unknown entities operated as a single integrated enterprise with common ownership and centralized human resources as set forth herein. Under California law, in determining whether two defendant entities are liable as an integrated enterprise, courts consider four factors: (1) centralized control of labor relations; (2) interrelation of operations; (3) common management; and (4) common ownership or financial control. *Laird v. Capital Cities/Abc, Inc.* (1998) 68 Cal.App.4th 727, 737 (overruled on other grounds, *Reid v. Google, Inc.* (2010) 50 Cal. 4th 512 (2010).)

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

Individual Liability Under Labor Code § 558.1

Labor Code section 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802. DEFENDANTS, at all relevant times, were an employer or person acting on behalf of employer(s) who violated PLAINTIFF's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' rights by violating various sections of the California Labor Code. The California Legislature defines "other person acting on behalf of an employer" as "*a natural person* who is an owner, director, officer, or managing agent of the employer." The "managing agent" definition mirrors that found in California's punitive damages statute (subdivision (b) of section 3294 of the Civil Code). Under that statute and supporting case law, "managing agents" are all employees who exercise substantial independent authority and judgment in their corporate decision-making such that their decisions ultimately determine corporate policy. *White v. Ultramar, Inc.* (1999) 21 Cal. 4th 563, 566-67. For the reasons set forth above and others, at all relevant times, any above-listed individuals meet the criteria of managing agents under California law, and therefore, may be held liable under California Labor Code sections 558 and 558.1 for violations of Labor Code §§ 203, 226, 226.7, and 1194 as further described in detail below.

PLAINTIFF intends to further name any unknown individuals responsible for violations arising under Labor Code sections 558 and 558.1 after further discovery. PLAINTIFF will ask the Court to relate the amendment of the PAGA charge and the operative complaint to the date of filing of these charges. PLAINTIFF asks and demands that DEFENDANTS put these individuals on notice

immediately to provide them as much notice possible to mount in defense. In the alternative, PLAINTIFF also offers to DEFENDANTS to place those individuals on notice if DEFENDANTS voluntarily provides their contact information.

General Information

DEFENDANTS own, operate, manage and/or staff its employees to work at automobile dealership(s) and/or other location(s) in California, including but not limited to automobile dealership(s) in Elk Grove, California. DEFENDANTS, through its various locations serve the automotive sales industry.¹ Although DEFENDANTS may operate a successful company or have a noble mission, DEFENDANTS do not comply with California's labor laws.

PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job title of service writer or a similar title from in or around February 2022 through in or around August 2022. PLAINTIFF worked for DEFENDANTS at DEFENDANTS' Elk Grove, California location(s). PLAINTIFF regularly worked at least 9-12 hours, at least 5-6 days per week. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by DEFENDANTS as hours worked.

Among other things, DEFENDANTS (1) failed and continue to fail to keep accurate and complete time records for PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES; (2) failed and continue to fail to pay PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked; (3) failed and continue to fail to pay PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES at least minimum wage for all hours worked and overtime/regular rates for corresponding work; (4) failed and continue to fail to pay proper overtime wages for failure to incorporate all non-discretionary compensation into the overtime premium pay calculations; (5) failed and continue to fail to provide PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES with proper meal and/or rest breaks, and/or compensate PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of premium pay at the regular rate of compensation for missed/improper meal and/or rest periods; (6) refused and continue to refuse to make and/or falsely denied the amount of payments due to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES, including but not limited to, owed sick pay; (7) failed and continue to fail to place PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES on proper notice of their workplace rights, including but not limited to owed sick pay; (8) failed and continue to fail to provide legally compliant wage statements to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES; (9) made unlawful deductions from PLAINTIFF's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' paychecks; (10) failed and continue to fail to timely pay wages to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES during employment and/or upon separation of employment; (11) failed and continue to fail to reimburse PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses incurred on behalf of DEFENDANTS; (12) conducted and continue to conduct illegal criminal and/or financial background checks as a condition of PLAINTIFF's, NON-EXEMPT

¹ See <https://www.elkgrove-automall.com/sacramento-dealerships>. Last visited on June 8, 2023.

AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' hire and continued employment; (13) required and continue to require PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to disclose arrests not resulting in convictions and/or to disclose convictions prior to extending an offer of employment and/or otherwise impermissibly inquired and continue to inquire into PLAINTIFF's, NON-EXEMPT AGGRIEVED EMPLOYEES', and/or EXEMPT AGGRIEVED EMPLOYEES' criminal history on their employment applications and sign off on same as a condition of employment; (14) required and continue to require PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to disclose their salary history; (15) failed and continue to fail to provide suitable seating; and (16) required and continue to require PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to a term or condition that violates the law as a condition of employment. Further descriptions of the above-mentioned violations and others are explained below.

Labor Code Violations

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

Based on information and belief, DEFENDANTS failed, and continue to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES began and ended each work period, time records of meal periods, and accurate itemized wage statements.

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

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

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

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

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

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

Violations of Labor Code Sections 226(b)-(c), 1198.5, and 432:

Time and Pay Records

Labor Code section 226 and all applicable IWC Wage Orders, section 7 require that employers keep the following information on file for each employee for a minimum of three years: The employee's dates of employment; the employee's hourly rates and the corresponding number of hours worked by the employee at each hourly rate, when the employee begins and ends each work period (including meal periods) and split intervals; total hours worked by the employee; all deductions; gross wages earned; and net wages earned.

Section (b) of Labor Code section 226 further requires employers to "afford current and former employees the right to inspect or receive a copy of records pertaining to their employment upon reasonable request to the employer." Section (c) of Labor Code section 226 provides that, "an employer who receives a written or oral request to inspect or receive a copy of records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction." An employer's failure to comply within this timeframe entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 226(f).

Personnel Records

In addition to their right to time and pay records, employees, and their representatives, have the right to inspect and receive a copy of their personnel files pursuant to Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code section 432 further specifies that employers must furnish copies of all employment records bearing the employee's signature.

Labor Code section 1198.5 also requires that the file be made available for inspection or receipt within a "reasonable" amount of time, but "not later than 30 calendar days from the date the employer receives a written request." An employer's failure to comply within this timeframe likewise entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 1198.5(k).

Based on information and belief, DEFENDANTS failed to timely produce or make available a current or former employee's personnel records and/or payroll records when requested pursuant

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

to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. For example, PLAINTIFF, through counsel, sent a written request for payroll and personnel records to DEFENDANTS. Yet, DEFENDANTS failed to timely produce complete records within the time periods delineated by California labor law, including but not limited to, wage statements and/or time records. Based on information and belief, DEFENDANTS failed and continue to fail to timely produce complete payroll and personnel records when requested by other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES.

These violations subject DEFENDANTS to penalties under Labor Code sections 226, 1198.5, and 2699. Each violation of each Labor Code section and Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE and each EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.

Meal Period Violations: California law requires employers to provide employees a duty-free, uninterrupted thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004. Employers must also provide employees with a second duty-free, uninterrupted thirty (30) minute meal period when an employee works more than (10) hours in a workday, and it must be provided before the end of the 10th hour of work. *Ibid.* Meal periods can be waived, but only under the following circumstances: (1) if an employee's total work period in a day is over five (5) hours but no more than six (6) hours, the required meal period may be waived by mutual consent of the employer and employee, and (2) if an employee's total work period in a day is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be waived by mutual consent of the employer and employee, but only if the first meal period was not waived. *Ibid.* Upon information and belief, PLAINTIFF did not sign a valid meal period waiver throughout PLAINTIFF's employment by DEFENDANTS.

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

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

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

PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES would not receive legally compliant thirty (30) minute first meal breaks. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal periods, interrupted meal periods, and/or work through part or all their meal periods due to understaffing, the nature and constraints of their job duties and/or commentary from supervisors pressuring them to take non-compliant meal breaks or skip meal breaks completely. For example, based on information and belief, PLAINTIFF was forced to take late meal periods in order to complete assigned job duties. PLAINTIFF was required to meet with customers in person, as well as communicate with customers by text message and phone during her scheduled meal periods on a weekly basis. As a result, PLAINTIFF was at times, interrupted during purported meal periods and/or had meal periods cut short and/or restricted to DEFENDANTS' premises due to the need to continue assigned job duties. Additionally, PLAINTIFF alleges that her supervisor would regularly edit or otherwise adjust her time clock to reflect uninterrupted, compliant thirty-minute meal periods, notwithstanding the fact that her supervisor was aware that she was required to perform work-related tasks during that time.

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

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

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

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

Based on information and belief, per DEFENDANTS' uniform policy and practice, NON-EXEMPT AGGRIEVED EMPLOYEES who worked shifts of more than ten hours did not receive a second legally compliant thirty (30) minute second meal break.

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

Moreover, based on information and belief, DEFENDANTS failed to keep accurate records of the true start and end times of PLAINTIFF's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods. Based on information and belief, to the extent meal period were recorded, DEFENDANTS illegally rounded the start and end times of purported meal periods resulting in PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES not being paid for all time worked as well as late and/or shortened meal periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

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

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

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

The aforementioned conduct results in violations of Labor Code sections 226.7, 512, and 1198-1199, and all applicable IWC Wage Orders, section 11(A) and (C) along with all applicable IWC Wage Orders. These violations subject DEFENDANTS to civil penalties under Labor Code sections 558.1, 558 and 2699, and all applicable IWC Wage Orders, section 20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced

statutes and Wage Order provisions were violated.³ DEFENDANTS' failure to provide valid meal periods, and the automatic deduction for meal periods that were not provided/valid, ultimately results in further violations, such as violations of Labor Code sections 1174, 1199, 226.6, discussed above, and other violations discussed below.

Failure to Provide Suitable Resting Facilities: Per section 13 of all applicable IWC Wage Orders, employees shall be provided with suitable resting facilities. Section 13(B) of the Wage Orders provides: "Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours."

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

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

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

Rest Period Violations: California law requires employers to provide employees a paid, duty-free ten (10) minute rest period for each four (4) hours worked, or major fraction thereof. See applicable IWC Wage Order, §12(A). In *Brinker v. Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012), the California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts from 3 ½ to 6 hours in length, two 10-minute rest periods for shifts more than 6 hours up to 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029). The rest period requirement obligates employers to permit and authorize employees to take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. Employers must pay employees an additional hour of wages at the employee's regular rate of pay for each missed or improper rest period (e.g., less than 10 minutes, interrupted rest period, rest period(s) at improper time(s) during shift(s)). Lab. Code §226.7; applicable IWC Wage Order, §12(B) ("If an employer fails to provide an employee a rest period

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

in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided").

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

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

PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were not adequately informed, authorized, instructed about, nor permitted an opportunity to take proper rest breaks per California law. Based on information and belief, DEFENDANTS had no policy in place nor instruction as to the taking of duty-free rest periods. Based on information and belief, DEFENDANTS did not have a compliant written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in practice. For example, based on information and belief, PLAINTIFF was at times, unable to take compliant rest periods due to PLAINTIFF's need to complete assigned job duties and/or was unable to take a net ten-minute rest period in a suitable rest area and/or had purported rest periods restricted to DEFENDANTS' premises.

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

Moreover, based on information and belief, DEFENDANTS failed to provide any form of a third rest period on shifts lasting longer than ten hours.

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

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

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

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

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

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

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

entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon..." *Cal. Lab. Code* § 1194.2.

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

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

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were not paid for all hours worked due to DEFENDANTS' policy and/or practice of paying according to scheduled hours worked instead of actual time worked, and/or mandated off-the clock work policies and/or practices. For example, based on information and belief, DEFENDANTS required the NON-EXEMPT AGGRIEVED EMPLOYEES to spend significant time off-the-clock familiarizing themselves with new vehicles and their features, and were required to take a graded quiz and review the responses. Based on information and belief, the NON-EXEMPT AGGRIEVED EMPLOYEES, including PLAINTIFF, would spend anywhere from 45 minutes to 2 hours off-the-clock and after business hours, on a weekly and/or monthly basis on the aforementioned process. Additionally, based on information and belief, COMPLAINTANT and the NON-EXEMPT AGGRIEVED EMPLOYEES were required to communicate with customers and DEFENDANTS's managerial staff during off-the-clock during after hours as well while clocked out for their meal breaks. PLAINTIFF and the NON-EXEMPT AGGRIEVED EMPLOYEES were required by DEFENDANTS to consistently perform work-related tasks during their meal breaks, such as customer communications and customer and staff meetings. Based on information and belief, PLAINTIFF also alleges that DEFENDANTS would unlawfully edit the clock in and out times for her and other NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods in order to display a thirty minute off-duty meal period, notwithstanding the fact that DEFENDANTS had knowledge that it had required PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES' to perform work-related tasks during her meal period.

For example, based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES to be at their assigned workstations at the start of a scheduled shift, thereby forcing NON-EXEMPT AGGRIEVED EMPLOYEES to gather work-related equipment/tools and/or safety gear prior to their scheduled shift and/or prior to clocking in/signing in, thereby resulting in pre-shift off-the-clock work.

Based on information and belief, DEFENDANTS also failed to compensate NON-EXEMPT AGGRIEVED EMPLOYEES for post-shift off-the-clock work, such as but not limited to, returning tools and/or equipment to DEFENDANTS' dealership(s), lots, facilities, offices and/or

other locations, performing maintenance or cleaning-related tasks and/or completing other work tasks.

Based on information and belief, DEFENDANTS did not compensate NON-EXEMPT AGGRIEVED EMPLOYEES for all time spent donning and doffing personal protective equipment, safety equipment and/or uniforms/work clothing (e.g., gloves, and/or face masks) during meal periods, before the start of a scheduled shift, and after completing a scheduled shift.

Based on information and belief, DEFENDANTS suffered, permitted, explicitly instructed and/or otherwise required other NON-EXEMPT AGGRIEVED EMPLOYEES to perform additional pre-shift and/or post-shift off-the-clock work, such as but not limited to, contacting prospective customers, completing paperwork and/or data entry, making and/or responding to work-related communications and/or completing other off-the-clock work tasks that were neither recorded nor compensated, resulting in DEFENDANTS' failure to pay NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked and the underpayment of minimum wages and overtime wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, at times, NON-EXEMPT AGGRIEVED EMPLOYEES were required to complete other work tasks outside of their reported work time, before clocking in for the start of their shift and/or after clocking out for the end of their shift and/or otherwise outside of their scheduled shift times resulting in DEFENDANTS' failure to compensate NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked and the underpayment of minimum wages and overtime wages to NON-EXEMPT AGGRIEVED EMPLOYEES. For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were required to complete off-the-clock work outside of scheduled shifts due to, including but not limited to, work-related phone calls and/or messages they received to their personal phones and were required to respond to, including but not limited to, communications from supervisors and/or other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES regarding scheduling and/or other work tasks, resulting in the underpayment of minimum and overtime wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Moreover, based on information and belief, at times, DEFENDANTS' electronic/computer time-keeping system/app malfunctioned such that NON-EXEMPT AGGRIEVED EMPLOYEES were required to either reinitiate and/or otherwise troubleshoot the system and/or wait for the system to boot prior to being able to clock in and/or were unable to clock in at all for the start of their shifts and/or clock back in from meal periods, resulting in off-the-clock work and the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES experienced the same issues when clocking out for shifts and/or back in for meal periods. This time spent under DEFENDANTS' control was not recorded and not compensated and resulted in unpaid minimum wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

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

Based on information and belief, at times, DEFENDANTS instituted a piece-rate-based compensation scheme that resulted in pay periods during which NON-EXEMPT AGGRIEVED EMPLOYEES were denied the minimum wage for all hours worked. For example, on information and belief, at times, DEFENDANTS paid NON-EXEMPT AGGRIEVED EMPLOYEES on a strictly piece-rate basis (e.g., per repair/service job and/or using a flagged hour basis) and/or on a strictly commission basis, at least during some pay periods, during the relevant time period. However, based on information and belief, DEFENDANTS failed to separately compensate NON-EXEMPT AGGRIEVED EMPLOYEES for all non-piece rate related and/or non-sales generating activities/all non-productive time, including but not limited to, all rest breaks and/or time spent preparing/setting up for jobs, time spent completing paperwork, waiting between jobs and tasks and/or other waiting time, and/or performing work duties that otherwise fall outside of the piece-rate pay criteria. DEFENDANTS' failure to separately compensate NON-EXEMPT AGGRIEVED EMPLOYEES for their rest periods and/or other non-productive time and/or failure to compensate them at the correct rates for all non-productive time including rest periods resulted in the failure to pay NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked and violations of California wage and hour laws, including but not limited to, Labor Code sections 226.2 and/or 1197. Based on information and belief, DEFENDANTS further failed to include this information on these employees' wage statements required by Labor Code section 226.2.

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

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

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

Based on information and belief, DEFENDANTS had actual and/or constructive knowledge that their time rounding policies/practices, auto-deduction policies and practices, failure to provide lawful meal periods and/or other off-the-clock work resulted in the underpayment of minimum

wages owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's minimum wage laws.

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

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

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

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

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

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

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

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

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

Violation of Labor Code section 976: Labor Code section 976 provides that “No person shall publish or cause to be published any advertisement, solicitation or communication in any newspaper, poster, or letter, offering employment as a salesman, broker or agent whether as an employee or independent contractor, which advertisement, solicitation or communication (a) is willfully designed to mislead any person as to compensation or commissions which may be earned; or (b) falsely represents the compensation or commissions which may be earned.”

Based on information and belief, DEFENDANTS have a policy and/or practice of offering prospective employees, including AGGRIEVED EMPLOYEES, a higher compensation and commission that is misleading as it falsely represents the compensation or commission that will be earned during employment, as the actual compensation or commission earned is lower than that which is offered to induce employment or continued employment. Such a practice or policy is in violation of Labor Code section 976.

Failure to Provide Written Commission Agreements: Labor Code section 2751 requires that all commission contracts “be in writing and . . . set forth the method by which the commissions shall be computed and paid.” Cal. Lab. Code section 2751(a) (2012). Under the statute, employers must also “give a signed copy of the contract to every employee who is a party [to the contract] and . . . obtain a signed receipt for the contract from each employee.” *Id.* section 2751(b).

Based on information and belief, DEFENDANTS failed to provide PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES who were compensated on a commission basis with proper written commission agreements, in violation of Labor Code section 2751.

Violation of Labor Code Section 226.2: Labor Code section 226.2 requires an employer to pay employees compensated on a piece-rate basis separately for rest and recovery periods and

⁶ See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); Lab. Code §558 (establishing that the civil penalty is “for each underpaid employee for each pay period for which the employee was underpaid”); All applicable Wage Orders, §20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

nonproductive time, apart from any piece-rate pay. This statute further requires an employer to include on the wage statements for these employees the total hours of compensable rest and recovery period, the total hours for other non-productive time, the rates of compensation for these hours, and the gross wages paid for these hours. In addition, the statute requires that employees shall be compensated for rest and recovery periods at a regular hourly rate that is no less than the higher of: (i) an average hourly rate determined by dividing the total compensation for the workweek, exclusive of compensation for rest and recovery periods and any premium compensation for overtime, by the total hours worked during the workweek, exclusive of rest and recovery periods, or (ii) The applicable minimum wage. Per case law, Labor Code section 226.2 also applies to employees compensated on a commission basis.

Based on information and belief, DEFENDANTS failed to compensate NON-EXEMPT AGGRIEVED EMPLOYEES who were paid solely on a piece rate and/or commission basis separately for the rest periods and nonproductive time, and/or failed to pay them for this time at the correct rates. Based on information and belief, DEFENDANTS further failed to include this information on NON-EXEMPT AGGRIEVED EMPLOYEES' wage statements. As such, DEFENDANTS failed to comply with Labor Code section 226.2.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DEFENDANTS' failure to accurately list all hours worked on all wage statements caused confusion to PLAINTIFF and caused and continue to cause confusion to the NON-EXEMPT AGGRIEVED EMPLOYEES over whether they received all wages owed to them. PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES were injured by DEFENDANTS' failure to provide accurate wage statements.

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

Based on information and belief, DEFENDANTS issued wage statements that failed to list the number of piece rate units completed/earned during the pay period and the applicable rate of pay for each piece rate unit.

Based on information and belief, DEFENDANTS issued wage statements that failed to list the number of non-discretionary bonuses and/or commissions earned and/or failed to list the applicable rate for each non-discretionary bonus and/or commission earned. Instead, based on information and belief, wage statements issued by DEFENDANTS either fail to list and/or identify all earned bonuses/commissions and/or list the total amount of non-discretionary bonuses and/or commissions earned without listing the number of bonuses/commissions and/or the rate for each bonus and/or commission, thereby making it impossible for NON-EXEMPT AGGRIEVED EMPLOYEES to know whether they received all owed non-discretionary compensation.

Based on information and belief, wage statements issued by DEFENDANTS failed to list all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9). For example, based on information and belief, DEFENDANTS' wage statements issued to NON-EXEMPT AGGRIEVED EMPLOYEES do not provide an accurate overtime rate(s) because they do not list overtime rate(s) of pay at 1.5 times the regular rate(s) of pay and instead list at least two separate overtime rates of pay and/or list an overtime rate of pay that does not take into account all non-discretionary compensation earned during the pay period, thereby failing to list all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate, in violation of including but not limited to, Labor Code section 226(a)(9).

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

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

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

Unlawful Deductions: Labor Code section 221 prohibits an employer from “collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer to said employee.” Based on information and belief DEFENDANTS made unlawful deductions from NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES paychecks during the relevant period including but not limited to, from paychecks of employees correctly classified as exempt, during the relevant period, including but not limited to deducting costs of uniforms and/or other business costs and/or deducting wages for purported overpayments from previous pay periods and/or unlawfully deducting wages for negligently damaged property and/or deducting costs advanced by DEFENDANTS from NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES’ final paychecks. Such a practice is in violation of including but not limited to, Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties under Labor Code Section 2699.

Each violation results in a separate civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE and EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated. See Lab. Code §225.5 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee”).

Reporting Time Pay Violations:

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

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

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

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

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

Violation of California Day of Rest Law

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

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

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

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

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

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

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

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

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

DEFENDANTS' NON-EXEMPT AGGRIEVED EMPLOYEES worked in various positions. The nature of NON-EXEMPT AGGRIEVED EMPLOYEES' work reasonably permitted the use of seats. However, DEFENDANTS failed to provide suitable seating in reasonable proximity to NON-EXEMPT AGGRIEVED EMPLOYEES' work areas in violation of section 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting DEFENDANTS to civil penalties under Labor Code sections 1199 and 2699. Each violation of each Labor Code section and IWC Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.⁹

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

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

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

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

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

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

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

Failure to Pay Vested Vacation/Paid Time Off:

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

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

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

Upon separation of employment, NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' final paychecks were not timely provided and/or were not timely provided with all owed vacation pay and/or paid time off. Moreover, NON-EXEMPT AGGRIEVED EMPLOYEES' final paychecks, once provided, did not include all wages owed as they were devoid of, including but not limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or paid time off wages at the properly accrued rates (including but not limited to, all owed vacation pay/paid time off paid at the final rate including non-discretionary compensation, including but not limited to, shift differentials). For example, based on information and belief, PLAINTIFF's last day worked was on or about August 1, 2022. However, PLAINTIFF's wage statement indicates that she was not paid her final paycheck until August 10, 2022.

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

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

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

Among other things, under California law, when tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by employer, except that an employee whose wages are at least two (2) times the

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

minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft. *See* applicable IWC Wage Order, § 9 (b).

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

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

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

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

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

For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES received work-related calls/messages to their personal phones from managers and/or supervisors and/or customers and/or prospective customers and/or other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES regarding scheduling and other work tasks without being provided any and/or full reimbursement from DEFENDANTS for these business expenses. For example, PLAINTIFF was required to communicate with DEFENDANTS' customers throughout her shift by using her personal cellphone. This was typically to inform customers on the various updates pertaining to the work being performed on their vehicles. PLAINTIFF was also required to communicate via text message with her customers both after hours and on the weekends. DEFENDANTS did not provide PLAINTIFF with any reimbursement for these business expenses.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were required to purchase and/or maintain their own hand tools/equipment required to perform their assigned job duties without being provided any and/or full reimbursement from DEFENDANTS for these business expenses. For example, PLAINTIFF was required to supply most if not all of his own hand tools and/or equipment required to perform the duties of his job, yet DEFENDANTS did not

provide PLAINTIFF with any reimbursement for these business expenses.

For example, DEFENDANTS required PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES working as sales associates and/or other similar title(s) and/or position(s) to use their personal cell phones to communicate with customers and prospective customers without providing any and/or full reimbursement for these business expenses.

Furthermore, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES also at times were required to use and did use personal devices to perform work duties at home/remotely, such as, but not limited to, reviewing and/or completing work-related paperwork and/or other documents as mandated by DEFENDANTS, however DEFENDANTS failed to provide reimbursement and/or full reimbursement for expenses NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES incurred as a result of working for DEFENDANTS remotely and/or from their homes, including but not limited to, cost of internet service, home electricity, cost of additional memory and/or virus software for home computer / home computer use, among other business expenses associated with remote work required by DEFENDANTS. For example, DEFENDANTS required PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES to log into DEFENDANTS' company system after hours using their personal devices to complete trainings, quizzes and/or perform other work tasks using their personal devices without providing any and/or full reimbursement for the costs incurred in connection with this remote work and/or use of their personal devices for DEFENDANTS' business purposes.

Additionally, based on information and belief, at times, NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES were not reimbursed for the business use of their personal vehicles, including but not limited to, mileage, vehicle wear and tear, and/or cost of fuel when they were required to drive between and/or around DEFENDANTS' locations, offices, dealerships and/or facilities and/or otherwise use their personal vehicles to perform their job duties, including but not limited to, to perform business errands for DEFENDANTS. As such, DEFENDANTS failed to compensate NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES at the Internal Revenue Service (IRS) mandated per mile compensation rate for the relevant period.

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

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

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

Unlawful Agreements/ Unlawful Criminal History Inquiries:

Unlawful Agreements

Labor Code section 432.5 provides that "no employer...shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer...to be prohibited by law." Based on information and belief, DEFENDANTS required PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful conditions of employment including but not limited to unlawful non-solicitation/non-compete agreements, unlawful commissions agreements and/or compensation plans, unlawful confidentiality and/or nondisclosure agreements, unlawful releases and/or waivers, unlawful forum selection clauses and/or choice of law provisions/agreements and/or unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

Unlawful Non-Compete/Non-Solicitation Agreements:

Non-compete/non-solicitation agreements are illegal under California law. See California Business & Professions Code section 16600 – providing that any non-compete provision between an employer and an employee, i.e., any contract that restrains a person from engaging in a profession, trade or business will not be enforceable under California law. California Labor Code section 432.5 states that it is illegal for an employer to require an employee to agree in writing to any term that the employer knows is illegal. Violations of Section 432.5 are actionable under the California Labor Code Private Attorneys' General Act ("PAGA").

Based upon information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to sign unlawful non-compete/non-solicitation agreements as a condition of hire/maintaining employment, in violation of California law, including but not limited to, California Business & Professions Code section 16600. By having NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES sign off on the illegal non-compete/non-solicitation agreements as a condition of employment, DEFENDANTS violated, inter-alia, Labor Code section 432.5 (stating that "no employer...shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer...to be prohibited by law."). Accordingly, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(f)-(g).

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

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

Based on information and belief, DEFENDANTS also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to submit and/or agree to submit in writing to unlawful criminal background checks as a condition of obtaining and/or holding employment in violation of the ICRAA and the FCRA. For example, DEFENDANTS required the NON-EXEMPT AGGRIEVED EMPLOYEES included several extraneous peices of information in its background check disclosure, including but not limited to information relating to drug screening and driving record checks.

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

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

Based on information and belief, DEFENDANTS also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to provide ongoing consent to DEFENDANTS to conduct background checks throughout the duration of employment,

in violation of the ICRAA and/or FCRA and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by requiring applicants and employees to agree to an unlawful provision as a condition of employment.

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

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

Unlawful Inquires into Criminal History

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

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

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

Unlawful PAGA Waiver

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

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

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

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

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

Conclusion

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

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

The purpose of this NOTICE is to satisfy the requirements created by Labor Code §§ 2699, 2699.3(a), 2699.3(b), 2699.3(c), and 2699.5, prior to seeking penalties and premium wages allowed by law for the aforementioned statutory violations in a civil action. We look forward to determining whether the LWDA intends to take any action in reference to these claims. We kindly ask that you respond to this NOTICE according to the time frame contemplated by the code.

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

Please advise if your office intends to investigate any of the factual and legal allegations and provide notice within sixty-five days of the date of this NOTICE to our office and to that of other

charged parties. Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

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

Thank you for your attention to this matter.

Best Regards,

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

Kiara Bramasco, Esq.
CROSNER LEGAL, PC

Thank you for submission of your PAGA Case.

LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
To: "prelit@crosnerlegal.com" <prelit@crosnerlegal.com>

Fri, Jun 16, 2023 at 5:30 PM

6/16/2023

LWDA Case No. LWDA-CM-962691-23
Law Firm : Crosner Legal
Plaintiff Name : Michelle Thomas
Employer: Elk Grove Motors, Inc.
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

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

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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

Exhibit 4