

1 JAMIE SERB, ESQ. (SBN 289601)
jamie@crosnerlegal.com
2 BRANDON BROUILLETTE, ESQ. (SBN 273156)
bbrouillette@crosnerlegal.com
3 ZACHARY M. CROSNER, ESQ. (SBN 272295)
zach@crosnerlegal.com
4 **CROSNER LEGAL, PC**
9440 Santa Monica Blvd. Suite 301
5 Beverly Hills, CA 90210
Tel: (866) 276-7637
6 Fax: (310) 510-6429

7 Attorneys for Plaintiff MARLON DE LEON

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF LOS ANGELES**

11 MARLON DE LEON and LEE RUN YU,
on behalf of the State of California, and
12 others similarly situated and aggrieved,

13 Plaintiff,

14 v.

15 HAIDILAO HOT POT CENTURY CITY
INC, a California Corporation; HAIDILAO
16 HOT POT SAN DIEGO, INC., a California
Corporation; HAIDILAO HOT POT DALY
17 CITY, INC., a California Corporation;
18 HAIDILAO CATERING (U.S.A.) INC., a
California Corporation; HAIDILAO HOT
19 POT FREMONT INC., a California
Corporation; HAIDILAO HOT POT
20 INDUSTRY INC., a California Corporation;
21 HAIDILAO RESTAURANT GROUP, INC.,
a California Corporation; HAIDILAO
22 RESTAURANT CALIFORNIA INC., a
California Corporation; HDL
23 MANAGEMENT USA CORPORATION, a
California corporation; and DOES 1-100,
24 inclusive,

Case No.: 23STCV19515

Assigned for All Purposes to:
Hon. Jill Feeney
Dept. 78

**DECLARATION OF BRANDON
BROUILLETTE IN SUPPORT OF MOTION
FOR APPROVAL OF SETTLEMENT UNDER
PRIVATE ATTORNEYS GENERAL ACT**

DATE: August 20, 2025
TIME: 8:30 am
DEPT: 78

Reservation ID: 083685562472

1 I, Brandon Brouillette, declare:

2 1. I am an attorney licensed to practice before all of the courts of the State of California,
3 and I am a partner with Crosner Legal, PC, counsel of record for Plaintiff Marlon De Leon in this
4 action. I submit this declaration in support of Plaintiffs' Motion for Approval of Settlement under
5 the Private Attorneys General Act. I have personal knowledge of all facts stated herein, and if called
6 as a witness, I could and would competently testify thereto.

7 2. I am unaware of any other pending lawsuits that overlap with this matter in any way,
8 including the claims alleged or the time period and aggrieved employees covered.

9 3. Attached hereto as Exhibit 1 is a fully-executed, true and correct copy of the Parties'
10 Joint Stipulation of Representative PAGA Action Settlement and Release of Claims ("Settlement
11 Agreement"). Attached hereto as Exhibit 2 is a true and correct copy of Plaintiff De Leon's PAGA
12 notice letter and proof of submission to the Labor & Workforce Development Agency ("LWDA").
13 Attached hereto as Exhibit 3 is proof of submission of the operative complaint to the LWDA.
14 Attached hereto as Exhibit 4 is proof of submission of the settlement to the LWDA.

15 **BACKGROUND**

16 4. Defendants operate several "hot pot" style Chinese restaurants in California. Plaintiff
17 De Leon De Leon worked for Haidilao Hot Pot Century City, Inc. in the Westfield shopping center as
18 a busser/food runner from June 2022 to about July 9, 2022. Plaintiff Yu worked at the for Haidilao
19 Hot Pot San Diego, Inc. as a server from about March 2022 to July 25, 2023.

20 5. On June 5, 2023, Plaintiff De Leon submitted his PAGA Notice to Defendants and the
21 LWDA, and thereafter, on August 15, 2023, he filed a PAGA representative action in the Los Angeles
22 County Superior Court. Plaintiff Yu submitted her PAGA Notice letter on October 19, 2023, and
23 thereafter filed a PAGA representative action on January 2, 2024 in the San Diego Superior Court.

24 6. Plaintiffs' respective complaints alleged a number of Labor Code violations by
25 Defendant. First, they alleged a failure to pay all wages owed, including failing to calculate the
26 correct "regular rate" of pay for purposes of paying overtime, break premiums, and sick pay. They
27 also alleged a failure to provide meal and rest breaks, failure to pay all tip wages earned, wage
28 statement violations, failure to provide business expense reimbursements for use of personal cell

1 phones, failure to provide accurate wage statements, and failure to pay all wages owed at termination.
2 Plaintiffs' complaints sought relief on behalf of all non-exempt current and former employees
3 employed by Defendants in California during the relevant time frame (June 5, 2022 to August 23,
4 2024). Defendants have at all times denied Plaintiffs' allegations and maintained they accurately
5 calculated and paid all employee wages, that their meal and rest break and payroll policies and
6 procedures comply with California law, that they provided the aggrieved employees with required
7 meal and rest breaks, paid all employee tips consistent with their compliant tip pooling policies, and
8 that use of personal cell phones was neither necessary nor reasonable to perform the job and therefore
9 they owed no reimbursement, among other positions and defenses.

10 7. After Plaintiff De Leon filed his complaint, and upon discussing the merits of the
11 claims asserted and engaging in several meet and confer sessions regarding prospective law and
12 motion and discovery issues, De Leon and Defendants agreed to attempt early mediation. The Parties
13 further agreed to a protocol for exchanging additional documents and information before the
14 mediation. Through this informal discovery, Defendants provided Plaintiffs with information
15 including, inter alia, the number of potential Aggrieved Employees, the number of aggregate pay
16 periods, sample pay stubs and time records for sampling of allegedly Aggrieved Employees,
17 employee handbooks and manuals, and other policy documents regarding Defendants' time keeping
18 and reporting policies. Plaintiffs then reviewed and analyzed this information with the assistance of
19 consulting experts from Berger Consulting Group to, inter alia, determine potential violation rates for
20 meal and rest breaks, construct a damages, model, etc. After Plaintiff Yu filed her complaint, the
21 Parties further agreed to include both cases in the mediation and pursue a global settlement.

22 8. The Parties then mediated the case in June 2024 with Todd Smith, Esq., a respected
23 mediator with extensive class action/wage and hour experience. Before and during the mediation,
24 Plaintiffs and counsel analyzed, researched, and investigated the potential issues, including matters
25 related to the calculation of damages, trial, and appellate issues and risks. During mediation, the
26 Parties vigorously debated the likelihood of Plaintiffs' ability to proceed on a representative basis as
27 to the PAGA claims, the legal grounds for Plaintiffs' claims and Defendant's defenses, and the parties'
28 data analyses and conclusions based on data provided by Defendant. After a contentious full day of

1 negotiations, the Parties reached agreement on all major issues and subsequently formalized their
2 tentative settlement in the Settlement Agreement now before the Court for approval.

3 9. Finally, in order to effectuate the proposed global settlement, Plaintiff De Leon filed
4 a First Amended Complaint in this matter adding Yu as a party-plaintiff and to otherwise incorporate
5 all the allegations and claims asserted in Plaintiffs' respective complaints and PAGA notice letters.
6 Plaintiff Yu subsequently dismissed her complaint without prejudice.

7 **SUMMARY OF SETTLEMENT TERMS**

8 10. Under the settlement, Defendants will pay a non-reversionary settlement amount of
9 \$950,000 (the "Maximum Settlement Amount" or "MSA"). The MSA is inclusive of payments to the
10 LWDA and Aggrieved Employees, costs of settlement administration (no more than \$12,000),
11 reasonable service awards to the Plaintiffs of \$10,000 each (\$20,000 total), and reasonable attorney's
12 fees of 1/3 of the MSA, or \$316,666.66, and actual litigation costs of \$16,364.61. After all deductions
13 from the MSA, Plaintiffs presently estimate about \$584,968.73 will remain (the "Net Settlement
14 Amount" or "NSA"). Seventy-five percent of the NSA (about \$438,726.55) will go to the LWDA,
15 and the remaining 25% (about \$146,242.18) will be distributed to the Aggrieved Employees in
16 proportion to the total number of Pay Periods each individual worked during the PAGA Period, with
17 an average award currently estimated at about \$96 per Aggrieved Employee. Finally, each of the
18 named Plaintiffs is entering into a separate individual settlement with Defendants to resolve their
19 respective individual claims

20 11. The Parties propose using Phoenix Settlement Administrators as the Settlement
21 Administrator. Phoenix has extensive experience administering PAGA settlements, and has agreed
22 to cap its fees at \$12,000. Defendants will fund the settlement within 20 days of the Effective date
23 and, within 14 days of receipt of the MSA, Phoenix will mail a Notice and settlement check to all
24 Aggrieved Employees via regular First-Class U.S. Mail, using the most current, known mailing
25 addresses identified in Defendants' records. Aggrieved Employees need not submit claim forms and
26 will automatically receive a Notice and settlement check. Settlement checks will be negotiable for
27 180 days, after which time any unclaimed residual funds will be forwarded to the California State
28 Controller's Unclaimed Property Fund.

1 12. The California Supreme Court has explained that a judgment in “a representative
2 action brought by an aggrieved employee under the Labor Code Private Attorneys General Act of
3 2004 ... is binding not only on the named employee plaintiff but also on government agencies and
4 any aggrieved employee not a party to the proceeding.” Arias v. Superior Court (2009) 46 Cal.4th
5 969, 985-86. Accordingly, the release in the Settlement Agreement narrowly releases only civil
6 penalty claims brought under PAGA. Under Arias, the order the Parties request the Court enter is
7 intended to be “binding not only on the named employee plaintiff but also on government agencies
8 and any aggrieved employee not a party to the proceeding.” The Settlement Agreement protects the
9 rights of the Aggrieved Employees to bring their own individual claims should they wish. For these
10 reasons, the Parties contend the release narrowly applies only to the PAGA claims alleged, and the
11 Settlement Agreement specifically provides the Release is inapplicable to any claims other than those
12 brought under PAGA.

13 **THE SETTLEMENT IS FAIR, ADEQUATE AND REASONABLE, FURTHERS THE**
14 **PURPOSES UNDERLYING PAGA, AND WARRANTS APPROVAL**

15 13. First, Plaintiffs alleged Defendants failed to pay all wages due because they failed to
16 incorporate non-discretionary bonuses in the employee’s “regular rate of pay” for purposes of
17 calculating the correct overtime rate, correct break premium rate, and correct sick pay rate. Here,
18 Plaintiffs allege Defendants paid Plaintiff De Leon and other aggrieved employees non-discretionary
19 sign on and/or retention bonuses that were not included in regular rate calculations for overtime, meal
20 premiums, and sick pay, and further allege Plaintiff Lee Run Yu and other employees received non-
21 discretionary bonuses tied to positive Google and Yelp reviews left by customers that Defendants
22 likewise did not include in the regular rate calculation. Plaintiffs contend their expert’s analysis
23 suggested about 3,686 pay periods where Defendants underpaid employees for their overtime, meal
24 premiums, or sick pay.

25 14. Next, Plaintiffs argued they did not receive legally compliant meal periods, and
26 alleged numerous “de facto” violations where Aggrieved Employees were consistently unable to take
27 timely, off duty, thirty-minute, uninterrupted meal periods. Plaintiffs also alleged that the meal
28 waivers required by Defendants were ineffective because there were agreed to by all employees as a

1 mandatory condition of employment and accordingly were invalid under California law. Plaintiffs
2 further alleged the Aggrieved Employees did not receive compliant rest periods and that Defendants
3 simply did not schedule rest breaks for employees and that they further were unaware of any
4 procedure allowing them to request a 10 minute break.

5 15. Plaintiffs next contend that Defendants' tip policies violate California law and resulted
6 in Aggrieved Employees not receiving all of their tip wages. Here, Plaintiff De Leon alleges he and
7 other received tip wages during some pay periods but not others, as result of Defendants' purported
8 failure to accurate track and distribute tips, and Plaintiff Yu contends she lost tips because Defendants
9 purportedly had policies of deducting money from the tip pool and using those deductions as direct
10 or indirect credits against an employee wages in violation of Labor Code § 353. On the other hand,
11 Defendants argued their tip policies and practices were entirely compliant with the Labor Code and
12 that they fully compensated all employees eligible to receive tip wages with their share of the
13 gratuities consistent with Defendants' tip pooling policies and practices.

14 16. Plaintiffs next alleged Defendants failed to reimburse necessary business expenses for
15 use of personal cell phones, as supervisors would contact Plaintiffs and other employees on their
16 personal phones both at and away from work regarding a host of issues. Plaintiffs and the Aggrieved
17 Employees received no reimbursement for purportedly using their own phones on company business.
18 Plaintiffs also alleged they were required to maintain and press their work uniforms in order comply
19 with Defendants' strict dress code, and likewise received no reimbursement for such costs.

20 17. Lastly, Plaintiffs also brought claims derivative of the foregoing claims, including a
21 derivative wage statement claim based on the failure to pay all wages due, and failure to pay all wages
22 due and owing upon separation of employment under Labor Code §§ 201-203.

23 18. At the time of mediation, Defendants indicated they employed approximately 1,456
24 non-exempt employees in California during the applicable PAGA period, and these individuals
25 worked approximately 25,000 pay periods during that time. Based on the data and information
26 provided, Plaintiffs estimated Defendant's maximum PAGA exposure at approximately \$12,615,600.

27 19. We calculated this amount as follows:
28

1 **Underpaid Overtime/Regular Rate**

2 3,686 pay periods with violations * \$100/violation = \$368,600

3 **Meal Period Violations**

4 25,000 pay periods * 86.1% violation rate * \$100/violation = \$2,152,500

5 **Rest Period Violations**

6 25,000 pay periods * 100% violation rate * \$100/violation = \$2,500,000

7 **Expense Reimbursement**

8 25,000 pay periods * 100% violation rate * \$100/violation = \$2,500,000

9 **Tip Pool Violations**

10 25,000 pay periods * 100% violation rate * \$100/violation = \$2,500,000

11 **Wage Statement Violations**

12 25,000 pay periods * 100% violation rate * \$100/violation = \$2,500,000

13 **Untimely Final Wages**

14 954 former employees * 1 violation per employee * \$100/violation = \$95,400

15 20. On the unpaid wage/regular rate claims, Defendants took the position that they
16 accurately calculated and paid for all overtime wages, meal premiums, and sick pay consistent with
17 California law. Defendant further suggested many of the alleged payments did not have to be included
18 in the regular rate calculation as they were discretionary, and further noted the minimal number of
19 pay periods where an employee both worked overtime and received any kind of bonus payment such
20 that any potential penalties would be nominal in any event.

21 21. For the meal and rest break claims, Defendants offered multiple defenses. First, they
22 emphasized their written meal and rest break policies were generally compliant, that they authorized
23 and permitted all necessary breaks, and that employees received full uninterrupted lunch periods free
24 from employer control. They further noted their time records generally showed employees took
25 compliant meal periods, and that they compensated employees with the required extra hour of pay
26 for any documented violations. Defendants also asserted that even to the extent any late or short meal
27 periods occurred, they were in violation of company policy and aberrational, and would require
28 significant individual inquiries to determine the reasons underlying any such alleged violations and

1 whether they were by employee choice or some other reason. Defendants also argued that they entered
2 into valid meal waivers with employees where appropriate and accordingly many allegedly “missed”
3 breaks actually were waived by the employees.

4 22. As with meal breaks, Defendants argued the applicable rest break policies complied
5 with California law, and that they authorized and permitted employees to take all required breaks.
6 Defendants further contended that, in light of the fact that they are not required to maintain a record
7 of rest periods, any evidence of failure to authorize rest periods and/or discouragement from taking
8 rest periods would be purely anecdotal and individual issues would predominate on liability. This
9 arguably would once again make a trial unmanageable since the number of instances an employee
10 missed a rest break would have to be tested on a case by case basis to determine compliance.

11 23. Defendants next argued their tip policies were entirely compliant with the Labor
12 Code and that they fully compensated all employees eligible to receive tip wages with their share of
13 the gratuities consistent with the each restaurant’s tip pooling policies. They further argued they
14 accurately tracked and recorded all tips at all restaurants, and that no deductions of any kind were
15 made from the tip pool such that any employee ever lost any portion of their earned tip wages.
16 Thus, per Defendants, there simply is no liability on this claim.

17 24. For the expense reimbursement claim, Defendants countered there typically would
18 be no need for employees to communicate via phone or text while performing their job duties, or
19 for them to otherwise use their personal phones for any reason. Per Defendants, to the extent
20 Plaintiffs or other Aggrieved Employees used their individual phones for work purposes, it was
21 done purely for personal convenience and was neither required nor necessary in order to perform
22 their job duties. Thus, per Defendants, no reimbursement is required. On the uniform issue,
23 Defendants argued no professional laundry services would be needed to comply with the dress
24 code, and likewise any such costs were incurred at the employee’s option were not “necessary”
25 such that reimbursement was required under Labor Code § 2802.

26 25. Plaintiffs also alleged derivative violations of Labor Code § 226 (wage statement
27 violations) and §§ 201-203 (waiting time penalties), which claims will rise or fall along with the
28 primary claims addressed above, in addition to being subject to “good faith” and other defenses

1 available to Defendants. Accordingly, Plaintiffs had to discount the value of this claim significantly
2 in light of these multiple potential defenses. Defendants also contended a substantial discount
3 should be applied to the civil penalties for these derivative (i.e., “stacked”) violations, as it would
4 be unfair to penalize Defendants multiple times for the same violation.

5 26. Defendants next emphasized PAGA gives the Court wide latitude to reduce the
6 amount of civil penalties “based on the facts and circumstances of a particular case” if “to do
7 otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.” Labor
8 Code § 2699(h). I am aware of several state and federal courts in California that have applied
9 significant reductions to PAGA civil penalties even after plaintiff prevailed on the merits.

10 27. Thus, Defendants raised various and multi-layered defenses to each of Plaintiffs’
11 claims, anyone of which, if successful, could have decimated Plaintiffs’ case. And Defendant
12 vowed to raise all these defenses at trial. Accordingly, Plaintiffs faced risky issues going forward
13 with this litigation, and it could have taken years to realize any recovery in this action along with
14 the possibility of post-trial appeals. In addition to its merits defenses and arguing trial would be
15 unmanageable, Defendants also intended to raise additional defenses on damages, including the
16 proper measure of civil penalties and the appropriate discount to place on any assessment of such
17 penalties.

18 28. Although Plaintiffs, co-counsel and I believe they could have prevailed, there was
19 no such guarantee. When the risks of prevailing at trial on the merits on all claims, securing 100%
20 of the theoretical civil penalties, and the Court’s significant discretion to reduce any penalty award,
21 all are factored into the equation, the settlement value is reasonable and supported. Of course, to
22 recover anywhere near the maximum penalties Plaintiffs would have to shoot the moon and win
23 both liability and maximum penalties on all claims as to every single pay period at issue, which
24 outcome, for the reasons discussed, is unlikely. Given Defendants’ various procedural and merits
25 defenses, as well as the substantial penalty reductions ordered in the cases above – which occurred
26 after trial – the proposed settlement is eminently reasonable.

27 ////

28 /////

1 **SUBMISSION TO THE LWDA**

2 29. Plaintiffs timely served the LWDA with the Settlement Agreement and this Motion,
3 and notified the LWDA of this approval hearing. Accordingly, the LWDA will be able to weigh in
4 as necessary and, importantly, many courts find it persuasive of approval if the LWDA ultimately
5 declines to offer any comment or objection to a proposed PAGA settlement.

6 **THE REQUESTED FEES AND COSTS ARE FAIR AND REASONABLE**

7 30. Under the terms of the Settlement Agreement, Plaintiffs' counsel respectfully requests
8 an award of attorney's fees equal to one-third of the total settlement amount, or \$316,666.67. A one-
9 third common fund attorney fee award is consistent with what courts have awarded Plaintiffs' counsel
10 in other representative actions. Awarding attorney's fees of one-third of a gross settlement amount
11 is favored by California courts when a fund established for the common benefit of others is involved,
12 such as here.

13 31. There are several additional factors why I believe that the Court should award one-
14 third of the common fund as reasonable attorney's fees. First, our efforts resulted in a common fund
15 settlement amount of \$950,000.00, which for the reasons explained herein, is fair and reasonable in
16 light of the risks/defenses Defendant raised in litigation and threatened to raise at trial and in post-
17 trial appeals. Moreover, this result was achieved by the work and success of this office and our co-
18 counsel, who negotiated the settlement after extensive preparation, informal discovery, a full
19 mediation session, and substantial negotiations.

20 32. Second, Plaintiffs faced significant risks going forward with the litigation. As
21 discussed above, Defendants raised various defenses throughout this litigation, anyone of which, if
22 successful, could have decimated Plaintiffs' case. And Defendants vowed to raise all these defenses
23 at trial. Accordingly, Plaintiffs faced risky issues going forward with this litigation, and it would
24 have taken several more years to realize any recovery in this action along with the possibility of
25 post-trial appeals.

26 33. Third, Crosner Legal are experienced class and representative action litigators, and
27 have achieved several approved PAGA settlements. This experience and expertise, combined with
28 the high quality of work performed, resulted in the settlement achieved in this case.

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

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

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

12 37. In particular, I have served as class counsel in several certified class action cases,
13 including:

- 14 a. *Party City Wage and Hour Cases*, JCCP4781 (class counsel for certified class of non-
15 exempt hourly employees who worked for Defendants in California)
- 16 b. *Lewis v. Express Messenger Systems*, Los Angeles Superior Court Case No. BC501521
17 (class counsel for certified class of last-mile delivery drivers who were alleged to be
18 misclassified as independent contractors)
- 19 c. *Ramirez-Vivar v. Grifols Diagnostic Solutions, Inc., et al.*, Alameda County Superior
20 Court, Case No. RG21099519 (class counsel for certified classes of non-exempt hourly
21 employees who worked for Defendants in California)
- 22 d. *Jones v. LA Live*, Los Angeles County Case No. BC687908 (class counsel for certified
23 issue classes consisting of hourly employees who worked at Staples Center and Nokia
24 Theater)

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

- 28 e. *Cruz v. Walmart*, Los Angeles County Super. Ct. Case No. 18STCV03128 (\$15 million

- 1 global PAGA settlement on behalf of hourly employees statewide for alleged Labor
2 Code violations.)
- 3 f. *Vorise v. 24 Hour Fitness USA, Inc.*, Contra Costa County Super. Ct., Case No. C 15-
4 02051 (\$11 million global PAGA settlement on behalf of over 36,000 employees for
5 Labor Code violations.)
- 6 g. *Gross v. Sodexo*, Kern County Super Ct., Case No. BCV-18-101746 Capstone (\$4.75
7 million class and PAGA settlement on behalf of class of non-hourly employees for
8 Labor Code violations.)
- 9 h. *Campbell v. AEG* (\$1.8M class and PAGA settlement on behalf of group of hourly
10 employees who worked at concert venues in California for alleged Labor Code
11 violations)
- 12 i. *Fiebelkorn v. AEG*, et al. Los Angeles Superior Court Case No. BC717337 (\$1.75M
13 class settlement on behalf of group of hourly employees who worked at Oakland
14 Coliseum for alleged Labor Code violations)
- 15 j. *Amaro v. Anaheim Arena Management*, Orange County Superior Court Case No. 30-
16 2017-00917542 (\$2,212,500 class and PAGA settlement on behalf of group of hourly
17 employees who worked at Honda center in Anaheim California for alleged Labor Code
18 violations)
- 19 k. *Espindola v. Panda Express*, San Bernardino Superior Court Case No. CIVDS1931455
20 (\$3.125M class and PAGA settlement on behalf of hourly employees statewide for
21 alleged Labor Code violations)
- 22 l. *Gold v. Benihana*, San Diego Court Superior Court Case No. 37-2016-00022320-CU-
23 OE-NC (\$2.25M class and PAGA settlement on behalf of hourly employees statewide
24 for alleged Labor Code violations)
- 25 m. *Party City Wage and Hour Cases*, JCCP4781 (\$6.5M class and PAGA settlement on
26 behalf of hourly employees statewide for alleged Labor Code violations)
- 27 n. *Lewis v. Express Messenger Systems*, Los Angeles County Super Court Case No.
28 BC501521 (\$10.5M class and PAGA settlement on behalf of a statewide group of

- 1 independent contractor last-mile delivery drivers alleged to be misclassified)
- 2 o. *Flores v. Tesla*, Alameda County Superior Court Case No. RG18907072 (\$4M class and
- 3 PAGA settlement on behalf of statewide group of hourly employees for alleged Labor
- 4 Code violations)
- 5 p. *Ruiz v. Disney Stores*, San Bernardino Superior Court Case No. CIVDS2016983 (\$2M
- 6 class and PAGA settlement on behalf of statewide group of hourly employees who
- 7 worked at retail stores in California for alleged Labor Code violations)
- 8 q. *Ramirez v. Yin Management*, Sacramento County Superior Court Case No. 34-2021-
- 9 00301530 (\$1.8M class and PAGA settlement on behalf of statewide group of hourly
- 10 employees who worked at Defendant's McDonald's franchises in California for alleged
- 11 Labor Code violations).
- 12 r. *Suhartono v. RRG Besh*, Los Angeles County Superior Court Case No. 19STCV22184
- 13 (\$2.25 class and PAGA settlement on behalf of statewide group of hourly employees
- 14 who worked at Defendant's McDonald's franchises in California for alleged Labor Code
- 15 violations).
- 16 s. *Gomes v. Kura Sushi*, Los Angeles County Superior Court Case No. 19STCV18977
- 17 (\$1.75M class and PAGA settlement on behalf of statewide group of hourly employees
- 18 who worked at Defendant's restaurants in California for alleged Labor Code violations)
- 19 t. *Saldana v. Hydrochem*, Contra Costa Superior Court Case No. CIVMSC19-02624
- 20 (\$1.38M class and PAGA settlement on behalf of statewide group of hourly employees
- 21 for alleged Labor Code violations).

22 39. In addition, below are settlements in consumer class action cases in which I was listed

23 as an attorney of record and either managed, or co-managed with attorneys at my firm:

- 24 u. *Lopez v. Seterus, et al.*, Los Angeles Superior Court Case No. BC484297 (\$3M Class
- 25 settlement on half of thousands of borrowers in California, Florida, and Texas for UCL
- 26 violations premised on improper late fee collections)
- 27 v. *McGill v. Citibank*, Riverside County Superior Court Case No. RIC 1109398 (in
- 28 landmark case that established the 'McGill rule' precluding the waiver of public

1 injunctive relief in pre-dispute arbitration agreements, negotiated confidential settlement
2 on behalf of consumer who sued for damages and class injunctive relief stemming from
3 marketing of credit protector plan)

4 40. Finally, I have been selected by my peers as a Super Lawyers 'Rising Star' every year
5 since 2016 through 2022, which is a recognition that is provided to only 2.5% of active lawyers
6 practicing within the State of California.

7 41. Zach Crosner is a 2010 graduate of University San Diego School of Law and he
8 has approximately thirteen years of experience as a practicing attorney. For nearly his entire
9 career, his practice has focused on litigation of wage & hour, consumer, and privacy class action
10 and representative action claims. Following graduation he immediately began working for a
11 nationally recognized plaintiff's complex litigation firm, CaseyGerry, where he worked directly
12 with past presidents of the consumer attorneys and recipients of trial attorneys of the year awards.
13 He also worked for other firms that included former CAALA and CLAY trial attorney of the year
14 recipients. While with these firms, he advocated for the rights of consumers and employees in
15 class action litigation, civil rights and employment litigation, catastrophic injuries, insurance bad
16 faith and appellate litigation.

17 42. In 2013, he founded the law firm of Crosner Legal, P.C. which since its inception
18 has focused almost exclusively on plaintiff-side class actions lawsuits representing employees,
19 consumers and other victims. Currently, over ninety percent (95%) of his practice is dedicated
20 exclusively to the prosecution of class actions and representative action lawsuits, and his law firm
21 is currently responsible as lead counsel or co-lead counsel for prosecuting over one hundred (100)
22 active wage and hour class actions and/or PAGA representative actions, as well as a multitude of
23 consumer and privacy class actions, in both federal and state courts throughout California. He has
24 been a direct participant in over one hundred (100) class action and/or representative action
25 settlements where he has been approved as adequate lead counsel.

26 43. Mr. Crosner has been selected by Super Lawyers as a "Southern California Rising
27 Star" for employment and labor law consecutively from 2018 through 2023. Super Lawyers has
28 also named me on their "Up-and-Coming 100" Southern California Rising Stars List for

1 consecutive years from 2021 through 2023. Only 2.5% of lawyers within California are named a
2 Super Lawyer Rising Star and even less are added to their Top Lists. Additionally, he has been
3 selected as a Top 40 Under 40 Civil Plaintiff Attorney by the National Trial Lawyers, invitation-
4 only organization composed of the premier trial lawyers, from 2019 through 2023. He is an active
5 participant in advocacy groups, including as an executive board member of the Wage and Hour
6 Committee and the Legislative Committee for the California Employment Lawyers Association; a
7 member of the Grassroots Advocacy Team for the National Employment Lawyers Association;
8 Wage and Hour Committee member and Class Action Committee member for the National Trial
9 Lawyers; a member of the American Association for Justice; and a member of the Pound Civil
10 Justice Institute.

11 44. Jamie Serb 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 joined Crosner Legal on January 4, 2021
16 as an associate attorney. She has handled wage and hour class actions and PAGA lawsuits for
17 over six (6) years and has assisted in obtaining millions of dollars for employees during her years
18 of practice.

19 45. Kiara Bramasco received her undergraduate degree, magna cum laude, from
20 Loyola Marymount University in Political Science, and then received her JD from Loyola Law
21 School in 2018. She then spent several years with well-known plaintiff's firm Moss Bollinger,
22 first as a law clerk and then as an associate, where her practice focused on employment law,
23 particularly wage and hour class action and PAGA litigation. She joined Crosner Legal in 2021,
24 and now is head of the Firm's Prelitigation Department.

25 46. Branden Hamilton obtained her undergraduate degree from UCLA in 2004, and her
26 law degree from George Washington University in 2007. She has been affiliated with my firm since
27 2017 and became Of Counsel with Crosner Legal in 2019, and her practice focuses almost exclusively
28 on wage and hour class and representative actions. She has spent her entire career representing

1 plaintiffs in employment litigation, including several years as an associate at well-known plaintiff's
2 firm Carlin & Buchsbaum.

3 47. J. Kirk Donnelly is a 1989 graduate of the College of William and Mary, and a 1995
4 graduate *cum laude* of the University of San Diego School of Law, where he was selected to the
5 Order of the Coif and the Order of Barristers. Prior to 2003, he was a litigation associate with Ross
6 Dixon & Bell, LLP (now Troutman Pepper Locke LLP), in Orange County, California, where his
7 practice focused on complex business, employment, and insurance coverage disputes. In 2003, he
8 became associated with Dostart Clapp & Coveney, LLP, then one of the premiere plaintiffs' wage
9 and hour class action firms in California. In 2008, he founded the Law Offices of J. Kirk Donnelly,
10 APC and, in January 2019, also became Of Counsel to Crosner Legal, P.C. Since 2003, his practice
11 has focused on representing plaintiffs in wage and hour and consumer law matters, including both
12 class actions and individual matters. He has served as class/lead counsel in over 50 wage and hour
13 class and PAGA actions.

14 48. Crosner Legal, P.C. has obtained several multi-million dollar wage and hour class
15 action settlements while serving as lead class counsel in recent years, including but not limited to a
16 \$1.9 million wage and hour class action settlement in 2015 (*Smith v. Lux Retail North America,*
17 *Inc.*, Case No. 3:13-cv-01579-WHA (N.D. Cal.)); a \$4.1 million wage and hour class action
18 settlement in 2016 (*Aguirre v. Mariani Nut Company, Inc. et al.*, Case No. 34- 2016-00190252
19 (Sacramento Cty. Super Ct.)); a \$1.35 million wage and hour class action settlement in 2017
20 (*Montelone v. Ocean Cities Pizza, Inc.*, Case No. 56-2014-00458249 (Ventura Cty. Super. Ct.)), a
21 \$1.8 million wage and hour class action settlement in 2018 (*Latham v. K.W.P.H. Enterprises, Inc.*
22 *dba American Ambulance*, Case No. 17C-0162 (Kings Cty. Super Ct.)), a \$1.3 million wage and
23 hour class action settlement in 2019 (*Means, et al. v. AirGas USA, LLC*, Case No. 17-CV-2160 JGB
24 (C.D. Cal.)), a \$1.5 million wage and hour settlement in 2020 (*Babouchian, et al. v. Wyndham*
25 *Vacation Ownership, et al.*, Case No. CV18-14601 (San Diego Cty. Super. Ct.)), a \$1.15 million
26 wage and hour class action settlement in 2020 (*Buford v. Medical Solutions LLC*, Case No. 4:18-
27 CV-04864-YGR (N.D.Cal.)); a \$7.25 million wage and hour class action settlement in 2020 in
28 *Avina, et al. v. First Alarm Security & Patrol, Inc.*, Case No. 18CV323753 (Santa Clara Cty. Super

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

24 49. Fourth, our office has been representing Plaintiff De Leon (and the State of California)
25 in this matter on a strictly contingent basis and as such, had to forego other financial opportunities to
26 litigate other cases, incurred the risk of non-recovery after a substantial investment of time, money,
27 and resources, and have done so since the inception of this case without any payment or
28 compensation. This is not an easy burden for a small firm. If, despite these hardships and risks, the

1 best this office could hope for is merely to be paid our customary hourly rate multiplied by the number
2 of hours worked on the case, then we would not be compensated for the hardships and serious risks
3 it faced litigating this contingency case, and would not be incentivized to take on similar private
4 attorney general cases in the future.

5 50. Fifth, the request for attorney's fees in the amount of one-third of the common fund
6 falls well within the norms accepted by state and federal courts in California in comparable wage
7 and hour actions actually handled by this office. Moreover, the award of a one-third fee recovery
8 under the common fund doctrine was recently approved by the California Supreme Court in Laffitte
9 v. Robert Half Int'l, Inc. (2016) 1 Ca1.5th 480.

10 51. Under the adjusted Laffey Matrix, a reasonable rate for an attorney with 20-plus
11 years of experience, such as myself, Mr. Crosner and Ms. Serb, is over \$800. Similarly, the
12 December 8, 2008 article, "Billable Hours Aren't the Only Game in Town Anymore," NATIONAL
13 LAW JOURNAL, which set forth the following hourly billing rates as reported by Sheppard,
14 Mullin, Richter & Hampton, a leading firm in the defense of wage-and-hour class actions that I
15 have opposed when litigating wage-and-hour class actions: Partners: \$475-\$795; Associates: 1st
16 Year - \$275, 2nd Year - \$310, 3rd Year - \$335, 4th Year - \$365, 5th Year - \$390, 6th Year - \$415,
17 7th Year - \$435, 8th Year - \$455.36.

18 52. I have personal knowledge of the hourly rates charged by a number of plaintiff-side
19 wage and hour class action firms in the Bay Area, Los Angeles and San Diego markets, for partner-
20 level attorneys with experience comparable to mine and to that of my colleagues. These rates have
21 range from \$650 to \$850 per hour for calendar years 2017-2021. Some examples include attorney
22 Matthew Matern of Matern Law Group in Los Angeles, with approximately 26 years of experience
23 \$850/hour (2018); Sean Setareh of Setareh Law Group, with approximately 25 years of experience,
24 \$1,125/hr (2023); Craig Ackermann of Ackermann & Tilajef, PC with approximately 25 years of
25 experience \$850/hour (2021), Michael Malk of Malk APC in Los Angeles, with approximately 16
26 years of experience \$650/hour (2018), Michael Singer and Isam Khoury of Cohelan Khoury &
27 Singer in San Diego, 35 years and 45 years of experience respectively, both \$825/hour (2018),
28 Jason Ehrlich of McCormack & Ehrlich LLP in San Francisco, with approximately 17 years of

1 experience \$750/hour (2017), and James Kawahito of Kawahito Law Group in Los Angeles, with
2 approximately 16 years of experience \$750/hour (2020).

3 53. Based upon the foregoing, as well as our qualifications and experience set forth
4 above, the following hourly rates are reasonable: Zachary M. Crosner \$800/hour, Jamie Serb and
5 Brandon Brouillette \$750/hour, Kiara Bramasco \$650/hour, Branden Hamilton \$600/hour, and J.
6 Kirk Donnelly \$900/hour. Plaintiff De Leon requests the Court apply the above hourly billing rates
7 in this case, as these rates are reasonable in the California legal market for attorneys handling wage
8 and hour class actions and PAGA representative actions.

9 54. I have reviewed the work performed on the case and the billing inputted, Crosner
10 Legal's lodestar currently totals approximately \$125,730 based on 165.1 attorney hours spent
11 litigating the case, exclusive of time for attending the hearing on the approval motion and time to be
12 incurred thereafter to implement and administer the settlement. A true and correct summary of
13 Crosner Legal's tasks performed and time expended is attached hereto as Exhibit 5. When
14 combined with the lodestar for co-counsel, Plaintiffs' total lodestar in this matter is \$145,075.00,
15 based on 188.1 total attorney hours.

16 55. Based the lodestar analysis above, the requested award of 1/3 of the common fund,
17 or \$316,666.67, represents the base lodestar with a modest 2.18 upward modifier, which is justified,
18 reasonable and appropriate. Any fees awarded will be split 80% to Crosner Legal and 10% each
19 to the Hekmat and Rothman firms. Both plaintiffs have been informed of the proposed fee split
20 and consented thereto in writing.

21 56. I also request reimbursement of Crosner Legal's actual out-of-pocket expenses
22 incurred to prosecute this action. These expenses were incidental and necessary to the effective
23 representation of the employees.

24 57. Crosner Legal's costs are \$16,364.61. The requested costs include filing fees,
25 service of process, mediation fees, expert fees, and postage. Notably, the requested costs do not
26 include any and all printing, copying, and research charges. The requested costs are reasonable and
27 uncontested, and should be approved. A true and correct itemization of the costs and expenses
28 incurred is set forth below:

Expense Category	Amount
Court Filing Fees/Service of Process/Attorney Service	\$1,166.95
Mediation Fees	\$10,000.00
PAGA Filing Fees	\$75.00
Expert Witness Fees	\$4,770.00
Postage/Delivery	\$352.66
Legal/Financial Research	(waived)
Photocopies	(waived)
Total Costs and Expenses	\$16,364.61

I respectfully request the Court approve reimbursement of costs in total amount of \$16,364.61 to Crosner Legal.

58. Here, pursuant to the Settlement Agreement, both Plaintiffs seek an incentive award of \$10,000. These requests are reasonable given their efforts in this case and the risks they undertook on behalf of the Aggrieved Employees. Additionally, by contacting and retaining counsel to pursue these claims, Plaintiffs made this settlement possible for the other Aggrieved Employees and the LWDA, while shouldering the risk of being liable for Defendant's litigation costs. Plaintiffs also exposed themselves to unwanted notoriety related to filing a public lawsuit (discoverable even through a simple google search) for the benefit of other employees, placing themselves at risk of discrimination by future prospective employers. Among taking many other actions assisting in the successful litigation of this case, Plaintiffs provided substantial factual information to my office, attended numerous meetings with my office to discuss the case, and generally participated in all phases of the litigation. Accordingly, the requested enhancement payments to Plaintiffs are appropriate and justified as part of the Settlement.

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1 59. For the foregoing reasons, it is respectfully requested that the Court approve the
2 settlement.

3 I declare under penalty of perjury under the laws of the State of California that the foregoing
4 is true and correct. Executed this 26th day of March, at Los Angeles, California.

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8 Declarant
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EXHIBIT

1

Andrea Rosenkranz, Esq. (State Bar No. 301559)
arosenkranz@ohaganmeyer.com
Matthew C. Sgnilek, Esq. (State Bar No. 235299)
msgnilek@ohaganmeyer.com
O'HAGAN MEYER
4695 MacArthur Court, Suite 900
Newport Beach, CA 92660
Telephone: (949) 942-8507
Facsimile: (949) 942-8510

Attorneys for Defendants,
HAIDILAO HOT POT CENTURY CITY INC, et al.

(Counsel Continued on Next Page)

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

MARLON DE LEON, on behalf of the State of
California, and others similarly situated and
aggrieved,

Plaintiffs,

v.

HAIDILAO HOT POT CENTURY CITY INC, a
California Corporation; HAIDILAO HOT POT
SAN DIEGO, INC., a California Corporation;
HAIDILAO HOT POT DALY CITY, INC., a
California Corporation; HAIDILAO CATERING
(U.S.A.) INC., a California Corporation;
HAIDILAO HOT POT FREMONT INC., a
California Corporation; HAIDILAO HOT POT
INDUSTRY INC., a California Corporation;
HAIDILAO RESTAURANT GROUP, INC., a
California Corporation; HAIDILAO
RESTAURANT CALIFORNIA INC., a California
Corporation; HDL MANAGEMENT USA
CORPORATION, a California corporation; and
DOES 1-100, inclusive,
Defendants.

Case No.: 23STCV19515

REPRESENTATIVE PAGA ACTION

**JOINT STIPULATION OF
REPRESENTATIVE PAGA ACTION
SETTLEMENT AND RELEASE OF
CLAIMS**

*[Assigned for All Purposes to the Hon.
Jill Feeney; Dept. 78]*

Complaint Filed: August 15, 2023
Trial Date: Not Yet Set

1 ZACHARY M. CROSNER, ESQ. (SBN 272295)
2 zach@crosnerlegal.com
3 JAMIE SERB, ESQ. (SBN 289601)
4 jamie@crosnerlegal.com
5 BRANDON BROUILLETTE, ESQ. (SBN 273156)
6 bbrouillette@crosnerlegal.com
7 CROSNER LEGAL, PC
8 9440 Santa Monica Blvd. Suite 301
9 Beverly Hills, CA 90210
10 Tel: (866) 276-7637
11 Fax: (310) 510-6429

12 Attorneys for Plaintiff,
13 MARLON DE LEON,
14 on behalf of the State of California,
15 and others similarly situated and aggrieved

16 Joseph Hekmat, Esq. (State Bar No. 265229)
17 jhekmat@hekmatlaw.com
18 HEKMAT LAW GROUP P.C.
19 2121 Avenue of the Stars, Ste. 800
20 Los Angeles, CA 90067

21 Ben Rothman, Esq. (State Bar No. 265472)
22 ben@rothmanattorneys.com
23 LAW OFFICE OF BEN ROTHMAN
24 2121 Avenue of the Stars, Ste. 800
25 Los Angeles, CA 90067

26 Attorneys for Plaintiff,
27 LEE YUN RU
28

1 This Joint Stipulation of Representative PAGA Actions Settlement and Release of Claims
2 (“Settlement” or “Agreement”) is made and entered into by and between Plaintiffs MARLON DE
3 LEON (“De Leon”) and LEE YUN RU (“Ru”) (De Leon and Ru are collectively the “Plaintiffs”),
4 individually and on behalf of all aggrieved employees, and Defendants HAIDILAO HOT POT
5 CENTURY CITY, INC., HAIDILAO HOT POT SAN DIEGO, INC., HAIDILAO HOT POT
6 DALY CITY, INC. ; HAIDILAO CATERING (U.S.A.) INC.; HAIDILAO HOT POT FREMONT
7 INC.; HAIDILAO HOT POT INDUSTRY INC; HAIDILAO RESTAURANT GROUP, INC.;
8 HAIDILAO RESTAURANT CALIFORNIA INC. and HDL MANAGEMENT USA
9 CORPORATION (collectively the “Defendants”). Plaintiffs and Defendants are collectively
10 referred to herein as “the Parties.”

11 **I. DEFINITIONS**

12 The following definitions are applicable to this Settlement, in addition to other terms defined
13 elsewhere in this Settlement:

14 1. “Actions” shall mean *Marlon De Leon v. Haidilao Hot Pot Century, City, Inc., et al.*,
15 Case No. 23STCV19515, filed on August 15, 2023, in the Superior Court for the State of California,
16 County of Los Angeles (the “De Leon Action”) and *Lee Yun Ru v. Haidilao Hot Pot San Diego,*
17 *Inc., et al.*, Case No. 37-2024-00000006-CU-OE-CTL, filed on January 2, 2024, in the Superior
18 Court for the State of California, the County of San Diego (the “Ru Action”) (related with the De
19 Leon Action on May 12, 2024, and consolidated via the filing of a First Amended Complaint in the
20 De Leon Action on January 6, 2025), and the operative Complaints filed therein.

21 2. “Aggrieved Employee Payment” shall mean the payment, distributed on a *pro rata*
22 basis, to the Aggrieved Employees constituting twenty-five percent (25%) of the Net Settlement
23 Amount, currently estimated to be One Hundred Forty-Five Thousand, Eight Hundred and Thirty-
24 Three Dollars and Thirty-Three Cents (\$145,833.33).

25 3. “Aggrieved Employee Payment Share” shall mean the value of each Aggrieved
26 Employee’s share of the Aggrieved Employee Payment as provided by this Agreement.

27 4. “Defense Counsel” shall mean the attorneys representing Defendants in the Actions,
28

Andrea Rosenkranz, Esq. and Matthew C. Sgnilek, Esq. of O'Hagan Meyer.

5. "Effective Date" shall mean 60 calendar dates following the date by which this Settlement is approved by the Superior Court by entry of the Judgment and the Judgment becomes Final. The occurrence of the Effective Date is a prerequisite to any obligation of Defendants to pay any funds into the Settlement Account.

6. "Individual Pay Periods" shall mean the number of Pay Periods for an individual Aggrieved Employee.

7. "Judgment" shall mean the Order of Final Judgment entered by the Superior Court that the Parties anticipate will be entered following a Hearing on the Settlement in this Actions.

8. "LWDA Payment" shall mean the payment to the California Labor and Workforce Development Agency ("LWDA") constituting seventy-five percent (75%) of the Net Settlement Amount, currently estimated to be Four Hundred Thirty-Seven Thousand, Five Hundred Dollars and Zero Cents (\$437,500.00).

9. "Maximum Settlement Amount" shall mean the maximum settlement amount of Nine Hundred and Fifty Thousand Dollars and Zero Cents (\$950,000.00) payable by Defendants as provided by this Agreement, unless that amount is increased pursuant to Paragraph 10 below.

10. Defendants represents that as of June 21, 2024, the number of Pay Periods worked by the Aggrieved Employees in the PAGA Period is approximately 25,000. Should the number of Pay Periods worked by the Aggrieved Employees as of August 23, 2024, increase by more than 10% (i.e., to more than 27,500 Pay Periods), then Defendants shall have the option of either (i) increasing the Maximum Settlement Amount by an amount determined by the following formula: $[(\text{Actual Number of Pay Periods} - 27,500) \div 27,500] \times \text{Maximum Settlement Amount}$; or (ii) changing the end date of the PAGA Period to a date for which there are no more than 27,500 Pay Periods.

11. "Net Settlement Amount" shall mean the Maximum Settlement Amount, less (i) the Representative PAGA Payments approved by the Superior Court; (ii) the PAGA Counsel Fees Payment approved by the Superior Court; (iii) the PAGA Counsel Litigation Expenses Payment

approved by the Superior Court; (iv) the Settlement Administrator Payment approved by the Superior Court; and (v) any other fees or expenses (other than PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment) incurred in implementing the terms and conditions of this Agreement as approved by the Superior Court.

12. “PAGA Counsel” shall mean the attorneys representing Plaintiffs in the Actions, including Zachary M. Crosner, Esq., Jamie Serb, Esq., and Brandon Brouillette, Esq. of Crosner Legal, PC; Joseph Hekmat, Esq. of Hekmat Law Group P.C.; and Ben Rothman, Esq. of Law Office of Ben Rothman.

13. “PAGA Counsel Fees Payment” shall mean one-third of the Maximum Settlement Amount (currently estimated to be Three Hundred Sixteen Thousand, Six Hundred and Sixty-Six Dollars and Sixty-Six Cents (\$316,666.66)) subject to approval by the Superior Court as PAGA Counsel’s attorneys’ fees incurred in connection with the Actions, including fees incurred in pre-filing investigation, filing of the Actions, and all related litigation activities, this Settlement, and all post-Settlement compliance procedures.

14. “PAGA Counsel Litigation Expenses Payment” shall mean the actual litigation expenses and/or costs expended by PAGA Counsel subject to approval by the Superior Court incurred in connection with the Actions, including pre-filing investigation, filing of the Actions, and all related litigation activities, this Settlement, and all post-Settlement compliance procedures. PAGA Counsel’s expenses are not to exceed Eighteen Thousand Dollars and Zero Cents (\$18,000.00).

15. “PAGA Group” shall mean all current and former hourly-paid, non-exempt employees of Defendants in California during the PAGA Period. “Aggrieved Employee” shall mean an individual who is a member of the PAGA Group (or if any such person is incompetent, deceased, or unavailable due to military service, the person’s legal representative or successor in interest evidenced by reasonable verification).

16. “PAGA Period” shall mean the period of time from June 5, 2022, through August 23, 2024.

1 17. “Representative PAGA Payments” shall mean the special payments made to
2 Plaintiffs in their capacities as Representative PAGA Plaintiffs to compensate them for prosecuting
3 the Actions, and performing work in support of the Actions, in the amount of Ten Thousand Dollars
4 and Zero Cents (\$10,000.00), per Plaintiff, or Twenty Thousand Dollars and Zero Cents
5 (\$20,000.00) total, subject to approval by the Superior Court.

6 18. “PAGA Settlement Notice” shall mean the Notice of Settlement, a sample of which
7 is attached hereto as Exhibit “A”. The PAGA Settlement Notice shall further contain (i) an
8 Aggrieved Employee’s first and last name, (ii) last known address, (iii) the Aggrieved Employee’s
9 Individual Pay Periods; and (iv) the Aggrieved Employee’s estimated Aggrieved Employee
10 Payment Share.

11 19. “Pay Period” shall mean any pay period in which an Aggrieved Employee actually
12 received payment from Defendants as an hourly-paid, non-exempt employee.

13 20. “Settlement Administrator” shall mean Phoenix Settlement Administrators proposed
14 by the Parties and appointed by the Superior Court to administer the Settlement.

15 21. “Settlement Administrator Payment” shall mean the payment to the Settlement
16 Administrator for its fees and expenses in administering this Settlement.

17 22. “Superior Court” shall mean the Superior Court of California for the County of Los
18 Angeles.

19 **II. RECITALS**

20 23. On June 5, 2023, PAGA Counsel, on behalf of De Leon and the PAGA Group, gave
21 written notice to the Labor Workforce and Development Agency (“LWDA”) of the Labor Code
22 violations Defendants are alleged to have violated (“De Leon LWDA Exhaustion Letter”).

23 24. On August 15, 2023, De Leon filed a Representative PAGA Action Complaint
24 against Defendants in the Los Angeles County Superior Court, Case No. 23STCV19515. In his
25 Complaint, De Leon pled a cause of action for Civil Penalties pursuant to the Private Attorneys’
26 General Act of 2004 (“PAGA”) (“De Leon Action”).

27 25. On October 19, 2023, PAGA Counsel, on behalf of Ru and the PAGA Group, gave
28

written notice to the Labor Workforce and Development Agency (“LWDA”) of the Labor Code violations Defendants are alleged to have violated (“Ru LWDA Exhaustion Letter”).

26. On January 2, 2024, Ru filed a Representative PAGA Action Complaint against Defendants in the San Diego County Superior Court, Case No. 37-2024-00000006-CU-OE-CTL. In her Complaint, Ru pled a cause of action for Civil Penalties pursuant to PAGA (“Ru Action”).

27. On May 12, 2024, the De Leon Action and Ru Action were deemed related.

28. Defendants deny and continue to deny all of Plaintiffs’ material allegations. Specifically, Defendants contend (1) they did not fail to pay the Aggrieved Employees the minimum, straight time, and/or overtime wages; (2) they paid the Aggrieved Employees for all hours worked; (3) they paid the Aggrieved Employees reporting time wages, as appropriate; (4) they provided the Aggrieved Employees with all meal periods according to law and/or paid meal period premiums; (5) they provided the Aggrieved Employees with all rest breaks according to law and/or paid rest break premiums; (6) they did not make any unlawful deductions from the Aggrieved Employees’ wages; (7) they reimbursed Aggrieved Employees for all necessary business expenses; (8) they provided Aggrieved Employees with suitable seating and suitable resting facilities; (9) they provided Aggrieved Employees with at least one day’s rest in seven; (10) they properly calculated and paid out sick time, including COVID-19 supplemental sick leave; (11) properly allocated and paid Aggrieved Employees paid-time-off; (12) they did not require Aggrieved Employees to enter into unlawful agreements; (13) they did not fail to timely pay the Aggrieved Employees wages due and owing during employment and/or upon separation; (14) they provided the Aggrieved Employees with accurate itemized wage statements, consistent with Labor Code Section 226; (15) they properly maintained all payroll records; (16) the PAGA Group is not entitled to penalties under PAGA; and (17) Defendants are not liable for damages, including attorneys’ fees and costs of litigation to the Aggrieved Employees.

29. In connection with the Actions, and in order to work toward a mediated resolution without the time and expense of formal discovery, the Parties produced voluminous documents and data (including, by Defendants, human resources documents and policies, time records, and payroll

data during the PAGA Period) which were reviewed, investigated, and analyzed by PAGA Counsel.

30. On June 24, 2024, the Parties in the Actions participated in a full day of mediation before an experienced employment, class, and PAGA representative action mediator, Todd Smith, Esq. (the “Mediation”) and the Parties reached a settlement at the Maximum Settlement Amount.

31. On January 6, 2025, Plaintiff De Leon filed a First Amended Complaint adding Plaintiff Ru as an additional named Plaintiff in the De Leon Action.

32. On February 7, 2025, Plaintiff Ru dismissed the Ru Action.

33. The Settlement described in this Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Settlement is intended or will be construed as an admission by Defendants that Plaintiffs’ claims in the Actions have any merit or that they have any liability to Plaintiffs, the PAGA Group or the State on those claims, or as an admission by Plaintiffs that Defendants’ defenses in Actions have any merit. This Settlement is intended to fully, finally, and forever compromise, release, resolve, discharge, and settle the released claims subject to the terms and conditions set forth in this Settlement.

34. Based on its own thorough, independent investigation and evaluation of this case, PAGA Counsel is of the opinion that the Settlement of this Actions with Defendants for the consideration and on the terms set forth in this Settlement is fair, reasonable, adequate, and in the best interest of the Aggrieved Employees in light of all known facts and circumstances, including the risk of significant costs and delay, the risk of non-representative approval of the Aggrieved Employees, the defenses asserted by Defendants including the risks of adverse determinations on the merits and numerous potential appellate issues. Although Defendants contend that they have no liability in the Actions, Defense Counsel shares PAGA Counsel’s belief that the Settlement represents a fair and adequate settlement given the respective risks associated with the case.

35. Based on the foregoing Recitals, the Parties agree as follows:

III. PROCEDURE FOR APPROVING SETTLEMENT

36. **Motion for Approval of Settlement by the Superior Court.** Plaintiffs will move

the Superior Court for an order granting Approval of the Settlement and approving the PAGA Settlement Notice (attached as Exhibit “A” to this Stipulation) (“Motion for Approval”). Any unresolved disagreement among the Parties concerning the PAGA Settlement Notice or other documents necessary to implement the Settlement will be referred first to Todd Smith, Esq., and if no resolution is reached, then to the Superior Court.

37. At the hearing on the Motion for Approval, the Parties anticipate that they will jointly appear, support the granting of the Motion for Approval, and obtain an order granting Approval, including approval of the PAGA Settlement Notice.

38. Should the Superior Court require any amendments to this Agreement or the Motion for Approval, the Parties agree to work jointly to resolve any issues in order to secure the Superior Court’s Approval.

39. Should the Superior Court decline to approve any material aspects of the Settlement, the Settlement will be null and void and the Parties will have no further obligations under it. In such event, the Parties shall be returned to their respective positions as of the date and time immediately prior to the execution of this Agreement, and the Parties shall proceed in all respects as if this Agreement had not been executed.

40. Upon approval of the Settlement by the Superior Court, the Parties will present for the Superior Court’s approval and entry a Proposed Final Order and Judgment. The entry of the Order and Judgment shall permanently bar all Aggrieved Employees from prosecuting against Defendant any claims for PAGA penalties through the PAGA Period, which were or could have been brought in this Actions, as well as all claims as set forth in the Release contained in Section V of this Agreement, whether known or unknown.

41. After entry of the Judgment, the Superior Court will have continuing jurisdiction over the Actions and the Settlement solely for purposes of (i) enforcing this Settlement, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as may be appropriate under court rules or applicable law.

42. **PAGA Settlement Notice.** After the Superior Court enters its order granting

Approval, every Aggrieved Employee will be provided with the PAGA Settlement Notice (in English, Spanish, and Chinese) which will include the PAGA Settlement Notice completed to reflect the order granting Preliminary Approval of the Settlement and the Aggrieved Employee's information as follows:

(a) Within twenty-one (21) days after the Motion for Approval is granted, Defendants will provide to the Settlement Administrator the "Aggrieved Employees' Data," which shall consist of an electronic database containing (i) each Aggrieved Employee's first and last name, (ii) last known mailing address, (iii) the Aggrieved Employee's Social Security number or Tax ID, and (iv) Aggrieved Employees' total number of Individual Pay Periods. If any or all of the Aggrieved Employees' Data are unavailable to Defendants, Defendants will so inform PAGA Counsel prior to the date on which Defendants are required to submit the Aggrieved Employees' Data to the Settlement Administrator and the Parties will make their best efforts to reconstruct or otherwise agree upon the Aggrieved Employees' Data prior to when it must be submitted to the Settlement Administrator. If the Parties are unable to agree, the dispute will be resolved by the Settlement Administrator as provided in Paragraph 43. This information will otherwise remain confidential and will not be disclosed to anyone, except as required to applicable taxing authorities, as required to carry out the reasonable efforts to identify Aggrieved Employee information as described in Paragraph 42, subsection (c), pursuant to Defendants' express written authorization, or by order of the Superior Court.

(b) Within seven (7) days of its receipt of the Settlement Account Deposit from Defendants, as described in Paragraph 44, or as soon thereafter as it is able to do so, the Settlement Administrator will mail the PAGA Settlement Notice (and corresponding payment) to all identified Aggrieved Employees via first-class U.S. Mail using the mailing address information provided by Defendants, unless modified by any updated address information that the Settlement Administrator obtains in the course of administration of the Settlement.

(c) If a PAGA Settlement Notice is returned by the U.S. Postal Service because of an incorrect address, the Settlement Administrator will promptly, and not later than five (5) days

1 from receipt of the returned packet, search for a more current address for the Aggrieved Employee
2 and re-mail the PAGA Settlement Notice to the Aggrieved Employee. The Settlement
3 Administrator will use the Aggrieved Employees' Data and otherwise work with Defense Counsel
4 or utilize its own resources such as skip traces to find a more current address. The Settlement
5 Administrator will be responsible for taking reasonable steps, consistent with its agreed-upon job
6 parameters, court orders, and fee, to trace the mailing address of any Aggrieved Employee for
7 whom a PAGA Settlement Notice is returned by the U.S. Postal Service. These reasonable steps
8 shall include the tracking of all undelivered mail; performing address searches for all mail returned
9 without a forwarding address; and promptly re-mailing to Aggrieved Employees for whom new
10 addresses are found.

11 (d) The Settlement Administrator will inform PAGA Counsel and Defense
12 Counsel of the number of returned PAGA Settlement Notices it receives and PAGA Settlement
13 Notices re-mailed in a weekly status report.

14 43. **Resolution of Aggrieved Employee Disputes.** If an Aggrieved Employee disputes
15 the number of his/her/their Individual Pay Periods stated in their PAGA Settlement Notice, the
16 Aggrieved Employee must, within fourteen (14) days after the Settlement Administrator initially
17 mails the PAGA Settlement Notice, ask the Settlement Administrator to resolve the matter by
18 returning the PAGA Settlement Notice with a statement of the number of Pay Periods that
19 he/she/they contends were worked and include any documentation the Aggrieved Employee has to
20 support his/her/their contention. The Settlement Administrator shall notify Defendants of the
21 dispute and provide them with a copy of the PAGA Settlement Notice and any documentation
22 received in support of the dispute within three (3) court days of receipt thereof. Defendants shall
23 review its payroll and personnel records and verify the correct number of Pay Periods within five
24 (5) court days of the Settlement Administrator's notification. Defendants' records will have a
25 rebuttable presumption of accuracy. After consultation with Defense Counsel and the applicable
26 Aggrieved Employee, the Settlement Administrator will, within three (3) court days of Defendants'
27 verification, make a determination of the Aggrieved Employee's number of Pay Periods and that
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determination will be final, binding on the Parties and the Aggrieved Employee, and is not appealable.

44. **Establishment of Settlement Account.** The Settlement Administrator shall establish a Settlement Account within ten (10) days of the Effective Date and notify the Parties when the Settlement Account has been established. The Settlement Administrator shall also provide Defendants with an itemized statement for the total amount to be deposited into the Settlement Account, which shall equal the Maximum Settlement Amount ("Settlement Account Deposit"). Within ten (10) days after receiving notification of the Settlement Account and statement for the Settlement Account Deposit, Defendants shall pay into the Settlement Account an amount equal to the Settlement Account Deposit. Defendants shall have no obligation to pay any additional funds into the Settlement Account.

45. **Payment of Aggrieved Employee Payment Shares.** The Settlement Administrator shall pay to each Aggrieved Employee his/her/their Aggrieved Employee Payment Share from the Settlement Account. The Settlement Administrator shall pay each Aggrieved Employee Payment Share by sending a check in the appropriate amount to the Aggrieved Employee at the address indicated in the Aggrieved Employee's Data. Such payment shall be sent by the Settlement Administrator via U.S. Mail within fourteen (14) days of its receipt of the Settlement Account Deposit from Defendants.

46. **Uncashed Aggrieved Employee Payment Share Checks.** Any checks paid to Aggrieved Employees shall be negotiable for one hundred and eighty (180) calendar days from the date of their issuance. An Aggrieved Employee must cash his/her/their Aggrieved Employee Payment Share check within one hundred and eighty (180) calendar days after it is mailed to him/her/them. If a check remains uncashed after one hundred and eighty (180) calendar days from the initial mailing, or if a check is returned to the Settlement Administrator as undeliverable during the one hundred eighty-day period, the Settlement Administrator shall take all reasonable efforts to identify the Aggrieved Employee's correct address, including the performance of a "skip-trace." If

1 an updated address can be identified, the Settlement Administrator shall issue another check to the
2 Aggrieved Employee and mail it to the Aggrieved Employee at his/her/their updated address. If an
3 updated address for the Aggrieved Employee cannot be identified, if a reissued check is once again
4 returned to the Settlement Administrator as undeliverable, or if the reissued check remains uncashed
5 after one hundred eighty (180) calendar days, the Settlement Administrator will keep an accounting
6 of such funds and shall give notice to the Parties of the total balance of uncashed Aggrieved
7 Employee Payment Shares. An Aggrieved Employee who fails to negotiate or receive his/her/their
8 Aggrieved Employee Payment Share check despite the procedures described above shall
9 nevertheless remain bound by the Settlement and the releases contained herein.

10 47. The funds represented by Aggrieved Employee Payment Share checks remaining
11 uncashed for more than one hundred and eighty (180) calendar days after issuance shall be voided
12 and then shall be transmitted to the Controller of the State of California to be held pursuant to the
13 Unclaimed Property Law, California Civil Code Section 1500, *et seq.*, in the names of those
14 Aggrieved Employees who did not cash their checks until such time they claim their property. The
15 Parties agree that this disposition results in no “unpaid residue” under California Civil Procedure
16 Code § 384, as the entire Net Settlement Amount will be paid out to Aggrieved Employees, whether
17 or not they all cash their settlement checks.

18 48. **Payment of PAGA Counsel’s Fees Payment and PAGA Counsel’s Litigation**
19 **Expenses Payment.** The Settlement Administrator shall pay to PAGA Counsel the PAGA
20 Counsel’s Fees Payment and PAGA Counsel’s Litigation Expenses Payment from the Settlement
21 Account. The Settlement Administrator shall pay the PAGA Counsel’s Fees Payment and PAGA
22 Counsel’s Litigation Expenses Payment by sending a wire or check in the appropriate amount to
23 PAGA Counsel at the address provided for in Paragraph 82. Such payment shall be sent by the
24 Settlement Administrator within ten (10) calendar days of its receipt of the Settlement Account
25 Deposit from Defendants.

26 49. **Final Report by Settlement Administrator to Superior Court.** Within ten (10)
27 days after final disbursement of all funds from the Settlement Account, the Settlement
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1 Administrator will serve on the Parties and file with the Superior Court a declaration providing a
2 final summary report on the disbursements of all funds from the Settlement Account. Within ten
3 (10) days after transmission of any remaining unclaimed funds to Controller of the State of
4 California the Settlement Administrator will serve on the Parties and file with the Superior Court a
5 declaration providing a final summary report on the transmission of any remaining unclaimed funds
6 to Controller of the State of California as outlined Paragraph 47.

7 **IV. SETTLEMENT TERMS AND CONDITIONS**

8 **50. Aggrieved Employee Payment Shares.** Subject to the terms and conditions of this
9 Settlement, the Settlement Administrator will calculate the Aggrieved Employee Payment Shares
10 for each Aggrieved Employee within ten (10) days after Defendants provide the Settlement
11 Administrator with the Aggrieved Employees' Data. The Aggrieved Employee Payment Share for
12 each Aggrieved Employee will be calculated as follows, understanding that the formulas below do
13 not constitute an admission by either Party, and are intended only to provide a practical means to
14 simplify and administer the claims process:

15 **(a) Number of Aggrieved Employees and Pay Periods.** Defendants shall
16 determine the total number of Aggrieved Employees and the aggregate number of Pay Periods for
17 those Aggrieved Employees as of the time of Approval. This information shall be provided to the
18 Settlement Administrator along with the Aggrieved Employees' Data as described in Paragraph 42
19 above.

20 **(b) Calculation of the Pay Period Value.** The Settlement Administrator shall
21 determine the value of a Pay Period ("Pay Period Value") by taking the Aggrieved Employee
22 Payment amount and dividing it by the sum of all Aggrieved Employees' Pay Periods.

23 **(c) Calculation of Aggrieved Employee Payment Shares.** The Settlement
24 Administrator shall assign to each Aggrieved Employee an Aggrieved Employee Payment Share
25 which shall be equal to the Pay Period Value multiplied by each Aggrieved Employee's Individual
26 Pay Periods. Upon calculation of the Aggrieved Employees' Aggrieved Employee Payment Shares,
27 the Settlement Administrator shall furnish to PAGA Counsel and Defense Counsel a worksheet
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1 containing a list of employee identification numbers for the Aggrieved Employees with their
2 corresponding Individual Pay Periods and Aggrieved Employee Payment Shares.

3 **51. Taxes and Withholdings.** Each Aggrieved Employee Payment Share is intended to
4 settle the Aggrieved Employees' claims for civil penalties. Accordingly, one hundred percent
5 (100%) of each Aggrieved Employee Payment Share shall represent civil penalties. The Aggrieved
6 Employee Payment Share shall be paid to the Aggrieved Employee in full without deductions or
7 withholdings, and the Settlement Administrator shall issue an IRS Form 1099 to each Aggrieved
8 Employee for that amount, to the extent the Aggrieved Employee's Aggrieved Employee Payment
9 Share is Six Hundred Dollars and Zero Cents (\$600.00) or more. Each Aggrieved Employee shall
10 be individually responsible for their own share of applicable income tax withholdings and
11 deductions for his/her/their Aggrieved Employee Payment Share.

12 **52. Total Payment Amount.** In no event will Defendants be required to pay more than
13 the Maximum Settlement Amount (unless that amount is increased pursuant to Paragraph 10 above)
14 for distribution to the Plaintiffs, PAGA Counsel, Aggrieved Employees, the LWDA, the Settlement
15 Administrator, or for any other costs or expenses not otherwise enumerated.

16 **53. Payments to Plaintiffs and PAGA Counsel and Others.** Subject to the terms and
17 conditions of this Settlement, the Settlement Administrator will make the following payments out of
18 the Maximum Settlement Amount as follows:

19 **(a) To Plaintiffs:** In addition to their respective Aggrieved Employee Payment
20 Share, Plaintiffs will apply to the Superior Court for Representative PAGA Payments in an amount
21 not to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00), each. Defendants will not
22 oppose these Representative PAGA Payments. The Settlement Administrator will pay the
23 Representative PAGA Payments approved by the Superior Court out of the Maximum Settlement
24 Amount. Payroll tax withholding and deductions will not be taken from the Representative PAGA
25 Payments and an IRS Form 1099 will be issued to each Plaintiff for their respective payment.

26 **(b) To PAGA Counsel:** PAGA Counsel will apply to the Superior Court for the
27 PAGA Counsel Fees Payment in an amount not to exceed one-third of the Maximum Settlement
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1 Amount (currently estimated to be Three Hundred Sixteen Thousand, Six Hundred and Sixty-Six
2 Dollars and Sixty-Six Cents (\$316,666.66)). PAGA Counsel will also submit to the Superior Court
3 a memorandum of costs for the PAGA Counsel Litigation Expenses Payment in an amount not to
4 exceed Eighteen Thousand Dollars and Zero Cents (\$18,000.00) as reimbursement for reasonable
5 costs of suit to be paid from the Maximum Settlement Amount. Defendants will not oppose these
6 requests. The Settlement Administrator will pay the amounts approved by the Superior Court out of
7 the Maximum Settlement Amount. Withholding and deductions will not be taken from the PAGA
8 Counsel Fees Payment or PAGA Counsel Litigation Expenses Payment and one or more IRS Forms
9 1099 will be issued to PAGA Counsel with respect to those payments.

10 (c) **To the LWDA:** As part of their Motion for Approval, the Parties will jointly
11 apply to the Superior Court for approval of the LWDA Payment in an amount currently estimated to
12 be Four-Hundred Thirty-Seven Thousand, Five Hundred Dollars and Zero Cents (\$437,500.00),
13 which shall constitute the LWDA's seventy-five percent (75%) share the Net Settlement Amount.

14 (d) **To the Aggrieved Employees:** As part of their Motion for Approval, the
15 Parties will jointly apply to the Superior Court for approval of the Aggrieved Employee Payment in
16 an amount currently estimated to be One Hundred Forty-Five Thousand, Eight Hundred and Thirty-
17 Three Dollars and Thirty-Three Cents (\$145,833.33), which shall constitute the PAGA Group's
18 twenty-five percent (25%) share the Net Settlement Amount.

19 (e) **To the Settlement Administrator:** The Settlement Administrator will be
20 paid from the Maximum Settlement Amount its reasonable fees and expenses as approved by the
21 Superior Court, which are estimated not to exceed Twelve Thousand Dollars and Zero Cents
22 (\$12,000.00).

23 54. **Appointment of Settlement Administrator.** The Parties will ask the Superior
24 Court to appoint Phoenix Class Actions Administrators, a qualified and experienced administrator
25 based in California where the Actions is venued, to serve as the Settlement Administrator, which, as
26 a condition of appointment, will agree to be bound by this Agreement with respect to the
27 performance of its duties and its compensation. The Settlement Administrator's duties will include
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(i) calculating Aggrieved Employee Payment Shares; (ii) preparing, printing, and mailing the PAGA Settlement Notice to all Aggrieved Employees; (iii) using reasonable measures to contact all Aggrieved Employees, including conducting a National Change of Address search on all Aggrieved Employees before mailing the PAGA Settlement Notice to each Aggrieved Employee's address; (iv) re-mailing the PAGA Settlement Notice to the Aggrieved Employee's new address for those Aggrieved Employees whose address had changed; (v) setting up a toll-free telephone number to receive calls from Aggrieved Employees; (vi) issuing the checks to effectuate the payments due under the Settlement; (vii) using reasonable measures to deliver issued checks to Aggrieved Employees, including use of a "skip-trace" for undeliverable checks; and (viii) otherwise administering the Settlement pursuant to this Agreement. The Settlement Administrator will have the final authority to resolve all disputes concerning the calculation of an Aggrieved Employee's Aggrieved Employee Payment Share, subject to the terms set forth in this Agreement. The Settlement Administrator's reasonable fees and expenses are estimated to not exceed Twelve Thousand Dollars and Zero Cents (\$12,000.00) and will be paid out of the Maximum Settlement Amount, as set forth herein, subject to Court approval.

V. RELEASE OF CLAIMS

55. **De Leon's Released Claims.** De Leon, individually and on behalf of De Leon's heirs, executors, administrators, representatives, attorneys, successors and assigns knowingly and voluntarily releases and forever discharges Defendants, including any and all parent corporations, affiliates, subsidiaries, managers, predecessors, insurers, successors and assigns, including but not limited to each of their current and former attorneys officers, directors and agents thereof, both individually and in their business capacities, (collectively, "Plaintiffs' Released Parties"), to the fullest extent permitted by law, of and from any and all claims, known and unknown, asserted and unasserted, which De Leon has or may have against the Plaintiffs' Released Parties as of the date of execution of this Settlement Agreement. De Leon is not waiving any rights De Leon may have to:

(i) De Leon's own vested accrued employee benefits under the Defendants' health, welfare or retirement benefits plans, if any, as of the date of execution of this Settlement Agreement; (ii)

1 benefits or rights to seek benefits under applicable workers' compensation (except as to claims
2 under Labor Code §§ 132a and 4553 which are expressly released herein) or unemployment
3 insurance or indemnification statutes; (iii) pursue claims which by law cannot be waived by signing
4 this Settlement Agreement; and (iv) enforce this Settlement Agreement.

5 56. To affect a full and complete general release as described above, De Leon expressly
6 waives and relinquishes all rights and benefits of § 1542 of the Civil Code of the State of California
7 and does so understanding and acknowledging the significance and consequence of specifically
8 waiving § 1542. Thus, notwithstanding the provisions of § 1542, and to implement a full and
9 complete release and discharge of all parties, De Leon expressly acknowledges this Settlement
10 Agreement is intended to include in its effect, without limitation, all claims De Leon does not know
11 or suspect to exist in De Leon' favor at the time of signing this Settlement Agreement, and that this
12 Settlement Agreement contemplates the extinguishment of any such claims. De Leon warrants De
13 Leon has read this Settlement Agreement, including this waiver of California Civil Code § 1542,
14 and that De Leon has consulted with or had the opportunity to consult with counsel of De Leon's
15 choosing about this Settlement Agreement and specifically about the waiver of § 1542, and that De
16 Leon understands this Settlement Agreement and the § 1542 waiver, and so De Leon freely and
17 knowingly enters into this Settlement Agreement. De Leon further acknowledges that De Leon
18 later may discover facts different from or in addition to those De Leon now knows or believes to be
19 true regarding the matters released or described in this Settlement Agreement, and even so De Leon
20 agrees that the releases and agreements contained in this Settlement Agreement shall remain
21 effective in all respects notwithstanding any later discovery of any different or additional facts. De
22 Leon expressly assume any and all risk of any mistake in connection with the true facts involved in
23 the matters, disputes or controversies released or described in this Settlement Agreement or with
24 regard to any facts now unknown to De Leon relating thereto.

25 57. **Ru's Released Claims.** Ru, individually and on behalf of Ru's heirs, executors,
26 administrators, representatives, attorneys, successors and assigns knowingly and voluntarily
27 releases and forever discharges Plaintiffs' Released Parties to the fullest extent permitted by law, of
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1 and from any and all claims, known and unknown, asserted and unasserted, which Ru has or may
2 have against the Plaintiffs' Released Parties as of the date of execution of this Settlement
3 Agreement. Ru is not waiving any rights Ru may have to: (i) Ru's own vested accrued employee
4 benefits under the Defendants' health, welfare or retirement benefits plans, if any, as of the date of
5 execution of this Settlement Agreement; (ii) benefits or rights to seek benefits under applicable
6 workers' compensation (except as to claims under Labor Code §§ 132a and 4553 which are
7 expressly released herein) or unemployment insurance or indemnification statutes; (iii) pursue
8 claims which by law cannot be waived by signing this Settlement Agreement; and (iv) enforce this
9 Settlement Agreement.

10 58. To affect a full and complete general release as described above, Ru expressly
11 waives and relinquishes all rights and benefits of § 1542 of the Civil Code of the State of California
12 and does so understanding and acknowledging the significance and consequence of specifically
13 waiving § 1542. Thus, notwithstanding the provisions of § 1542, and to implement a full and
14 complete release and discharge of all parties, Ru expressly acknowledges this Settlement
15 Agreement is intended to include in its effect, without limitation, all claims Ru does not know or
16 suspect to exist in Ru' favor at the time of signing this Settlement Agreement, and that this
17 Settlement Agreement contemplates the extinguishment of any such claims. Ru warrants Ru has
18 read this Settlement Agreement, including this waiver of California Civil Code § 1542, and that Ru
19 has consulted with or had the opportunity to consult with counsel of Ru's choosing about this
20 Settlement Agreement and specifically about the waiver of § 1542, and that Ru understands this
21 Settlement Agreement and the § 1542 waiver, and so Ru freely and knowingly enters into this
22 Settlement Agreement. Ru further acknowledges that Ru later may discover facts different from or
23 in addition to those Ru now knows or believes to be true regarding the matters released or described
24 in this Settlement Agreement, and even so Ru agrees that the releases and agreements contained in
25 this Settlement Agreement shall remain effective in all respects notwithstanding any later discovery
26 of any different or additional facts. Ru expressly assume any and all risk of any mistake in
27 connection with the true facts involved in the matters, disputes or controversies released or
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described in this Settlement Agreement or with regard to any facts now unknown to Ru relating thereto.

59. **LWDA Released Claims.** As of the date of the Judgment, the LWDA through Plaintiffs as its proxies, will release claims as to the pay periods worked by each Aggrieved Employee, and without the need for each Aggrieved Employee to manually sign a release document, shall release the Released Parties and the State of California for claims for civil penalties pursuant to PAGA based upon all causes of action and claims that were alleged in the Actions or reasonably could have been alleged based on the facts and legal theories contained in the Actions, the De Leon LWDA Exhaustion Letter and/or the Ru LWDA Exhaustion Letter including all of the following claims for relief: (i) failure to pay all regular wages, minimum wages and overtime wages due (Cal. Lab. Code §§ 510, 558, 1194, 1194.2, 1197, 1197.1, 1198, & 1199); (ii) failure to provide compliant meal periods (Cal. Lab. Code §§ 226.7 & 512); (iii) failure to provide compliant rest breaks (Cal. Lab. Code § 226.7); (iv) failure to timely pay wages during employment (Cal. Lab. Code §§ 204 & 210); (v) failure to provide complete, accurate wage statements (Cal. Lab. Code § 226); (vi) failure to pay wages timely at time of termination or resignation (Cal. Lab. Code §§ 201-203); (vii) failure to maintain accurate records (Cal. Lab. Code §§ 1174(d) & 1174.5); (viii) failure to reimburse or indemnify business expenses (Cal. Lab. Code § 2802); (ix) improper deductions (Cal. Lab. Code §§ 221-223); (x) failure to remit all tips and/or gratuities (Cal. Lab. Code §§ 351 & 353); (xi) failure to pay reporting time wages; (xii) failure to provide suitable seating and resting facilities; (xiii) failure to provide one day's rest in seven; (xiv) failure to properly pay sick pay (Cal. Lab. Code §§ 245-248.5); (xv) failure to provide supplemental paid sick leave; (xvi) refusal to make payments (Cal. Lab. Code § 216); (xvii) failure to pay accrued vacation wages; (xviii) requiring employees enter into unlawful agreements as condition of employment (Cal. Lab. Code § 432.5); (xix) unlawful criminal background checks and credit checks (Cal. Lab. Code §§ 432.7 & 1024.5); (xx) failure to provide notice under the Wage Theft Protection Act (Cal. Lab. Code § 2810.5); (xxi) all claims under the California Labor Code Private Attorneys General Act of 2004 that could have been premised on the claims, causes of action or legal theories described above or any of the claims,

1 causes of action or legal theories of relief pleaded in the Actions; (xviii) any claim for costs and
2 attorneys' fees and expenses; and (ixx) any claim arising from the claims described above under
3 applicable federal, state, local or territorial law as well as applicable regulations and Wage Orders
4 (collectively, the "LWDA Released Claims"). LWDA Released Claims for Aggrieved Employees
5 who worked for Defendants in California during the PAGA Period shall have their claims released
6 during the PAGA Period.

7 60. Released Parties include Defendants and its past, present and/or future, direct and/or
8 indirect, officers, directors, members, managers, employees, agents, representatives, attorneys,
9 including but not limited to O'Hagan Meyer, insurers, partners, investors, shareholders,
10 administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors,
11 assigns, and joint venturers.

12 61. The LWDA Released Claims described in Paragraph 59 expressly excludes all
13 claims made by Aggrieved Employees for vested benefits, wrongful termination, unemployment
14 insurance, disability, social security, workers' compensation, claims while classified as exempt, and
15 claims outside of the PAGA Period.

16 62. **PAGA Counsel.** As of the Effective Date, and except as otherwise provided by this
17 Settlement, PAGA Counsel and any counsel associated with PAGA Counsel waive any further
18 claims to costs and attorneys' fees and expenses against Defendants or the Released Parties arising
19 from or related to the Actions, including but not limited to claims based on the Labor Code, the
20 Code of Civil Procedure, PAGA, the Fair Labor and Standards Act, the Business and Professions
21 Code, or any other contract, statute or law ("PAGA Counsel Released Claims").

22 63. **No Effect on Other Benefits.** The payment of Aggrieved Employee Payment
23 Shares will not result in any additional employee benefit payments (such as 401(k), vacation, or
24 bonus) and shall not have any effect on the eligibility for, or calculation of, any employee benefit.

25 **VI. DUTIES OF THE PARTIES**

26 64. **Mutual Full Cooperation.** The Parties agree to cooperate fully with one another to
27 accomplish and implement the terms of this Stipulation. Such cooperation shall include, but not be
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1 limited to, execution of such other documents and the taking of such other actions as may
2 reasonably be necessary to fulfill the terms of this Settlement unless the Court deny the Settlement
3 with prejudice. The Parties shall use their best efforts, including all efforts contemplated by this
4 Stipulation and any other efforts that may become necessary by court order or otherwise, to
5 effectuate this Stipulation and the terms set forth herein. As soon as practicable after execution of
6 this Stipulation, PAGA Counsel, with the cooperation of Defendants and Defense Counsel, shall
7 take all necessary and reasonable steps to secure the Court's approval of this Stipulation. The Parties
8 will work together to make any non-material modifications of the Settlement requested by the Court
9 to obtain approval of the Parties' Settlement.

10 **65. Duty to Support and Defend the Settlement.** The Parties agree to abide by all of
11 the terms of the Settlement in good faith and to support the Settlement fully and to use their best
12 efforts to defend this Settlement from any legal challenge, whether by appeal or collateral attack.

13 **66. Duties Prior to Court Approval.** PAGA Counsel shall promptly submit this
14 Stipulation to the Court for approval and determination by the Court as to its fairness, adequacy,
15 and reasonableness. Promptly upon execution of this Stipulation, PAGA Counsel shall apply to the
16 Court for the entry of an order, scheduling a hearing on the question of whether the proposed PAGA
17 Settlement should be approved as fair, reasonable, and adequate as to the Aggrieved Employees,
18 approving as to form and content the proposed PAGA Settlement Notice attached hereto as Exhibit
19 "A", respectively, and directing the mailing of the PAGA Settlement Notice to the Aggrieved
20 Employees.

21 **67. Non-Monetary Relief and Catalyzation of Policy Change.** Although Defendants
22 deny any liability of any kind associated with the claims alleged in the Lawsuit, deny any liability
23 or intentional wrongdoing, Defendants revised and updated their wage and hour policies and
24 practices, including but not limited to their timekeeping policies and procedures and meal period
25 and rest break policies and procedures.

26 **VII. MISCELLANEOUS TERMS**

27 **68. No Admission of Liability.** Defendants deny that it has engaged in any unlawful
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activity, has failed to comply with the law in any respect, or has any liability to anyone under the claims asserted in the Actions. This Settlement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Settlement is intended or will be construed as an admission of liability or wrongdoing by Defendants, an admission by Plaintiffs that any of her claims were non-meritorious, or any defense asserted by Defendants was meritorious. This Settlement and the fact that Plaintiffs and Defendants were willing to settle the Actions will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with the Settlement).

69. The Parties also agree that this release constitutes a resolution of a good faith dispute concerning wages and complies with Labor Code Section 206.5, which reads in part:

“Execution of release of claim or right on account of wages due. No employer shall require the execution of any release of any claim or right on account of wages due, or to become due, or made, or made as an advance on wages to be earned, unless payment of those wages has been made.”

70. Whether or not the Judgment becomes Final, neither the Settlement, any document, statement, proceeding or conduct related to the Settlement, nor any reports or accounting of those matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Defendants or any of the Released Parties, including, but not limited to, evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed, referred to or offered in evidence against any of the Released Parties, or any other civil, criminal or administrative action or proceeding except for purposes of effectuating this Settlement.

71. Notwithstanding Paragraph 70 of this Settlement, any and all provisions of this Settlement may be admitted in evidence and otherwise used in any and all proceedings to enforce any or all terms of this Settlement, or in defense of any claims released or barred by this Settlement.

72. **Non-Disparagement.** Plaintiffs and PAGA Counsel agree not to make any

1 untruthful, malicious, disparaging or defamatory statements, allegations, comments or
2 communications, regardless of form (whether written, oral, electronic, including but not limited to
3 Glassdoor, Yelp, or otherwise), regarding the Released Parties. Plaintiffs and PAGA Counsel
4 further agree not to encourage authorize or permit any such statements, allegations, comments or
5 communications to be made by others on their behalf.

6 **73. Waiver of Reemployment.** Plaintiffs acknowledge, for themselves individually,
7 that they each have no intent to apply for employment and/or re-employment with Defendants.
8 Plaintiffs further acknowledge that Defendants or any related, successor, parent, or subsidiary
9 companies has the right to refuse rehire Plaintiffs for non-discriminatory and non-retaliatory reasons
10 and Plaintiffs acknowledges that Defendants' position is that such legitimate non-discriminatory
11 and non-retaliatory reasons exist.

12 **74. Integrated Agreement.** After this Settlement is signed and delivered by all Parties
13 and their counsel, this Settlement and its exhibits will constitute the entire agreement between the
14 Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties,
15 covenants, or inducements have been made to any Party concerning this Settlement or its exhibits
16 other than the representations, warranties, covenants, and inducements expressly stated in this
17 Settlement and its exhibits.

18 **75. Attorney Authorization.** PAGA Counsel and Defense Counsel warrant and
19 represent that they are authorized by Plaintiffs and Defendants, respectively, to take all appropriate
20 action required or permitted to be taken by such Parties pursuant to this Settlement to effectuate its
21 terms, and to execute any other documents required to effectuate the terms of this Settlement. The
22 Parties and their counsel will cooperate with each other and use their best efforts to affect the
23 implementation of the Settlement. In the event the Parties are unable to reach agreement on the
24 form or content of any document needed to implement the Settlement, or on any supplemental
25 provisions that may become necessary to effectuate the terms of this Settlement, the Parties will
26 seek the assistance of mediator Todd Smith, Esq., and if no resolution is reached the Superior Court,
27 and in all cases all such documents, supplemental provisions and assistance of the court will be
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consistent with this Settlement.

76. **Modification of Agreement.** This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties, their successors-in-interest, and/or the Parties' respective counsel, as authorized.

77. **Settlement Binding on Successors.** This Settlement Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

78. **Applicable Law.** All terms and conditions of this Settlement and its exhibits will be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law principles or choice of law principles.

79. **Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Settlement. This Settlement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

80. **Fair Settlement.** The Parties and their respective counsel believe and warrant that this Settlement reflects a fair, reasonable, and adequate settlement of the Actions and have arrived at this Settlement through arms-length negotiations, taking into account all relevant factors, current and potential.

81. **Headings.** The descriptive heading of any section or Paragraph of this Settlement is inserted for convenience of reference only and does not constitute a part of this Settlement.

82. **Notice.** All notices, demands or other communications given under this Settlement will be in writing and deemed to have been duly given as of the third business day after mailing by U.S. Mail, addressed as follows:

To PAGA Counsel:

Zachary M. Crosner, Esq.
 Jamie Šerb, Esq.
 Brandon Brouillette, Esq.
 CROSNER LEGAL, PC
 9440 Santa Monica Blvd. Suite 301
 Beverly Hills, CA 90210

Joseph Hekmat, Esq.
 HEKMAT LAW GROUP P.C.
 2121 Avenue of the Stars, Ste. 800
 Los Angeles, CA 90067

Ben Rothman, Esq.
LAW OFFICE OF BEN ROTHMAN
2121 Avenue of the Stars, Ste. 800
Los Angeles, CA 90067

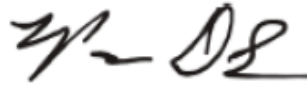
To Defendants' Counsel:

Andrea Rosenkranz, Esq.
Matthew C. Sgnilek, Esq.
O'HAGAN MEYER
4695 MacArthur Court, Suite 900
Newport Beach, CA 92660

83. **Execution in Counterpart.** This Settlement may be executed in one or more counterparts. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile signatures, scanned PDF signatures, and electronic signatures will be presumptive evidence of execution of the original, which shall be produced on reasonable request. Any executed counterpart will be admissible to prove the existence and contents of this Settlement.

DATED: 03/25/2025

MARLON DE LEON



DATED: Mar 25, 2025

LEE YUN RU

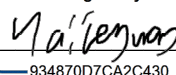


Yun Ru Lee (Mar 25, 2025 11:51 PDT)

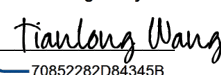
DATED: 3/18/2025

**HAIDILAO HOT POT CENTURY CITY,
INC., ET AL.**

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DocuSigned by:


70852282D84345B...

1 **APPROVED AS TO FORM:**

2 DATED: 03/25/2025

CROSNER LEGAL, PC

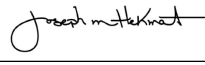
3
4 By: 

5 Zachary M. Crosner, Esq.
6 Jamie Serb, Esq.
7 Brandon Brouillette, Esq.

8 Attorneys for Plaintiffs,
MARLON DE LEON

9 DATED: Mar 25, 2025

HEKMAT LAW GROUP, P.C.
LAW OFFICE OF BEN ROTHMAN

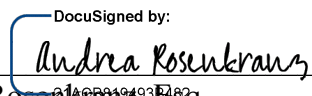
10
11
12 By: 

13 Joseph Hekmat, Esq.
14 Ben Rothman, Esq.

15 Attorneys for Plaintiffs,
LEE YUN RU

16 DATED: 3/3/2025

O'HAGAN MEYER

17
18 By: 

19 Andrea Rosenkranz, Esq.
20 Matthew C. Sgnilek, Esq.

21 Attorneys for Defendant
22 HAIDILAO HOT POT CENTURY CITY, INC.,
23 et al.

EXHIBIT

2



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

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

June 5, 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:

Guangwei Yang
Agent for Service of Process for:
Haidilao Hot Pot Century City Inc.
1108 S Baldwin Ave
Ste 202
Arcadia, CA 91007

Haidilao Hot Pot Century City Inc.
Attn: Human Resources / Legal Department
10250 Santa Monica Blvd
Unit 2610
Los Angeles, CA 90067

Haidilao Hot Pot Century City Inc.
Attn: Human Resources / Legal Department
1108 S Baldwin Ave
Ste 202
Arcadia, CA 91007

Guangwei Yang
Agent for Service of Process for:
Haidilao Hot Pot Daly City, Inc.
1108 S Baldwin Ave
Ste 202
Arcadia, CA 91007

Yiche Lee
Agent for Service of Process for:
Haidilao Hot Pot San Diego, Inc.
4545 La Jolla Village Dr Ste F9
San Diego, CA 92122

Haidilao Hot Pot San Diego, Inc.
Attn: Human Resources / Legal Department
4545 La Jolla Village Dr Ste F9
San Diego, CA 92122

Haidilao Hot Pot San Diego, Inc.
Attn: Human Resources / Legal Department
1108 S Baldwin Ave Ste 202
Arcadia, CA 91007

Liangyan Qiu
Agent for Service of Process for:
Haidilao Hot Pot Fremont Inc.
43349 Boscell Rd
Fremont, CA 94538

Haidilao Hot Pot Fremont Inc.
Attn: Human Resources / Legal Department
43349 Boscell Rd
Fremont, CA 94538

Haidilao Hot Pot Daly City, Inc.

Attn: Human Resources / Legal Department
1108 S Baldwin Ave
Ste 202
Arcadia, CA 91007

Guangwei Yang

Agent for Service of Process for:

Haidilao Restaurant Group, Inc.

19409 Stevens Creek Blvd Ste 100
Cupertino, CA 95014

Haidilao Restaurant Group, Inc.

Attn: Human Resources / Legal Department
1108 S Baldwin Ave
Ste 202
Arcadia, CA 91007

Haidilao Restaurant Group, Inc.

Attn: Human Resources / Legal Department
19409 Stevens Creek Blvd Ste 100
Cupertino, CA 95014

Catherine Chen

Agent for Service of Process for:

Haidilao Catering (U.S.A.) Inc.

400 S Baldwin Ave Ste 2015
Arcadia, CA 91007

Haidilao Catering (U.S.A.) Inc.

Attn: Human Resources/ Legal Department
400 S Baldwin Ave Ste 2015
Arcadia, CA 91007

Haifeng Wang

Agent for Service of Process for:

Haidilao Restaurant California Inc.

1108 S Baldwin Ave
Ste 202
Arcadia, CA 91007

Haidilao Restaurant California Inc.

Attn: Human Resources / Legal Department
1108 S Baldwin Ave
Ste 202
Arcadia, CA 91007

Haidilao Hot Pot Fremont Inc.

Attn: Human Resources / Legal Department
1108 S Baldwin Ave Ste 202
Arcadia, CA 91007

Haifeng Wang

Agent for Service of Process for:

Haidilao Hot Pot Industry Inc.

1108 S Baldwin Ave Ste 202
Arcadia, CA 91007

Haidilao Hot Pot Industry Inc.

Attn: Human Resources / Legal Department
1108 S Baldwin Ave Ste 202
Arcadia, CA 91007

Haidilao Hot Pot Industry Inc.

Attn: Human Resources / Legal Department
1600 S Azusa Ave Unit 178
City Of Industry, CA 91748

Bingyu Jiang

Agent for Service of Process for:

HDL Management USA Corporation

1108 S Baldwin Ave Ste 202
Arcadia, CA 91007

HDL Management USA Corporation

Attn: Human Resources / Legal Department
1108 S Baldwin Ave Ste 202
Arcadia, CA 91007

Haidilao Restaurant California Inc.

Attn: Human Resources / Legal Department

2710 Alton Pkwy Ste 215

Irvine, CA 92606

NOTICE OF PRIVATE ATTORNEYS GENERAL ACT CLAIM

To: California Labor and Workforce Development Agency; Haidilao Hot Pot Century City Inc; Haidilao Hot Pot San Diego, Inc.; Haidilao Hot Pot Daly City, Inc.; Haidilao Catering (U.S.A.) Inc.; Haidilao Hot Pot Fremont Inc.; Haidilao Hot Pot Industry Inc.; Haidilao Restaurant Group, Inc.; Haidilao Restaurant California Inc.; and HDL Management USA Corporation

Date: June 5, 2023

Subject: *Marlon De Leon v. Haidilao Hot Pot Century City Inc, et. al.*

Introduction

This office represents PLAINTIFF, Marlon De Leon (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: Haidilao Hot Pot Century City Inc; Haidilao Hot Pot San Diego, Inc.; Haidilao Hot Pot Daly City, Inc.; Haidilao Catering (U.S.A.) Inc.; Haidilao Hot Pot Fremont Inc.; Haidilao Hot Pot Industry Inc.; Haidilao Restaurant Group, Inc.; Haidilao Restaurant California Inc.; and HDL Management USA Corporation (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(c) and that DEFENDANTS intend to cure within the statutory time period set forth in §§ 2699 and 2699.3(c), the DEFENDANTS shall provide notice including a description of the actions taken to cure. If the alleged violation is not cured within the statutory time period, PLAINTIFF will commence a civil action pursuant to section 2699. For all other violations that are not curable, an action pursuant to section 2699(a) and 2699(f) will commence after the requirements under 2699.3 are fulfilled.

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

PLAINTIFF, on behalf of PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES, alleges that the specific provisions of California law that DEFENDANTS have violated, requiring this NOTICE, include but are not limited to: California Labor Code sections 201-203, 204, 216, 221-223, 226, 226.7, 245-248.6, 351, 353, 432.5, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1199, 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. For example, DEFENDANTS' wage statements issued to PLAINTIFF identify Haidilao Hot Pot Century City Inc as the name of PLAINTIFF's employer. However, various documents contained in PLAINTIFF's personnel file, including but not limited to, hiring documents and/or employment information documents identify "Haidilao Hot Pot" and/or "Haidilao" as the name of PLAINTIFF's employer. Also, based on information and belief, DEFENDANTS, and each of them, maintain the same agent for service of process and/or principal place of business and/or California mailing address as provided to the California Secretary of State and/or use some of the same attorneys and/or human resources personnel to oversee employment-related matters. As such, and 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 stores, restaurants, facilities and/or other location(s) in California, including but not limited to the stores, restaurants, facilities and/or other locations in Los Angeles, California. DEFENDANTS, through their various locations serve the food products manufacturing and/or services 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 busser, food runner and/or a similar title(s) and/or position(s) from in or around early June 2022 through on or around July 9, 2022. PLAINTIFF worked for DEFENDANTS at DEFENDANTS' Los Angeles, California location(s). PLAINTIFF regularly worked at least six (6) to eight (8) hours per day, at least four (4) to five (5) days per week. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by DEFENDANTS as hours worked. Based on information and belief, PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES also earned tips as part of their compensation. Based on further information and belief, PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES also earned non-discretionary compensation, including but not limited to, non-discretionary bonuses/incentive pay.

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

¹ See <https://www.haidilao-inc.com/us/serve/storeSearch>. Last visited on June 5, 2023.

pay at the regular rate of compensation for missed/improper meal and/or rest periods; (6) refused and continue to refuse to make and/or falsely denied the amount of payments due to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES, including but not limited to, owed sick pay; (7) failed and continue to fail to place PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES on proper notice of their workplace rights, including but not limited to owed sick pay; (8) failed and continue to fail to provide legally compliant wage statements to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES; (9) made unlawful deductions from PLAINTIFF's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' paychecks; (10) failed and continue to fail to timely pay wages to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES during employment and/or upon separation of employment; (11) failed and continue to fail to reimburse PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses incurred on behalf of DEFENDANTS; (12) conducted and continue to conduct illegal criminal and/or financial background checks as a condition of PLAINTIFF's, NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' hire and continued employment; (13) required and continue to require PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to disclose arrests not resulting in convictions and/or to disclose convictions prior to extending an offer of employment and/or otherwise impermissibly inquired and continue to inquire into PLAINTIFF's, NON-EXEMPT AGGRIEVED EMPLOYEES', and/or EXEMPT AGGRIEVED EMPLOYEES' criminal history on their employment applications and sign off on same as a condition of employment; (14) failed and continue to fail to provide all owed reporting time pay wages; (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

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

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

that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3) (“Meal periods . . . shall also be recorded”); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing section 7(A)(3) (“If an employer’s records show no meal period for a given shift over five hours, a rebuttable presumption arises that the employee was not relieved of duty and no meal period was provided”).

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

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

PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES would not receive legally compliant thirty (30) minute first meal breaks. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal periods, interrupted meal periods, and/or work through part or all their meal periods due to understaffing, the nature and constraints of their job duties and/or commentary from supervisors pressuring them to take non-compliant meal breaks or skip meal breaks completely. For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were at times forced to take late meal periods in order to complete assigned job duties. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were at times, interrupted during purported meal periods and/or had meal periods cut short and/or restricted to DEFENDANTS’ premises due to the need to continue assigned job duties. For example, PLAINTIFF was frequently required to clock out for meal periods but to continue working and/or was interrupted during unpaid meal periods due to the need to complete assigned work tasks. Other times, PLAINTIFF was required to take his meal period late and/or work through PLAINTIFF’s owed meal period completely due to the need to complete assigned work tasks, lack of relief workers available and/or lack of coverage.

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.

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 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, *Bufil v. Dollar Fin. Grp.*,

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").

Inc., (2008) 162 Cal. App. 4th 1193, 1199 (the “onus is on the employer to clearly communicate the authorization and permission [to take rest periods] to their employees.”).

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

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

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

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, PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEEES were forced to adjust to areas not conducive to resting, including but not limited to leaning up against the wall, or search for facilities outside of DEFENDANTS’ premises which are not designated or reserved for rest, such as their personal vehicles.

DEFENDANTS did not provide PLAINTIFF and 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.

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.

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”).

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

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

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

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were not paid for all hours worked due to DEFENDANTS' policy and/or practice of paying according to scheduled hours worked instead of actual time worked, and/or mandated off-the clock work policies and/or practices. For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were consistently required to perform pre-shift and/or post-shift off-the-clock that was neither recorded nor compensated by DEFENDANTS. For example, during most if not all shifts worked during the relevant period, PLAINTIFF was required to clock out for the end of his shift but to continue performing assigned job duties off-the clock, including without limitation, taking out the trash and/or completing other work tasks, resulting in the underpayment of wages owed to PLAINTIFF.

Also, based on information and belief, at times, DEFENDANTS' electronic/computer/tablet employee time-keeping systems and/or app malfunctioned such that NON-EXEMPT AGGRIEVED EMPLOYEES were required to either reinitiate and/or otherwise troubleshoot the system/app 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, NON-EXEMPT AGGRIEVED EMPLOYEES were required to complete off-the-clock work outside of scheduled shifts due to work-related phone calls and/or messages they received to their phones/mobile devices 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 wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

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

Moreover, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES who opened their work locations were required to first unlock the doors, turn on all the lights in the restaurant/store/facility and/or deactivate the alarm before clocking in for work, resulting in pre-shift off-the-clock work and the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on further information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES in charge of closing their location(s) were required to first clock out for their shifts before enabling the alarm, turning off all the lights in the facility and/or locking the doors. This resulted in additional off-the-clock post-shift work that was not compensated and the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, at times, DEFENDANTS requires/required NON-EXEMPT AGGRIEVED EMPLOYEES to travel between DEFENDANTS' restaurants, stores, facilities and/or other locations without compensating NON-EXEMPT AGGRIEVED EMPLOYEES for the travel time. For example, based on information and belief, due to scheduling issues and/or understaffing, NON-EXEMPT AGGRIEVED EMPLOYEES were at times required after working at their scheduled facility location to cover a shift at another of DEFENDANTS' restaurants/stores/facilities/locations but were not compensated for the time spent driving to the second restaurant/facility, resulting in the underpayment of minimum and overtime wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were required to undergo pre-shift temperature screenings and/or were required to complete a COVID-19 questionnaire prior to clocking in for a shift, resulting in unpaid off-the-clock work.

Moreover, based on information and belief, DEFENDANTS failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES split shift premium wages when they worked split shifts during the relevant period. For example, based on information and belief, at times, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES to work two separate shifts in the same day.

Based on information and belief, DEFENDANTS failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES split shift compensation whenever PLAINTIFF's and/or other NON-EXEMPT AGGRIEVED EMPLOYEES' work schedules were interrupted by non-paid non-working periods established by DEFENDANTS, which resulted in a violation of the applicable Wage Order (See section 4 of all applicable Wage orders, "When an employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to the minimum wage for that workday..."). See, also, Cal. Code Regs. Tit. 8, § 11050 (when an employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to the minimum wage for that workday, except when the employee resides at the place of employment). DEFENDANTS also failed to separately itemize these split shift premium wages on PLAINTIFF's and/or other NON-EXEMPT AGGRIEVED EMPLOYEES' wage statements, in violation of Labor Code sections 510, 1194 and all applicable IWC Wage Orders. See, https://www.dir.ca.gov/dlse/split_shift.htm. (The employer must itemize the premium payment on the pay stub provided to the employee, and it should be shown as a separate category such as "Split Shift Premium" and should not be lumped into another category such as wages, bonus, etc. DEFENDANTS failed to separately account for the split shift premiums earned by PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES on their wage statements.

Based on information and belief, DEFENDANTS failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES for time they were required to spend completing orientation, trainings, 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

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").

(12) hours per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in violation of California's overtime laws.

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

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

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.

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”).

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

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).

EMPLOYEES of all duties and employer control during unpaid meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or other off-the-clock work policies and practices described above), which results in a violation of Labor Code section 226(a). Failure to list all hours worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

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

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

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

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

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

Reporting Time Pay Violations:

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

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

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

PLAINTIFF was 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

Violation of Labor Code Sections 351 and 353: Labor Code section 351 prohibits employers and their agents from sharing in or keeping any portion of a gratuity left for or given to one or more employees by a patron. Furthermore, it is illegal for employers to make wage deductions from gratuities, or from using gratuities as direct or indirect credits against an employee's wages. Labor Code Section 353 mandates employers to keep accurate records of all gratuities received.

Based on information and belief, DEFENDANTS failed to ensure that PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES fully received the gratuities left for them by patrons, in that DEFENDANTS and their agents would collect and/or take a portion of the gratuities for themselves, in violation of Labor Code Section 351. Based on further information and belief, DEFENDANTS also failed/fails to keep accurate records of all tips received, in violation of Labor Code Section 353. Based on information and belief, DEFENDANTS failed to pay gratuities paid by customers using credit cards to NON-EXEMPT AGGRIEVED EMPLOYEES by the next regular payday following the credit card payment, in violation of Labor Code section 351.

Based on information and belief, DEFENDANTS charge an additional service charge to their customers/patrons. Customers are led to believe that the service charge will be paid to DEFENDANTS' NON-EXEMPT AGGRIEVED EMPLOYEES. Instead, DEFENDANTS keeps a majority (if not the entirety) of the service charge, thereby depriving PLAINTIFF and/or NON-EXEMPT AGGRIEVED EMPLOYEES of the service charge/gratuity that is left by the patron/customer for the NON-EXEMPT AGGRIEVED EMPLOYEES. *See O'Grady v Merchant*

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

Exchanges Production, Inc., 41 Cal.App.5th 771, 790 (a mandatory service charge can constitute a gratuity that is intended to the employees providing the service).

Pursuant to PAGA, DEFENDANTS are liable for penalties of \$100 per pay period payable to each NON-EXEMPT AGGRIEVED EMPLOYEE for the first violation of Labor Code Sections 351 and 353 they experienced within the statutory period, and \$200 per pay period for each additional violation.

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, reporting time pay, split shift premiums, seating, suitable resting facilities, and other violations described herein result in separate violations of sections 1198 and 1199, which subject DEFENDANTS to civil penalties under Labor Code sections 1197.1 and 2699.

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

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

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

Failure to Pay Vested Vacation/Paid Time Off:

California Labor Code section 227.3 provides that when an employer policy provides for paid vacations and/or paid time off, and an employee is terminated without having taken off his, her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the employee's final rate in accordance with such contract of employment or employer policy respecting eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time off upon termination. Based on information and belief, DEFENDANTS had and continue to have a uniform policy and practice of failing to allow NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to use their earned vacation/paid time off during their employment and failing to pay all vested, accrued paid time off (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, DEFENDANTS did not furnish PLAINTIFF with any final paycheck for at least approximately three (3) weeks following PLAINTIFF’s termination.

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

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

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

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

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

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

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

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

Based on information and belief, DEFENDANTS shifted the costs of doing business onto NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES by requiring them to pay for their business expenses, including but not limited to, purchase and/or maintenance of uniforms/work clothing/shoes/protective and/or safety equipment (e.g., face masks, hairnets and/or gloves) and/or the use of NON-EXEMPT AGGRIEVED EMPLOYEES’ and/or EXEMPT AGGRIEVED EMPLOYEES’ personal mobile phone and data usage for work related purposes to receive and respond to work related messages and/or phone calls. For example,

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”).

based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES were required to receive and respond to work-related calls and/or messages from supervisors and/or other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES regarding scheduling and/or other work tasks but were not reimbursed by DEFENDANTS at all and/or in full for these business expenses.

Based on information and belief, at times, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES to use their personal vehicles for work, such as, but not limited to, for driving between DEFENDANTS' restaurants, stores, facilities and/or other locations, completing business errands and/or otherwise carrying out their assigned job duties, however, DEFENDANTS did not provide any/full reimbursement to NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES for all vehicle-related expenses they incurred in connection therewith, including but not limited to, cost of fuel, mileage, and/or vehicle wear and tear.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were not reimbursed for expenses they incurred in connection with the purchase and/or maintenance of uniforms/work clothing/work shoes and/or personal protective/safety gear (e.g., (e.g., face masks, hairnets and/or gloves) DEFENDANTS required they wear for work and/or for costs incurred as a result of having to purchase their own hand tools required to carry out their assigned job duties. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to pay for business expenses that are supposed to be the responsibility of DEFENDANTS.

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

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

Unlawful Agreements/ Unlawful Criminal History Inquiries:

Unlawful Agreements

Labor Code section 432.5 provides that "no employer...shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer...to be prohibited by law." Based on information and belief, DEFENDANTS required PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED

EMPLOYEES to agree in writing to unlawful conditions of employment including but not limited to unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

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

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

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

Based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to a background check which failed to abide by the requirements set forth in CA Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by failing to provide a clear and conspicuous disclosure (and/or failing to provide any disclosure at all), failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for the background check, failing to provide a summary of rights under the ICRAA and/or the FCRA, 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 PLAINTIFF, 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 PLAINTIFF, 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 PLAINTIFF, 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, appearing to read "Kiara Bramasco". The signature is written in a cursive, flowing style.

Kiara Bramasco, Esq.
CROSNER LEGAL, PC



Manny Martinez <manny@crosnerlegal.com>

Thank you for submission of your PAGA Case.

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

Mon, Jun 5, 2023 at 4:15 PM

6/5/2023

LWDA Case No. LWDA-CM-959859-23
Law Firm : Crosner Legal, PC
Plaintiff Name : Marlon De Leon
Employer: Haidilao Hot Pot Century City 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

3



Vardui Sarkisian <vardui@crosnerlegal.com>

Thank you for your Court Complaint Submission.

DIR PAGA Unit <no-reply@formassembly.com>
To: vardui@crosnerlegal.com

Mon, Jan 13, 2025 at 9:25 AM

01/13/2025 09:25:31 AM

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

Item submitted: Court Complaint

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

EXHIBIT

5

**Marlon De Leon v. Haidilao Hot Pot Century City Inc, et al.
(Los Angeles County Superior Court Case No. 23STCV19515)**

Crosner Legal Time Report

Tasks	Zachary Crosner	Brandon Brouillette	Kiara Bramasco	Branden Hamilton	J. Kirk Donnelly
Pre-filing Case Investigation	5.3	0.0	3.4	6.0	0.0
Pleadings and Law and Motion	6.1	6.4	3.5	0.0	8.9
Discovery and Post-Filing Investigation	3.2	24.5	0.0	0.0	0.0
Court Appearances	0.0	1.5	0.0	0.0	0.0
Case Management; Litigation Strategy & Analysis	14.8	30.2	0.0	0.0	1.2
Mediation and Settlement	10.2	39.9	0.0	0.0	0.0
Total Hours	39.6	102.5	6.9	6.0	10.1
Hourly Rate	\$800	\$750	\$650	\$600	\$900
Lodestar	\$31,680	\$76,875	\$4,485	\$3,600	\$9,090

Total Hours: 165.1
Total Lodestar: \$125,730